

Central and West Planning Committee

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



Wednesday, 1st September, 2021 - 2.00 p.m.

AGENDA

Page Nos.

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

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

- 3. MINUTE** – Minute of Meeting of Central and West Planning Committee of 4th August, 2021. 5 - 6

4. 20/01254/FULL - 4M PLANT DEN ROAD, KIRKCALDY

Residential development of 105 units with associated SuDS, landscaping, parking and vehicular access Land to south of Calender Avenue/Hayfield Road, Kirkcaldy. 7 - 50

5. 21/01720/CON - RANDOLPH COLLIERY SITE AT WEMYSS ESTATE, FIFE

Scottish Government Consultation under Section 36 of the Electricity Act 1989 for proposed 50MW solar farm and 25MW battery storage facility at former Randolph Colliery Site at Wemyss Estate, Fife. 51 - 94

6. 21/01809/ARC - FREESCALE SITE DUNLIN DRIVE DUNFERMLINE

Approval of Matters Specified by Conditions 1 (k,l,m) and 23 of 20/03250/PPP for formation of access, link road, footpaths, cyclepaths and school car park, associated SuDS and drainage infrastructure and site engineering for Dunfermline Learning Campus> 95 - 117

7. 21/01338/FULL - PITTSBURGH RETAIL PARK MAIN STREET HALBEATH

Erection of three retail units (Class 1), two café/restaurant units (Class 3) with associated drive thru element (Sui Generis) and one cafe/restaurant unit (Class 3) with associated parking and external works (Section 42 application to vary condition 3 of 20/00545/FULL to allow operating hours including deliveries from 5:30 am for Class 3 unit shown as Costa on approved drawings). 118 - 130

8./

8. **21/01426/FULL - LIDL, ESPLANADE, KIRKCALDY**
Erection of retail unit (Class 1) and formation of access, car parking, hardstanding, and associated landscaping works (S42 for the removal of Condition 20 - 20/00450/FULL). 131 - 141
9. **20/03008/FULL - 39 ROSSLYN STREET, KIRKCALDY**
Alterations and part change of use of existing mixed-use development to form two retail units (Class 1) and two hot food takeaways (Sui Generis) with associated access and parking. 142 - 153
10. **21/00872/FULL - THE CROSS, TANHOUSE BRAE, CULROSS**
Change of use from cafe (Class 3) to dwelling (Class 9). 154 - 160
11. **21/00873/LBC - THE CROSS, TANHOUSE BRAE, CULROSS**
Listed Building Consent for internal alterations. 161 - 165
12. **20/01178/OBL - FLEMING BUILDING, DONIBRISTLE INDUSTRIAL PARK, RIDGE WAY, DALGETY BAY**
Discharge of Planning Obligation 15/03782/PPP. 166 - 173
13. **21/01007/FULL GREENSIDE HOTEL, LESLIE**
Change of use from hotel (Class 7) to mixed use (Sui Generis) as residential care institution and day care/community service centre. 174 - 182
14. **APPLICATIONS FOR PLANNING PERMISSION, BUILDING WARRANTS AND AMENDED BUILDING WARRANTS DEALT WITH UNDER DELEGATED POWERS**
List of applications dealt with under delegated powers for the period 12th July to 8th August, 2021.

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.

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25th August, 2021

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

4th August, 2021

2.00 p.m. – 3.05 p.m.

PRESENT: Councillors Alice McGarry (Convener), David Alexander, Alistair Bain, Bobby Clelland, Derek Glen, Mick Green, Zoe Hisbent, Gordon Langlands, Helen Law, Mino Manekshaw and Derek Noble.

ATTENDING: Kevin Treadwell, Service Manager - Major Business and Customer Service, Martin McGroarty, Lead Professional - Minerals, Jamie Penman, Planning Assistant – Development Management (South Section), Mark Barrett, Lead Officer Transportation Development Management (South Fife) and Richard Simmons, Lead Officer Transportation Development Management (North Fife), Economy, Planning & Employability Services; Mary McLean, Legal Team Manager (Planning, Property & Contracts) and Emma Whyte, Committee Officer, Legal & Democratic Services.

APOLOGIES FOR ABSENCE: Councillors Dave Coleman, Ross Paterson and Andrew Verrecchia.

Prior to the consideration of the applications on the agenda, officers updated members with regards to the successful challenge brought against Scottish Planning Policy (SPP) 2020.

As SPP 2020 had been quashed, SPP 2014 became the relevant document against which proposals were required to be assessed against.

Both items on the agenda were initially assessed against SPP 2020, however, officers clarified that both applications were reviewed against SPP 2014 when the Planning Service were made aware of the successful legal challenge.

The recommendations were unaffected by the change in the relevant SPP and any reference to SPP 2020 in the reports were to be disregarded accordingly.

151. DECLARATIONS OF INTEREST

Councillor David Alexander declared an interest in paragraph 153 below - '20/03271/FULL - Site at Fife Energy Park, Links Road' - as he had publicly welcomed the project as Co-Leader of Fife Council.

152. MINUTE

The Committee considered the minute of the Central and West Planning Committee of 7th July, 2021.

Decision

The Committee agreed to approve the minute.

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

153./

153. 20/03271/FULL - SITE AT FIFE ENERGY PARK, LINKS DRIVE

The Committee considered a report by the Head of Planning relating to an application for the H100 Fife hydrogen demonstration project including facilities for the production and storage of hydrogen, demonstration facility, site office, electrical plant room, security fencing, external lighting and internal roads.

Decision

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

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

154. 21/00528/ARC - FREESCALE SITE, DUNLIN DRIVE, DUNFERMLINE

The Committee considered a report by the Head of Planning relating to an application for approval of matters required by conditions for Phase 2 of residential development of 193 residential units (approval of Condition 2(d) of planning permission 14/00809/PPP).

Officers confirmed to members that a 15m buffer between the development and Calais Muir Wood would be provided and was included in the plans.

Decision

The Committee agreed to approve the application subject to:-

- (1) the twenty-one conditions and for the reasons detailed in the report; and
- (2) an amendment to Condition 1 to remove all references to "prior to the completion of the last residential unit".

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

Decision

The Committee noted the list of applications dealt with under delegated powers for the period 17th May to 13th June, 2021.

ITEM NO: 4

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/01254/FULL

SITE ADDRESS: 4M PLANT DEN ROAD KIRKCALDY

**PROPOSAL : RESIDENTIAL DEVELOPMENT OF 105 UNITS WITH ASSOCIATED SUDS, LANDSCAPING, PARKING AND VEHICULAR ACCESS
LAND TO SOUTH OF CALENDER AVENUE/HAYFIELD ROAD, KIRKCALDY**

**APPLICANT: MILLER HOMES LTD
MILLER HOUSE 2 LOCHSIDE VIEW EDINBURGH PARK**

**WARD NO: W5R12
Kirkcaldy East**

CASE OFFICER: Bryan Reid

DATE 19/05/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The application is a Major application in terms of the Hierarchy of Developments (Scotland) Regulations 2009

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

1.0 BACKGROUND

1.1 The application site relates to a 4.3ha area of land located within the defined settlement of Kirkcaldy (per FIFEplan Local Development Plan 2017). The site, located to east of Victoria Hospital and west of Kirkcaldy Recycling Centre, is allocated for development in FIFEplan for residential and/or employment, with an estimated housing capacity of 100 units. Currently comprising of a vast hardstanding area and scrub land, the site is identified within Fife's Vacant and Derelict Land Register (site code KA067), the remnants of the former industrial/manufacturing uses associated with Forbo Flooring. A modern housing development is located to the north of the site, with industrial land and Dens Road greenspace located to the south. A linear woodland area forms the eastern site boundary. A narrow pedestrian path separates the application site from the neighbouring recycling centre. The site is identified as being potentially contaminated, and is within the identified high risk area for coal mining legacy issues. Owing to past industrial use of the site, ground levels within the majority of the site are relatively flat, generally around 41.8 to 41.9m AOD, however, the south-west corner of the site is at least 1m lower than the rest of the site and dips down to ~40.7m AOD, with ground levels falling again further to the south. The site sits below the neighbouring residential properties to the north. Vehicular access is proposed to be taken from Calender Avenue.

1.2 The application is for planning permission for the erection of 105 dwellinghouses with associated SuDS, landscaping, parking and vehicular access. A mix of 3 and 4 bedroom, two storey terraced, semi-detached and detached dwellings are proposed. The proposed dwellinghouses would be of a typical modern design, with finishing materials comprising of beige aggregate, white dry dash render, facing brick, grey concrete roof tiles, white uPVC windows, white woodgrain effect doors and black uPVC rainwater goods. Most dwellings would feature in curtilage off-street parking spaces, however a number of parking courts are also proposed. A central grassed open space area is proposed, whilst the SuDS basin at the south of the site would also be accessible. A woodland buffer is proposed around the edges of the site, with street trees proposed throughout. Rear garden areas would typically be defined by timber fences, however brick walls are to be incorporated at key locations. An acoustic barrier is proposed to run the full length of the eastern site boundary, contained within the proposed woodland buffer. A single point of vehicular access is proposed from Calender Avenue from the north, with footpath connections proposed to the south east and west.

1.3 With regard to the recorded planning history for the site:

08/02350/CFULL - In 2008, planning permission was approved for change of use land to form temporary site compound. This application covered a small area at the western extent of the application site

09/01296/COPP - In 2009, outline planning permission was refused for a residential development on the site. The reasons for refusal were as follows:

1. The site is not identified for residential development within the Adopted Kirkcaldy Area Local Plan (2003) and there are no reasons to depart therefrom.

2. In the interests of protecting and maintaining employment land within a key settlement. The site is zoned for employment purposes within the Adopted Kirkcaldy Area Local Plan (2003) and Draft Kirkcaldy and Mid Fife Local Plan (2008) and there is insufficient evidence to justify the development of the site for other purposes contrary to the terms of Policies BUS1 and BUS3 of

the Adopted Kirkcaldy Area Local Plan (2003); Policy B1 of the Draft Kirkcaldy and Mid Fife Local Plan (2008) and the terms of national guidance contained within SPP2 Economic Development (2002).

3. In the interests of residential amenity and safeguarding employment land. The proposed residential development would be sited within employment land which would result in a low standard of amenity for the proposed residents and also place potential limitations on the activities that could take place on adjacent employment sites. The proposed development would therefore be contrary to Policies BE2, BE3 and BUS3 of the Adopted Kirkcaldy Area Local Plan (2003) and Policy E2 of the Draft Kirkcaldy and Mid Fife Local Plan (2008).

4. In the absence of a Transport Assessment, there is insufficient information to fully assess the implications that the proposed development may have on the existing road network. The proposed development would therefore be contrary to SPP17 - Transport and Planning (2005), Policy T1 of the Approved Fife Structure Plan (2006-2026); Policy T3 of the Adopted Kirkcaldy Area Local Plan (2003) and Policies T1 and T2 of the Draft Kirkcaldy and Mid Fife Local Plan (2008).

1.4 The application is supported by a range of technical documents to inform consideration of the proposal. These include a Design and Access Statement, Planning Statement, Noise Impact Assessment, Air Quality Screening, Phase 1 Habitat and Protected Species Survey Report, Bat Survey Report, Tree Survey Report, Ground Investigation Report, Remediation Strategy, Implementation and Verification Plan, Mine Consolidation Report, Flood Risk Assessment, Surface Water Drainage Strategy, Transportation Statement, Low Carbon Sustainability Statement and Energy Statement of Intension. The conclusions of these documents are examined in the relevant sections of this report.

1.5 Application Procedures

1.5.1 The proposal falls within Class 2: Housing of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 as more than 50 units are proposed. The proposal is therefore categorised as a Major development. The applicant has carried out the required Pre-Application Consultation (PAC) through holding a public information event (Ref: 20/02167/PAN). A PAC report outlining comments made by the public and the consideration of these in the design process of the proposal has been submitted as part of this application. Emergency legislation was introduced by the Scottish Government on 7th April 2020, to deal with the Coronavirus pandemic outbreak, in particular the need to temporarily suspend the requirement for a public event in relation to PAC. In addition to creating a website and hosting virtual meetings with members of the public, the applicant also provided printed information which could be collected by members of the public who did not have access to the internet from a local shop. The public events were advertised in the East Fife Mail, Fife Free Press, Glenrothes Gazette and Fife Herald. The manner of public consultation was considered to be acceptable.

1.5.2 This application was advertised in the local press on 10th June 2021 for Neighbour Notification purposes. The application has also been screened to assess the need for an Environmental Impact Assessment (Ref: 20/01760/SCR) where it was concluded that this was not required.

2.0 PLANNING ASSESSMENT

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

- Principle of Development
- Design, Layout and Visual Impact
- Transportation/Road Safety
- Residential Amenity
- Low Carbon Fife
- Contaminated Land and Air Quality
- Flooding and Drainage
- Trees
- Natural Heritage
- Affordable Housing
- Developer Contributions
- Education
- Open Space and Play Areas
- Public Art
- House in Multiple Occupation (HMO)

2.2 PRINCIPLE OF DEVELOPMENT

2.2.1 Scottish Planning Policy (2014), Policy 5 of SESplan Strategic Development Plan (2014), Policies 1, 2, 5 and 7 of the Adopted FIFEplan Local Development Plan (2017), Fife Council's Strategic Housing Investment Plan 2021/22 - 2025/26, Housing Land Audit 2020 and Local Housing Strategy 2020-2022 apply with regard to the principle of development for this proposal.

2.2.2 Scottish Planning Policy (SPP) (2014) seeks to promote successful sustainable places with a focus on low carbon place; a natural, resilient place; and, a more connected place. The SPP promotes the use of the plan-led system with plans being up-to-date and relevant, thus reinforcing the provisions of Section 25 of the Act. The SPP (Promoting Rural Development), amongst other criteria, states that in areas of intermediate accessibility and pressure for development, Development Plans should be tailored to local circumstances, seeking to provide a sustainable network of settlements and a range of policies that provide for economic development, and the varying proposals that may come forward, while taking account of the overarching objectives and other elements of the plan. It elaborates that in accessible or pressured rural areas, plans and decision making should generally guide most new development to locations within or adjacent to settlements and should promote economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and croft diversification and aquaculture, nature conservation, and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced. The SPP (Enabling the Delivery of New Housing) also requires the Development Plan to identify a generous supply of housing land, within a range of attractive, well designed sites that can contribute to the creation of successful and sustainable places. The Development Plan is the preferred mechanism for the delivery of housing / residential land rather than individual planning applications.

2.2.3 Approved SESplan Policy 5 (Housing) sets out the Housing Land Requirement for the 6 Local Development Plans in the SESplan area, which was amended by Supplementary Guidance. This Guidance also established in which constituent local authority the housing land should be met. In Fife, SESplan (2013) Supplementary Guidance directs the Local Development Plan to allocate land for 17,140 homes in the period from 2009 - 2019 and 7,430 for 2019 -

2024. Policy 6 (Housing Land Flexibility) advises that each Planning Authority in the SESplan area shall maintain a 5-year effective housing land supply at all times.

2.2.4 The proposed SESplan 2 was rejected by the Scottish Government Reporters in May 2019 on the basis that the plan did not take sufficient account of the relationship between land use and transport. The rejection of SESplan 2 and age of SESplan 1 (2013), introduces a policy vacuum at strategic level especially with regards to housing. SESplan 1 and the Housing Land Supplementary Guidance (2014) are no-longer up to date ('expiring' in October 2019); Paragraph 33 of SPP outlines that where a Development Plan is more than 5-years old, it is considered out of date. Although the housing land figures in SESplan 1 continue post plan to 2024, this means that beyond 2019 there is not a sufficient housing land requirement to allow a 5-year supply to be assessed and thus it is Fife Council's position that SESplan 1 should not be used in the calculation of the housing land supply position.

2.2.5 In summary, the Council considers that the Housing Need and Demand Assessment 2 (HNDA2) (2015) for SESplan 2 is the most up to date assessment of housing need and demand and has been accepted as robust and credible and has not been rejected by Scottish Ministers. It represents the most up to date position regarding housing land requirements for Housing Market Areas within Fife and is therefore of significant material weight in determining applications. However, it dates from March 2015 and the subsequent calculation of the Housing Supply Targets from 2016. In order to give certainty to the housing land position in Fife following the Minister's rejection of SESplan 2, the calculation of the housing target for the SESplan area within Fife will be based on HNDA2 and the Housing Background Paper for SESplan 2, as the most up to date information on housing need and demand. The Housing Land Supply, within the published Housing Land Audit 2019, provides the agreed housing supply position for each Housing Market Area and as such the latest published Housing Land Audit (HLA) will be used to determine the housing supply position for the relevant housing market area at the time of determination of each planning application. Fife Council's 2020 HLA confirms that there is currently a surplus of 687 (250 affordable and 437 market) homes when examining the five year effective land supply for the Glenrothes and Central Fife Housing Market Area. As directed by the recent 'Gladman 2 decision' on the interpretation of SPP which sets out that housing land requirement figures should be used when determining whether or not a housing shortfall exists, HLA 2020 uses the housing land requirement figure.

2.2.6 Policy 1 of FIFEplan sets out that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Such development proposals must meet one of the points in Part A and conform to all applicable requirements in Parts B and C. Part A 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 Local Development Plan.

2.2.7 Under Part B of Policy 1, development proposals must address their development impact by complying with relevant criteria and supporting policies listed in the plan. In the case of housing proposals, they must mitigate against the loss in infrastructure capacity caused by the development by providing additional capacity or otherwise improving existing infrastructure (see Policy 3 Infrastructure and Services, and Policy 4 Planning Obligations). Proposals must also protect Fife's existing and allocated employment land (see Policy 5 Employment Land and Property).

2.2.8 Part C of Policy 1 requires development proposals to be supported by information or assessments which demonstrate that the proposal will comply with criteria and supporting policies relevant to the specific development.

2.2.9 Adopted FIFEplan Policy 2 (Homes) states that housing 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 in this Plan; or, on other sites provided the proposal is compliant with the policies for the location. Further to this, Policy 2 also advises that in terms of development requirements, 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 and the continued operation of lawful neighbouring uses in cases where there is potential for disturbance.

2.2.10 This site is located within the settlement boundary of Kirkcaldy and allocated as KDY019 (Victoria fields) within the adopted FIFEplan (2017). FIFEplan states that the site is allocated as a Housing and/or Employment Opportunity site. The allocation further states that should housing be proposed, there should be a maximum of 100 units and any remaining part of the site should be used to provide employment land. Further details within the site allocation development requirements for housing set out:

- Permanent vehicular access to the site must be taken only from Calender Avenue and no vehicular traffic should be able to access the development from Smeaton Road once the development has been completed. Temporary access to the site should be taken from Smeaton Road during construction of the development to avoid construction traffic passing along Calender Avenue; a pedestrian route to Smeaton Road should be provided once the site has been developed.
- A buffer zone should be established between the housing and the adjacent waste management and employment areas to provide separation between the different uses and safeguard residential amenity and the existing businesses. The extent of buffer should be defined at the detailed application stage.

The Green Network Priorities for the site are as follows:

- Establish a high quality development edge fronting on to the greenspace immediately south of the site and provide good access from the development into the greenspace and through to Den Road as a key route to the town centre.
- Provide an east-west pedestrian and cycle path along the southern boundary of the site.
- Consider the appropriateness of an off-site contribution to enhance the quality and range of uses of the Den Road greenspace south of the site and towards re-establishing a foot/cycle connection along the site's eastern edge to connect Smeaton Rd with Hayfield Rd.
- Deliver a good development edge onto the route along the eastern boundary of the site, and provide path connections to access this route from the development.
- Protect the woodland habitat to the north east of the site.

2.2.11 The application site is located within the defined settlement envelope of Kirkcaldy (FIFEplan, 2017) and encompasses the entirety of the allocated site (KDY019). The surrounding area is largely characterised by residential properties. In general land use terms, the proposed residential development is therefore considered to meet the requirements of Part A of Policy 1 of FIFEplan (2017). The application is for the erection of 105 units on a site allocated in FIFEplan for 100 units (or for Class 4, 5 and 6 employment uses). Whilst the proposal exceeds the estimated site allocation, the estimated site capacity is just that, not informed by a significant level of detailed, site specific considerations. The FIFEplan site allocation sets out that 'should housing be proposed, there should be a maximum of 100 units and any remaining part of the

site should be used to provide employment land'; this stems from the 'housing and/or employment opportunity' designation of the site. Upon examining this wording, whilst the proposal exceeds the envisioned 100 residential units, it is considered that there be no requirement for the applicant to provide employment land on site as the allocation description sets out that this is only a requirement if sufficient land remains available; with the residential development proposed to cover the whole site, there is no left over land to provide employment uses. Whilst it could be argued that reducing the proposed development to 100 units could ensure land is made available for employment purposes, it is considered by the Planning Authority that this reduction of five units would not provide a significant amount of land to develop suitably sized employment units. Indeed, to provide both 100 residential units on the site and ensure sufficient land is available for employment purposes, it is considered that the size of residential units and site layout would have to be drastically altered, most likely resulting in a residential development that could not be supported in the interests of design and placemaking and open space provision. The five units proposed above the site allocation is therefore considered to be acceptable on this occasion.

2.2.12 The exceedance of the 100 units envisioned for the site was noted in the consultation response to the application from Economic Development Officers. In their response, Officers requested that as no employment land would be provided on site, the applicant should provide a proportionate commuted payment to offset the loss of the employment land based on the 5 units over the allocation. As above, the Planning Authority is supportive of the additional 5 units proposed, whilst it is considered that it would not be appropriate to request such a contribution as no employment land would actually be lost.

2.2.13 With regard to the additional FIFEplan requirements for residential development on the site, the sole proposed vehicular access to the site would be taken from Calender Avenue, with a thick tree buffer proposed along the eastern boundary and properties sufficiently set back from the southern site boundary. More consideration shall be given these elements later in this report, however it is considered that in principle the proposed development would meet the FIFEplan requirements for the site. Compliance with the green network requirements for the site shall likewise be discussed later in this report.

2.2.14 Overall, given the proposed residential use of the site, the development is considered to be acceptable in principle, meeting the land use requirements for the allocated site (KDY019). The Planning Authority is satisfied that no employment land is required to be delivered. The overall acceptability of any such development must however also satisfy other relevant Development Plan policy criteria as set out in Parts B and C of Policy 1 of FIFEplan, as well as the green network priorities of the site allocation.

2.3 DESIGN, LAYOUT AND VISUAL IMPACT

2.3.1 As a result of the settlement edge location and Green Network Policy Area designation, further consideration must be given to the visual impacts of the development. SPP, Designing Streets (2010), SESplan Strategic Development Plan (2014), FIFEplan Local Development Plan (2017) Policies 1, 10 and 14, and Making Fife's Places Supplementary Guidance (2018) apply with consideration to the design and layout of the proposed development.

2.3.2 SPP paragraph 42 sets out that a pleasant, positive sense of place can be achieved by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement. Paragraph 194 promotes positive change that maintains and enhances distinctive landscape character. In addition, SPP paragraph 202 states

that development should be designed to take account of local landscape character and the potential effects on landscapes, including cumulative effects. The SPP directs Planning Authorities to adopt a precautionary approach when considering landscape impacts, but also to consider the ways in which modifications to a proposal could be made to mitigate the risk (paragraph 204).

2.3.3 Designing Streets (2010) is the Scottish Government's Policy Statement for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. This document sets out that street design must consider place before movement, whilst street design is a material consideration in determining planning applications. Street design should meet the six qualities of successful places. Furthermore, it is advised that street design should be based on balanced decision-making and must adopt a multidisciplinary collaborative approach.

2.3.4 SESplan (2014) Policy 1B directs Local Development Plans to have regard to the need for high quality design, energy efficiency and the use of sustainable building materials.

2.3.5 FIFEplan (2017) Spatial Strategy promotes an increase in Quality of Place through new development in Fife. FIFEplan Policy 1 Part C requires proposals to demonstrate adherence to the six qualities of successful places. Policy 10 (Amenity), requires proposals to demonstrate that development would not result in a significant detrimental impact on amenity in relation to visual impact. Policy 14 provides more detail on these principles of good placemaking. The six qualities require places to be: distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and, easy to move around. Fife Council will apply the six qualities of successful places in order to assess a proposal's adherence to these principles.

2.3.6 Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regard to design. This document encourages a design-led approach to development proposals through placing the focus on achieving high quality design. It additionally sets out that design issues should be considered from the neighbourhood or block scale. This document also illustrates how development proposals can be evaluated to ensure compliance with the six qualities of successful places. This document sets out the level of site appraisal an applicant is expected to undertake as part of the design process, including 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. Applicants are encouraged to demonstrate that the proposal has followed a robust design process. Making Fife's Places includes an evaluation framework to guide the assessment of the design process undertaken.

2.3.7 The Kirkcaldy Charrette was held in spring 2014, since that time there has been considerable progress and change within the charrette area. In April 2018 a Green Infrastructure Masterplan for the area was produced. This masterplan builds on the vision set out in the charrette: to improve connections; provide an attractive public realm; and to improve links to the coast. This led to the identification and costing of five key projects that could be taken forward in the future:

- Greenspace and path improvements between Hayfield Road and Smeaton Road;
- Creating a connection between Victoria Hospital and Denfield Park;
- Improvements at Denfield Park;
- Creating a connection between the former Fife College Priory Campus and the Fife Coastal Path; and

- Street improvements at Broad Wynd and Commercial Street

The Kirkcaldy Charrette Area Green Infrastructure Masterplan also proposed that the existing slope to the north of the application site is planted with woodland, and that secondary tree planting should be provided along the western edge of the site to create an attractive boundary to the hospital and car park. It additionally recommends that footpath link which runs along the eastern boundary of the site be upgraded, with connections provided into the application site neighbouring housing estate to the north. Further recommendations include the provision of footpath link from Smeaton Road along the southern site boundary to Victoria Hospital and Dens Road greenspace. These recommendations are largely reflected in the identified green network priorities for the site set out in the FIFEplan allocation.

2.3.8 A Design and Access Statement (DAS) has been submitted as part of the application, explaining the rationale behind the chosen layout and design of the dwellinghouses which was influenced by contextual analysis of the surroundings and the edge of settlement location. The submitted DAS is considered to present a strong contextual assessment, including consideration of townscape, building heights/type and site assets or characteristics, applying key observations made to the site's design evolution. The development proposals are considered by the DAS in relation to the six qualities of successful places and other relevant planning policies and demonstrates how the placemaking principles within Making Fife's Places and its Evaluation Framework have been successfully applied. The DAS discusses the context and various uses surrounding the site and concludes that a self-contained housing development that is consistent with the housing development to the north is the most appropriate response on this site. Some of the materials proposed have been chosen to reflect the context of the site. Overall the DAS is considered to present a strong evidence-based case for the design principles as proposed.

2.3.9 Within the development there would be variation in house types and sizes. Properties would be a mixture of detached, semi-detached and terraced. A total of nine housetypes are proposed. The proposed dwellinghouses would be of a typical modern design, with finishing materials comprising of beige aggregate, white dry dash render, facing brick, grey concrete roof tiles, white uPVC windows, white woodgrain effect doors and black uPVC rainwater goods. Most dwellings would feature in curtilage off-street parking spaces, however a number of parking courts are also proposed. This simple palette of materials is considered to be sympathetic to the specific context of this site and settlement of Kirkcaldy. The general form, massing, layout and architectural style, as well as the mix of housetypes, of the proposed units are considered to be well suited to the site's location. The use of similar render and roofing materials to those in the existing housing along Calender Avenue would assist to connect the proposed housing with the established houses to the north, whilst the use of the red facing brick on key plots/nodes would add further visual interest to the housing development by prevent excess uniformity and by referencing the industrial heritage of the prominent (and visually imposing red brick) edifice of the Category B Listed Forbo-Nairn Works building to the south of the site. The red facing brick would also be introduced into full facing brick feature boundary walls at various visible locations throughout the site to provide a more welcoming urban realm and avoid the use of timber fences in these prominent locations. The introduction of a range of house styles to help create visual interest throughout the site, some grouped in character areas of higher density housing to create a sense of place and identity within the development. Character areas formed by the introduction of a number of 3 bed terraced houses in distinct parts of the site, combined with semi-detached houses.

2.3.10 The orientation of buildings in relation to streets, open spaces, public paths and courtyards is supported by the Planning Authority, with active building fronts and gables facing public spaces and overlooking key node points, creating a greater visual interest and encouraging passive surveillance; the dual aspect design of the proposed Carlton housetype in key plots in particular would assist with this. Building lines and plot arrangements are not presented in a uniform manner, which is a positive design principle. The staggered buildings lines would assist break up the street elevations on the longer north to south streets on the western and eastern parts of the site, whilst also helping to create vistas at the end of the west-east streets. The positioning of the two detached houses with north facing aspects towards the vehicular access create a welcoming entrance to the development. Key views from within the site are framed by building fronts. The incorporation of open space areas, dedicated footpaths/cyclepaths and shared street surfaces would create a distinct, pedestrian friendly, aided by the proposed footpath connections to the south east and west the site which would allow for greater movement permeability and choice of routes into, through the site, and to the wider area (including neighbouring hospital and Dens Road greenspace). A condition is recommended to ensure the footpath links are provided. Additionally, it is recognised that steps have been taken to reduce the visual impact of parked cars on the principle pedestrian movement routes through the incorporation of side of house parking and parking courtyards, whilst the use of shared surfaces, raised tables, varying street widths, avoidance of cul-de-sacs and connecting footpaths beyond the site would promote pedestrian permeability and meet streets for people principles. Parking courts would be screened from view behind landscaping or by enclosing them with dwellings. A street hierarchy would be aided through the use of differing surface materials and colours. Front garden areas would feature low level hedges to create defensible boundaries and set a clear definition between public and private spaces. Rear boundary treatments would comprise of timber fencing.

2.3.11 The main amenity space is the central open area which would provide space for general recreation, whilst the landscaped SuDS basin would provide a green entry route into the site from the public footpath network to the east and west, ensuring a welcoming corridor for users of the development as well as those passing through the site. Details of the landscaping proposed have been submitted and are considered suitable, with this containing a variety of native species providing both habitat value and suitable visual enhancement. Whilst the total area of proposed 'useable' open space is below the standards set out in Making Fife's Places for a residential development of the size proposed, as shall be discussed later in this report, the Planning Authority is prepared to relax the policy position on this occasion given the proposed footpath connections to Den Road greenspace, the site constraints which have reduced the area of land which is capable of being developed, and as enhanced landscape boundary planting is proposed. To provide appropriate buffers between the proposed dwellinghouses and neighbouring land uses, tree planting is proposed along the northern, eastern and western site boundaries which would assist to provide a suitable landscaped (and private) outlook from dwellings and enhance the overall green 'feel' of the development. The density and size of planting is also appropriately substantive to provide the required amenity. A condition is recommended to ensure that the landscaping is implemented in accordance with the submitted details and thereafter maintained, including front boundary hedges. As shall be discussed in further detail later in this report, a 2.6m-3m acoustic barrier is proposed to be erected along the eastern site boundary to mitigate noise produced at the neighbouring recycling centre. Whilst the height and massing of such a barrier would ordinarily draw concern from the Planning Authority, as it would not form the rear boundary treatment of the dwellings along the eastern edge and as it would be contained within the proposed 10m thick woodland buffer, it is considered that the barrier would give rise to any visual impact concerns.

2.3.12 In their consultation response, the Council's Urban Design Officer made recommendations on how the site layout could be improved to ensure a more positive urban realm. A revised site layout has since been submitted which takes on board some of the recommendations of Urban Design, however it is noted that the overall layout has remained largely consistent. Giving consideration to the Urban Design Officer's comments, constraints of the site, design and layout of the neighbouring housing estate to the north of the site and overall benefits of developing this blighted brownfield site, it is considered that the site layout and dwellinghouse design/mix presented would be an appropriate addition to this mixed use area of Kirkcaldy.

2.3.13 As is noted by the Urban Design Officer, the proposed housing development is generally inward facing, most notably turning its back on the existing footpath which runs along the eastern site boundary. Furthermore, it is noted that no footpath links are proposed to connect the existing path to the development. As per the Kirkcaldy Charrette Area Green Infrastructure Masterplan and the identified green network priorities for the site, there is a desirability to improve the usability of this footpath by creating additional links and providing increased overlooking. Given the constraints of developing the application site however, the Planning Authority is satisfied that these desired connections/improvements can be set aside. As mentioned above (and shall be furthered below), the application site is neighbouring by the Kirkcaldy Recycling Centre to the east, with a Waste Transfer Station consented, the noise from which has the potential to significantly impact on the residential amenity of future residents. In investigating the associated noise levels, it has been concluded that in order to realise the potential of the allocated residential site, the dwellinghouses would require to be set back from the boundary and a large acoustic barrier needs to be erected, removing the potential to create an active frontage along the eastern site boundary.

2.3.14 With regard to the other identified green network priorities and Green Infrastructure Masterplan recommendations, it is considered that the proposed development would meet these expectations. Tree planting is proposed along the northern and western site boundaries, an east/west pedestrian and cycle path along the southern boundary of the site which would connect Smeaton Road to Victoria Hospital and Dens Park greenspace, with the path network also permitting pedestrian access from the site, neighbouring residential development to the north and hospital through to Den Road as a key route to the town centre. As part of the proposed east/west path and connection to the greenspace would be located outwith the application site boundary, but still on land within the applicant's control, a Grampian style condition is proposed to secure its formation.

2.3.15 In conclusion, the proposed residential development is considered to be acceptable within its urban setting and has been well supported by robust contextual analysis. The general form, massing, layout and architectural style, as well as the mix of housetypes, of the proposed units are considered to be acceptable in this location, whilst the proposed landscaping and areas of open space would give a sense of identity to development. Through its design and layout, the proposed development is thus considered to be acceptable for its location is therefore supported by the Planning Authority in accordance with the aforementioned development policies, supplementary guidance and design guidance documents.

2.4 TRANSPORTATION/ROAD SAFETY

2.4.1 SPP, Policies 1, 3 and 10 of the Adopted FIFEplan Local Development Plan (2017), Fife Council Transportation Development Guidelines (contained within Making Fife's Places

Supplementary Guidance) and Scottish Government Designing Streets (2010) apply with regard to this proposal.

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

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

- 2-3 bedroom houses : 2 off-street parking spaces
- 4-5 bedroom houses : 3 off-street parking spaces

A garage can be counted as an off-street parking spaces providing it has a minimum internal dimension of 7.0 metres x 3.0 metres. The Transportation Development Guidelines set out that up to 25% of units within a residential development can be one off-street parking space short, providing the spaces can be provided on-street (in addition to required on-street visitor parking spaces). One on-street visitor parking spaces is required for every 4 residential units.

2.4.4 Designing Streets is the Scottish Government's policy statement for street design. The premise upon which the document is based is that good street design should derive from an intelligent response to location, rather than the rigid application of standards, regardless of context. Designing Streets does not, thus, support a standards-based methodology for street design but instead requires a design-led approach that assists to create a sense of place for users. Designing Streets advocates that new development should have multiple access points to connect the proposed development to existing settlement, rather than creating a stand alone development with poor connectivity to the existing built up area.

2.4.5 The FIFEplan allocation for the application site (KDY019) sets the requirement for the vehicular access to the site to be taken only from Calender Avenue; with no vehicular traffic able to access the development from Smeaton Road once the development has been completed. Temporary access to the site is to be taken from Smeaton Road during construction of the development to avoid construction traffic passing along Calender Avenue. A pedestrian route to Smeaton Road should be provided once the site has been developed. Smeaton Road, is an industrial access road serving a number of different employment uses including a scrap yard, builders merchants, etc. It is not acceptable to serve a housing development from an industrial access road as it introduces an undesirable mix of housing and employment traffic. A road link between Smeaton Road and Calender Avenue would create a potential short-cut between Factory Road and Hayfield Road, which would not be desirable.

2.4.6 A Transport Statement (TS) considered the impact of the proposed development on the surrounding public road network. The submitted TS sets out that the site would integrate with the existing and planned networks for pedestrians, cyclists and public transport. There are local amenities (schools, hospital and local shops) within acceptable walking and cycling distances. The town centre, railway station and retail park are all within acceptable cycling distances, with existing bus stops and bus services available on Hayfield Road. The TS contains a traffic impact analysis of the Calender Avenue/Hayfield Road; Hayfield Road/Whyteman's Brae signalised; Cairns Street West/ Overton Road; Whyteman's Brae/ Dunnikier Way signalised; and Hayfield Road/ Dunnikier Road signalised junctions. The traffic impact analysis concludes that all junctions would continue to operate within their practical capacity following completion of the proposed development. The Calender Avenue/Hayfield Road junction currently serves 86 houses and generates some 64 two-way vehicle trips in the AM peak and 54 two-way vehicle trips in the PM peak. The TS has considered the proposed 105 dwellinghouses generating 84 two-way vehicle trips in both the AM and PM peaks to provide a robust assessment. It is calculated that vehicle trips would more than double on Calender Avenue, however as confirmed by Transportation Development Management (TDM) Officers, the anticipated 2 – 3 vehicle trips per minute in the peak hours is not considered to be a concern.

2.4.7 Objections raise concerns regarding the sole vehicular access taken from Calender Avenue, citing concerns regarding the ability for Calender Avenue and its junction with Hayfield Road to accommodate the increase in traffic arising as a consequence of development. In response to these concerns, given the specific requirements within the FIFEplan site allocation for a sole vehicular access to be taken from Calender Avenue, and the findings of the TS, which are accepted by TDM, the Planning Authority is satisfied that the proposed sole means of vehicular access would be acceptable to serve the existing properties of Calender Avenue, Jute Place, Linum Grove and Rosin Court and the proposed development. It is also recognised that the proposed development, in addition to the existing 88 units to the north, would bring the total number of units served by a single point of access from Hayfield Road to 193, below the 200 unit limit set out in current transportation guidance.

2.4.8 The proposed development would feature a largely squared road layout, with an additional central connecting east/west road. The submitted Design and Access Statement sets out that the development seeks to incorporate 'Streets for People' principles, in-keeping with the recommendations of Making Fife's Places and six qualities of successful places. It is anticipated that the 20mph limit of Calender Avenue would continue into the site, meaning the need for continuous footpaths on either side of the carriageway can be set aside. A section of footway is proposed on one side of the primary loop road (albeit it varies from side to side) – this would assist to enhance pedestrian safety / refuge for passing traffic, particularly for the likes of prams, wheelchairs, parents with children etc. Footpath connections are also proposed through the central open space and SuDS areas. A variety of road materials, raised tables, shared surface of varying widths and geometry are proposed to ensure that it is obvious to drivers of vehicles to keep vehicle speeds low in the interests of road safety, in particular for pedestrians and cyclists. The introduction of traffic calming measures such as changes in road surfaces and raised tables (continuing the road design of Calender Avenue and Linum Grove) would be incorporated into the street design to help break up the longer sections of road to the west and east of the development as speed reduction measures. Tight corners with houses close to the road edge at various locations will further assist. Lastly, the introduction of landscaping at particular locations within the street layout would also assist in creating an attractive and safer street environment, reducing the visual impact of parked cars. Overall, it is considered that the proposed road layout, with the inclusion of streets for people principles, would be acceptable, with no concerns raised

by TDM Officers. A condition is recommended to ensure construction traffic does not move through Calender Avenue.

2.4.9 A varied approach to off-street parking is proposed, with a mixture of private driveway parking, garages and contained parking court areas proposed. Laybys are also proposed throughout to provide dedicated on-street parking spaces, with additional opportunities to park on-street throughout (on wider areas of carriageway). The proposed integral garages of housetypes Hazelwood, Leawood, Lockwood and Maplewood (26 units in total) are too small to be considered useable off-street parking spaces, however it is noted that each of the three bedroom Hazelwood and Leawood housetypes would feature two driveway off-street parking spaces (removing the need for a third space/garage parking in any case). A mixture of 57 three bedroom and 48 four bedroom housetypes are proposed. With the Transportation Development Guidelines supporting up to 25% of units being one off-street parking space short (compensated through on-street spaces), through the combination of off-street and on-street parking arrangements, the proposed development is considered to be acceptable with regard to meeting the parking requirements for the 105 units – as confirmed by TDM’s assessment. Planning conditions have been recommended by TDM to secure the off-street parking spaces, and to ensure roadside boundary markers and visibility splays are maintained in accordance with current standards.

2.4.10 As is detailed in TDM’s consultation response, concerns were raised regarding the design of some of the driveways which attempted to address concerns raised previously on the number of off-street parking spaces proposed. Since this consultation response was published however, the proposed development has been amended to reduce the number of bedrooms proposed throughout, thus reducing the number of off-street parking spaces required. The driveways referred to have been removed from the proposals.

2.4.11 Given the major designation of the proposed development, Transport Scotland were consulted as a statutory consultee. Upon review, Transport Scotland confirmed that they did not have any objections to the proposed development, providing that if Fife Council consider it appropriate to do so, the Council reach agreement with the applicant to take appropriate contributions towards the FIFEplan Strategic Transport Intervention improvement scheme for the Redhouse Roundabout on the A92 trunk road (identified in the Planning Obligations Supplementary Guidance (2017)). Fife Council TDM Officers likewise noted that the application site was located within the Kirkcaldy Core Zone (per the Planning Obligations Supplementary Guidance) for contributions towards the identified Strategic Transport Intervention Measures. The financial contributions for the developer are discussed later in this report.

2.4.12 In addition to the site requirement for a pedestrian route to be provided onto Smeaton Road, the identified green network requirements for the allocated site include:

- Consider the appropriateness of an off-site contribution to enhance the quality and range of uses of the Den Road greenspace south of the site and towards re-establishing a foot/cycle connection along the site's eastern edge to connect Smeaton Rd with Hayfield Rd.
- Deliver a good development edge onto the route along the eastern boundary of the site, and provide path connections to access this route from the development.
- Provide an east-west pedestrian and cycle path along the southern boundary of the site.
- Establish a high quality development edge fronting on to the greenspace immediately south of the site and provide good access from the development into the greenspace and through to Den Road as a key route to the town centre.

2.4.13 In accordance with the FIFEplan requirements for the application, a pedestrian footpath connection is proposed at the south east corner of the site, permitting access to/from Smeaton Road. This proposed footpath connection would also enable access to the existing path which runs between the application site and a neighbouring recycling centre. Whilst the green network requirements for the site set out that connections should be made to this existing path from within the development, the Planning Authority is prepared to set aside this requirement in the interests of residential amenity. As shall be discussed in detail later in this report, a large acoustic barrier is proposed to be located within the woodland planting along the eastern site boundary. The submitted noise impact assessment confirms that the proposed acoustic barrier is essential to ensure the proposed dwellinghouses are not significantly impacted by the noise produced at the recycling centre (and proposed waste transfer station). Furthermore, it is considered that usability of the path would not be comprised as the visibility/overlooking of the path would remain as existing. An east/west pedestrian and cycle path is proposed along the southern boundary of the site. Whilst there were initially concerns raised by the applicant regarding the delivery of this path, further investigation has found that it would be possible to create a pedestrian and cycle link from the site to the hospital to the west on land entirely within the applicant's control – as part of this proposed path would be located outwith the application site, a Grampian style condition is included in the recommendation to secure its implementation. This proposed path would also provide a direct connection from the application site to Dens Road greenspace.

2.4.14 In conclusion, the proposed development is considered to be acceptable with regard to transportation and road safety considerations. A single point of vehicular access is supported on this occasion, whilst the proposed road layout and approach to car parking would be in-keeping with FIFEplan policies and Making Fife's Places Supplementary Guidance.

2.5 RESIDENTIAL AMENITY

2.5.1 Policies 1 and 10 of Adopted FIFEplan Local Development Plan (2017), Planning Advice Note (PAN) 1/2011: Planning and Noise, REHIS Briefing Note 017 Noise Guidance for New Developments, WHO's Guidelines for Community Noise, Fife Council Policy for Development and Noise (2021), Fife Council Customer Guidelines on Daylight and Sunlight (2018), Garden Ground (2016) and Minimum Distances between Window Openings (2011) apply in terms of residential amenity.

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

2.5.3 PAN 1/2011 promotes the principle of how noise issues should be taken into consideration with determining an application. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It is recommended that Environmental Health Officers and/or professional acousticians should be involved in development proposals which are likely to have significant adverse noise impacts or be affected by existing noisy developments. The PAN recommends that Noise Impact Assessments (NIAs)/acoustic reports are submitted to aid the planning authority in the consideration of planning applications that raise significant noise issues. 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. Fife Council's recommended noise limits are:

- Internal daytime (07:00-23:00) - 35db
- Internal night-time (23:00-07:00) in bedrooms - 30db
- External amenity areas - 50db

2.5.4 The REHIS Briefing Note 017 Noise Guidance for New Developments advises that only in exceptional circumstances should satisfactory internal noise levels only be achievable with windows closed and other means of ventilation provided. Predictions of internal noise levels within noise sensitive premises must be calculated based on an open window scenario. For the purposes of this guidance exceptional circumstances are considered to be proposals which aim to promote sustainable development and transport within the local authority area and which would provide benefits such as: (a) reducing urban sprawl (b) reducing uptake of greenfield sites (c) promoting higher levels of density near transport hubs, town and local centres (d) meeting specific needs identified in the local development plan. Fife Council Policy for Development and Noise (2021) furthers this guidance by setting out that the Planning Authority shall also consider the benefits to development and ensuring a positive urban realm is achieved.

2.5.5 The scope of WHO's Guidelines for Community Noise document is to consolidate scientific knowledge on the health impacts of community noise and to provide guidance to professionals trying to protect people from harmful effects of noise in non-industrial environments. WHO recognises that uninterrupted sleep is a prerequisite for good physiological and mental functions, and that a lack of sleep as a consequence of noise can have adverse health implications. WHO advises that for a good night's sleep, the equivalent sound level should not exceed 30dB. Section 3.3 of this document further sets out that 'for a good sleep, it is believed that indoor sound pressure levels should not exceed approximately 45 dB LAFmax more than 10-15 times per night', i.e. residents should not be subjected to individual noise events through the night exceeding 45 dB more than 10-15 times between 23:00-07:00. With regard to external areas, the WHO advises that to avoid people from becoming seriously annoyed during the daytime, the average sound pressure level should be below 55dB (referred to as the upper limit), whilst to ensure people are not moderately annoyed during the daytime, the average sound pressure level should be below 50dB (referred to the lower limit).

2.5.6 As per Fife Council Customer Guidelines on Daylight and Sunlight (2018), sunlight is considered to be the rays of light directly from the sun from a southerly direction, whereas daylight is the diffuse light from the sky that can come from any direction. The guidance considers these two forms of natural light as follows; sunlight received by residential properties' main amenity spaces; and daylight received by neighbouring windows serving habitable rooms. The guidance details the 25 degree and 45 degree assessment to measure the impact of loss daylight as a consequence of a development. This guidance additionally states that proposed developments should allow for the centre point of neighbouring properties' amenity spaces to continue to receive more than two hours of sunlight (calculated on 21st March). Fife Council's Minimum Distance between Window Openings (2011) guidance advises that there should be a minimum of 18 metres distance between windows that directly face each other, however, this distance reduces where the angle between the windows increases. If there is a road or pavement between the existing and proposed properties, or a permanent high barrier, the distances can be less.

2.5.7 Fife Council's Planning Customer Guidelines on Garden Ground advises that all new detached and semi-detached dwellings should be served by a minimum of 100 square metres of private useable garden space; with 50 square metres for terrace properties; and that a building

footprint to garden space ratio of 1:3 is required. Garden ground provision does not include space for garages, parking or manoeuvring vehicles.

2.5.8 With regard to privacy/window-to-windows distances within the site, the proposed development has been laid out in such a way to either meet the minimum distances/angles recommended in the Fife Council Customer Guidelines, or makes use of intervening roads, street trees or obscurely glazed gable windows to prevent direct views between windows and into private garden areas. Additionally, it is calculated that, given the distance between the proposed dwellings and existing properties, with level changes, intervening boundary treatments and woodland planting, the privacy of neighbouring properties would not be adversely impacted by the development. Furthermore, the layout of the proposed development would ensure that the habitable rooms of each dwelling would receive adequate daylight, whilst neighbouring residential properties would not experience a loss of daylight. Lastly, given the layout of the proposed development, path of the sun and position of neighbouring amenity spaces, it is considered that neighbouring properties would not be subjected to material loss of sunlight.

2.5.9 A variety of garden ground sizes are proposed throughout the application site. Eight of the 12 terraced dwellings would feature private garden areas in excess of 50sqm. Of the 93 proposed semi-detached and detached dwellings, 53 would feature private garden areas in excess of 100sqm; the majority of these being detached. All semi-detached and detached dwellings would feature garden areas in excess of 60sqm. Giving consideration to the variety of private garden sizes proposed, the estimated number of units allocated for the vacant brownfield site in FIFEplan and the general density of the development, the Planning Authority is prepared to set aside the recommendations of the garden ground guidance. The variety of garden sizes proposed provides an option for future residents to purchase a property with a garden area that suits their needs.

2.5.10 As referred to above, the application site is neighboured by Kirkcaldy recycling centre to the east, industrial businesses to the south (Forbo Flooring) and Victoria Hospital to the west. The noise produced by each of these land uses has the potential to significantly impact on the amenity of future residents of the proposed development. The nature of the proposed residential development would not give rise to adverse noise, light or odour considerations for existing residential properties to the north. A NIA, prepared by EnviroCentre, has been submitted in support of this application. In addition to the existing industrial sources, the NIA also considers the impact of a consented waste transfer station (WTS) on land located to the east of the development site. The baseline noise assessment within the NIA identified that mitigation was required to reduce noise from the recycling centre and WTS. Recommendations for an acoustic barrier along the eastern boundary are provided for scenarios 'with' and 'without' the WTS. Mitigation is also required to reduce noise from fixed plant located at Victoria Hospital and associated laboratory building. An assessment of noise levels with mitigation in place predict that the noise from all sources shall be reduced to insignificant levels, and allowing night-time internal noise targets to be met at the majority of locations (assuming open windows). At 10 properties, located adjacent to the western boundary of the site, night-time internal noise levels are predicted to exceed the 30dB target (with open windows) on one façade by up to 2dB. When considering Forbo Flooring, to allow for any reduced operations as a result of Covid, the measured levels have been factored upwards in the NIA to represent double the activity which was measured during the site survey. The NIA also takes into consideration previous noise monitoring undertaken for the factory in connection with nearby planning applications, where it was identified that the majority of identified noise sources are located to the south of the Forbo Flooring premises, with noise propagation towards the south being most significant – the most significant noise generating sources propagating towards the north are noted to be extracts on

the northern façade of the building. The potential prejudice to the business activities of Forbo Flooring were identified by Economic Development Officers.

2.5.11 With regard to the recycling centre to the east of the application site, the NIA identifies 'with' and 'without' mitigation scenarios given the uncertainty over whether the consented WTS would be erected. Upon consultation with Environmental Health Officers (EHOs), and as the WTS consent could still be implemented (or renewed), it is considered by the Planning Authority that the 'with' WTS mitigation measures should be implemented. The recommended measures include an acoustic barrier along the full length of the eastern boundary of the site, varying in height of between 2.6m and 3m. The barrier must be constructed of materials with a minimum surface density of 20 kg/m² and should be of a close board design (no gaps). The height of such a barrier would normally raise concerns for the Planning Authority in the interest of visual amenity, however it is noted on this occasion that the barrier would not form the rear garden boundaries of properties, rather the barrier would be visually contained within a proposed 10m wide woodland area along the eastern site boundary. Once fully established, the Planning Authority is satisfied that the woodland area would fully contain the barrier, ensuring it did not raise any significant visual amenity concerns.

2.5.12 Considering industrial activities to the south of the application site, the NIA (which examined data from recently carried out assessments for other developments in the vicinity) found that there was limited noise generating sources propagating towards the application site. Whilst it is acknowledged in the NIA that Covid restrictions may have impacted on the noise levels produced by Forbo Flooring, this is compensated for by assuming that productivity would be doubled above the activities measured during the site survey. This conservative measurement, backed by other recent assessments, is considered to be acceptable by the Planning Authority and as such any uncertainty in the conclusions of the NIA are likely to be limited. The NIA found that the proposed development would not be impacted by noise produced by the Forbo Flooring and other industrial activities to the south of the site, and as such no mitigation is recommended or required. No concerns have been raised by EHOs regarding the information presented. The Planning Authority are satisfied with the methodology and findings of the NIA and therefore accept the position presented that the proposed development would not prejudice future operations of industrial businesses to the south of the site.

2.5.13 Lastly, the NIA considers the noise produced by Victoria Hospital to the west of the site, as well as the associated laboratory building. To mitigate the plant and operational noise of the main hospital and laboratory buildings, the NIA firstly recommends that that noise should be dealt with at source. Whilst upgrading of the external plant equipment of the laboratory building can be achieved, it has been advised that the operational requirements of the main hospital building would not allow for the necessary upgrading works to be carried out without severe detriment to the efficiency of the hospital during the course of works. NHS Fife have confirmed that they have an agreement in place with the applicant for the laboratory plant equipment to be upgraded – a condition is recommended to secure these works. An acoustic barrier along the western boundary is also proposed to mitigate noise associated with the neighbouring hospital, however in the interests of visual amenity and as any barrier would require to block the line of sight from first floor windows of the proposed dwellinghouses to the large hospital building, it is concurred with by the Planning Authority that a similarly sized barrier to the one proposed along the eastern boundary would not be appropriate. The proposed barrier would protect ground floor windows on the rear/side elevations of the dwellings and rear garden areas proposed along the western boundary. To achieve required night-time noise levels within bedrooms (30dB) facing west (Plots 53-61 and 63), the NIA sets out that this could only be achieved with windows closed (predicted open window level is 32dB).

2.5.14 Fife Council is only supportive of the use of a closed window solution/alternative ventilation to meet internal noise level requirements where the applicant has explored alternative methods to reduce the noise levels, where the application site meets the 'exceptional circumstances' listed in the REHIS Briefing Note, and provided windows can remain openable for purge ventilation. EHOs do not raise any concerns with the proposed use of a closed window solution for the 10 identified properties, providing the exceptional circumstance are met. As it would not be possible to target the noise at source given the continuous operational needs of the hospital, the Planning Authority is prepared to accept the use of a closed window solution on this occasion for the 10 most westerly properties given the proposed development would meet the exceptional circumstances criteria by developing an allocated brownfield site and as the site layout proposed is considered to make optimal use of the site. Furthermore, it is noted that only bedrooms located on the western elevations of the properties would be impacted, and with windows open the level of exceedance about required noise levels would only be 2dB. Such a small exceedance (<5dB) would not be considered an adverse impact and would be unlikely to draw noise complaints against the hospital.

2.5.15 Overall, it is considered that the proposed development would not give rise to adverse residential amenity concerns for existing properties, with sufficient private gardens areas proposed to serve the proposed dwellings. Subject to securing the mitigation measures identified in the submitted NIA, the proposed dwellinghouses would not be subjected to adverse noise considerations, nor prejudice the operation of neighbouring land uses. The proposed development is thus considered to be acceptable with regard to residential amenity considerations.

2.6 LOW CARBON FIFE

2.6.1 Fife Council promotes sustainable development and consideration of this is set out within SPP (paragraph 154), Policies 1 and 11 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance (2018) and the Fife Council Low Carbon Fife Supplementary Guidance (January 2019).

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

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

o and avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

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

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

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

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

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

2.6.6 An Energy Statement of Intention and Low Carbon Checklist have been submitted as part of this planning application, in accordance with Policy 11 and the Low Carbon Guidance. The Energy Statement sets out that the site layout has been designed to maximise solar gain, with each dwellinghouse adopting a 'fabric first' approach, making use of high levels of insulation to minimise heat loss. This approach would reduce the energy consumption of the dwellings to a minimum, with the small amount of energy required to heat the buildings partly produced using low carbon technologies, namely solar PV panels. Timber frame construction is proposed within this development to improve overall carbon saving in comparison to masonry build; whilst also offering thermal efficiency and air tightness improvements to reduce heating and operational costs of the home. Timber frame construction also improves the build sequencing and programme thus reducing site preliminary costs and overheads. Locally sourced building materials are proposed to be used, including recycled bricks. In order to comply with the current guidelines for surface water discharge quality, SuDS facilities are proposed as an integral part of the surface water system design. Details are also provided regarding the energy efficient

appliance that would be provided within each of the proposed dwellinghouses, including high efficiency boilers. There would be sufficient internal and external spaces for the storage of mixed recycling facilities consistent with current Building Standards. With regard to travel and transport, it is acknowledged that the application site is located within close proximity to a number of bus stops, including those within Victoria Hospital which are served by a number of routes from all over Fife, and is within walking distance to local amenities, including green space, a local primary school and a number of shops.

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

2.7 CONTAMINATED LAND AND AIR QUALITY

2.7.1 PAN 33: Development of Contaminated Land (2000), PAN 51: Planning, Environmental Protection and Regulation (2006) and Policies 1 and 10 of FIFEplan Local Plan (2017) apply with regards to land stability in this instance.

2.7.2 PAN 33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. PAN 51 aims to support the existing policy on the role of the planning system in relation to environmental protection regimes as set out in the SPP. Policy 10 of FIFEplan advises development proposals involving sites where land instability or the presence of contamination is suspected, the developer is required to submit details of site investigation to assess the nature and extent of any risks presented by land stability or contamination which may be present and where risks are known to be present, appropriate mitigation measures should be agreed with the Council.

2.7.3 Given the past industrial uses of the site, the application site was identified as being potentially contaminated. A Ground Investigation Report and Remediation Strategy, Implementation and Verification Plan, both prepared by Johnson, Poole & Bloomer, have been submitted in support of this application. The submitted information confirms the presence of materials on site and recommends that remedial action be taken to ensure the site can be safely developed for residential use. Fife Council's Land and Air Quality Officers have reviewed the submitted information, advising that they are generally satisfied. A condition has been recommended for a Verification Report to be submitted to the Planning Authority upon completion of the remedial works and prior to any residential dwellings becoming occupied. This condition is considered to be appropriate and has been included in the recommendation.

2.7.4 The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. Therefore, within the site and surrounding area, there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority were consulted on this application. Upon review of the submitted Johnson, Poole & Bloomer information, the Coal Authority advised that they concurred with the conclusions presented that coal mining legacy potentially poses a risk to the proposed development and that remedial measures are required in order to ensure the safety and stability of the development. Conditions were therefore recommended by the Planning Authority which set the requirement for the identified remedial action measures to be carried out, and for confirmation of the works to be submitted prior to the occupation of any dwellinghouse.

2.7.5 With regard to air quality, a screening assessment, undertaken by EnviroCentre, has been submitted as part of the application. Considering the number of units proposed and likely vehicular trip numbers (informed by the transport statement), the screening assessment concluded that the proposed development would not give rise to adverse air quality concerns and as such there was no requirement to proceed to a full air quality impact assessment. Fife Council's Land and Air Quality Officers advised that they were satisfied with the air quality information submitted, concurring that a full assessment would not be required on this occasion.

2.7.6 In conclusion, whilst the site is subject to past contamination and coal mining legacy issues, suitable remediation measures have been specified to ensure the site is developed safely for residential use. Additionally, the scale of the proposed development would not give rise to adverse air quality concerns. The proposed development is therefore considered to be acceptable with regard to land and air quality considerations.

2.8 FLOODING AND DRAINAGE

2.8.1 SPP (Managing Flood Risk and Drainage, 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 (2021) 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 The SPP (Managing Flood Risk and Drainage) indicates that the planning system should promote a precautionary approach to flood risk taking account of the predicted effects of climate change; flood avoidance by safeguarding flood storage and conveying capacity; locating development away from functional flood plains and medium to high risk areas; flood reduction: assessing flood risk and, where appropriate, undertaking flood management measures. Development should avoid an increase in surface water flooding through requirements for Sustainable Drainage Systems (SuDS) and minimising the area of impermeable surface.

2.8.3 Policy 3 of the FIFEplan (2017) states that development proposals must incorporate measures to ensure that they would be served by adequate infrastructure and services; including foul and surface water drainage, and SuDS. Policy 12 of FIFEplan states that development proposals will only be supported where they can demonstrate compliance with a number of criteria, including 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. The Council's 'Sustainable Drainage Systems (SuDS) - Design Criteria Guidance Note' sets out the Council's requirements for information to be submitted for full planning permission to ensure compliance. Finally, CAR requires that SuDS are installed for all new development, with the exception of runoff from a single dwellinghouse or discharge to coastal waters.

2.8.4 Per the most recent SEPA flood maps, the application site is identified as being at low risk of fluvial flooding, however areas within the site are classed as being at medium or high risk of pluvial flooding. As a consequence of the identified flood risk, a Flood Risk Assessment (FRA) has been submitted in support of the application. Owing to past industrial use of the site, Ground levels within the majority of the site are relatively flat, generally around 41.8 to 41.9m AOD, however, the south-west corner of the site is at least 1m lower than the rest of the site and dips down to ~40.7m AOD, with ground levels falling again further to the south. The FRA found that as the site sits at a higher level than surrounding land (with a local low point around 3-4m below the site and located to the south-west of the site), in the event of flooding from identified culverted watercourses close to the site, water would pond to the south-west of the site to a

substantial depth before it would reach the level of the site. In addition, it is noted that as part of the site remediation works required for re-development of the brownfield site, ground levels would be raised by around 0.5 – 1m in any case with a capping soil. It is recommended within the FRA that ground levels should be finished in a way not to allow ponding of surface water within the site where it could increase the risk of flooding of the property (with floor levels elevated above ground levels). Swales are recommended along the northern site boundary to manage surface water entering the site from the north. The submitted FRA was reviewed by Fife Council's Structural Services (Flooding, Shoreline and Harbours) Officers and SEPA. Upon review, neither consultee raised any objections, however a condition was recommended by SEPA to ensure that the remediation capping (to increase site levels by 0.5 – 1m) takes place. Such a condition has been included in the recommendation.

2.8.5 An end of line SuDS basin, located at the lowest point on the site towards the south eastern corner, integrated with at source road side filter drains, is proposed to store/attenuate and treat the surface water run-off from the site before it enters the public drainage system. At the recommendation of the FRA, a swale is also proposed along the northern site boundary to provide an overland flow route. A Drainage Strategy Report and supporting calculations have been submitted which confirm that the proposed SuDS basin is the most appropriate solution to manage surface water runoff at the site. Fife Council's Structural Services Officers have reviewed the proposed SuDS arrangements, supporting calculations and design/check certification documents, confirming that they had no objections to raise. With regard to the proposed swale to the north of the development site, Structural Services have advised that porosity testing should be carried out to satisfy the developer that the ground conditions would allow runoff to dissipate. A planning condition is recommended to secure this. A further condition is recommended to ensure the proposed SuDS is installed and thereafter maintained.

2.8.6 With regard to foul drainage, the Drainage Strategy Report confirms that the foul drainage is proposed to be connected to an existing combined sewer in the hospital car park to the south-west of the main site area, to be agreed with Scottish Water, designed in accordance with Sewers for Scotland 4 with connection to the existing Scottish Water network. A connection application shall be required to be submitted by the applicant to Scottish Water – this is independent of the planning process.

2.8.7 In conclusion, the application site is identified within the most recent SEPA flood risk maps, however, as per the recommendations and conclusions of the submitted FRA, the Planning Authority is satisfied that the proposed dwellinghouses would not be at risk of flooding. An appropriately design SuDS basin is proposed to attenuate surface water runoff within the site. Overall, it is considered that the proposed development would comply with the current flood risk and drainage considerations.

2.9 TREES AND LANDSCAPING

2.9.1 Policies 1, 10 and 13 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance Document (2018) and British Standard (BS) 5837:2012 Trees in relation to Design, Demolition and Construction apply with regard to the potential impact on trees.

2.9.2 Policies 10 and 13 of FIFEplan set out that development proposals will be only be supported where they protect or enhance natural heritage assets, including trees which have a landscape, amenity or nature conservation value. Policy 13 states that where development is proposed on a site where trees are present, consideration will be given to whether, and in what

form, development should be supported, having regard to the desirability of retaining and protecting mature and semi-mature trees, and other examples likely to be become attractive in amenity terms, or of a rare species.

2.9.3 Making Fife's Places Supplementary Guidance Document (2018) details that 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. The purpose of the stipulation within Making Fife's Places Supplementary Guidance with regard to development within the falling distance of trees is primarily to safeguard the health of trees and make sure that trees are retained on site in the long-term. By ensuring that new developments are located outwith the falling distance of semi-mature/mature trees, this significantly reduces the future possibility of trees (regardless of whether or not they are protected) being pruned back or felled in the interests of residential amenity given the perceived (and actual) threat of trees (or large branches) falling which accompanies living in close proximity of large trees. These threats can however be reduced by orientating proposed properties to remove any perceived overbearing impacts from the trees.

2.9.4 BS 5837:2012 Trees in relation to Design, Demolition and Construction provides advice on the formation of hard surfaces within the Root Protection Areas (RPAs) of trees, suggesting the use of appropriate sub-base options such as three-dimensional cellular confinement systems.

2.9.5 Category (Cat.) A and B trees are expected to be retained and are considered by Fife Council to be site constraints. Cat. C is a lower classification and is not generally seen as a constraint to development. Cat. U trees are those which it is considered cannot realistically be retained as living trees. The Planning Authority does not raise any concerns regarding the removal of Cat. U trees. If tree felling is proposed, the Planning Authority would expect suitable replacement planting to take place (native species).

2.9.6 One of the identified green network priorities for the site is to 'protect the woodland habitat to the north east of the site'. Given the separation between the development and woodland habitat, the Planning Authority is satisfied that the woodland would not be adversely impacted as a consequence of development.

2.9.7 Scattered trees and some grassland are present within the north and south of the site. Trees and woodland are present to the east and south of the site with the residential and commercial properties present to the north, west and east. A tree survey report, carried out by EnviroCentre, identified 93 trees for individual survey and one vegetation group which were considered in terms of their species composition, above and below ground constraints, tree quality and future management. To accommodate the proposed residential development and installation of the acoustic barrier along the eastern site boundary, the tree survey reports sets that this would require the removal of all 93 individually surveyed trees and vegetation group.

2.9.8 Of the 93 surveyed trees and vegetation group, the majority are identified as being either Category U or C, with a total of 21 Category B trees recorded. None of the trees within the site are protected, nor are they recorded as semi-natural or ancient woodland. Overall, the tree survey report sets out that as a group, the existing tree-stock and shrubs are of limited value and life span in that location as well as needing considerable management to retain. The report therefore recommends that it would be beneficial to remove and replant rather than retain. Through removal and replanting, the report advises that it would provide the opportunity to utilise undamaged soils and use the landscaping scheme to create a more biodiverse habitat with

specific ecosystem services to meet the needs of the proposed development. Upon consideration of the conclusions of the tree survey report, and given the limited landscape quality of the trees and lack of statutory protection, the Planning Authority is satisfied that the tree can be removed on this occasion providing suitable replanting and enhancement takes place.

2.9.9 With regard to the replanting, the tree survey report advises that compensatory on-site planting at a minimum ratio of 1:1 (as stipulated in the Control of Woodland Removal policy) should be introduced, however an increased ratio would assist in achieving a net gain for biodiversity. The report also sets out a list of recommended tree species which could be planted. Whilst the proposed 1:1 replanting ratio is considered to be suitable for the replacement of Category U and C trees, the Planning Authority would require a minimum 2:1 replanting ratio for the replacement of the 21 Category B trees.

2.9.10 The recommended tree species for replanting has been correlated in the submitted landscaping plans. To compensate for the loss of trees within the site, woodland buffers are proposed along the northern, eastern and western boundaries of the site, with an additional area to the south of the proposed SuDS basin. Street trees are also proposed throughout the site, and within the SuDS and open space area. The proposed 10m wide woodland buffer along the eastern boundary would contain/screen the proposed acoustic barrier. Given the extent of the proposed tree planting, with native species trees, the Planning Authority is satisfied that the proposed development would suitably replace the existing trees identified for removal. With the proposed woodland buffers around the periphery of the site, the SuDS area and individual trees throughout, it is considered that the development would enhance the landscape offering of the currently vacant site, as well as views into the site from the neighbouring Victoria Hospital. It is considered that there would be suitable separation between the proposed dwellinghouses and woodland areas to ensure the trees would not give rise to residential amenity concerns. Conditions are recommended to ensure the replacement tree planting and landscaping takes place and is properly maintained.

2.9.11 In conclusion, the proposed development would result in the loss of all existing trees within the site, however, giving regard to the limited life span and value of the trees and the proposed replanting/landscaping, it is considered by the Planning Authority that the tree removal would be acceptable on this occasion.

2.10 NATURAL HERITAGE

2.10.1 Policies 1, 10 and 13 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance Document (2018), Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), Wildlife and Countryside Act 1981 (as amended), Wildlife and Natural Environment (Scotland) Act (2011), and Nature Conservation Scotland Act 2004 (as amended) apply in this instance with regard to natural heritage protection.

2.10.2 Policy 13 of the FIFEplan (2017) states that where a proposed development will only be supported where they protect or enhance natural heritage assets, including trees which have a landscape, amenity or nature conservation value. Where adverse impacts on existing assets are unavoidable the Planning Authority will only support proposals where these impacts will be satisfactorily mitigated. Development proposals must provide an assessment of the potential impact on natural heritage, biodiversity, trees and landscape and include proposals for the enhancement of natural heritage and access assets, as detailed in Making Fife's Places Supplementary Guidance. Where the proposed development would potentially impact on natural

heritage assets (including species), a detailed study must be undertaken by a suitably qualified person detailing the potential impact of the development.

2.10.3 A Phase 1 Habitat and Protected Species Survey Report, prepared by EnviroCentre, has been submitted. This describes the habitats within the site as semi-improved neutral grassland, scattered scrub, scattered mixed trees and bare ground. No evidence of protected species was found, although the old security building was assessed as having low bat roost potential and vegetation and trees are likely to support some nesting birds. The Council's Natural Heritage Officer did not raise any concerns regarding the report methodology or findings.

2.10.4 Following the recommendation of the Phase 1 Report, a Bat Survey Report was commissioned and undertaken given the proposed demolition of the security building. No evidence of bats emerging from the building was recorded. A limited number of common pipistrelle and soprano pipistrelle were recorded commuting and foraging along the eastern tree lined site boundary. As no emergence activity from the building was recorded and the building is of low potential for roosting bats, no further bat activity surveys were recommended ahead of demolition. An EPS licence for bats is not required from NatureScot to undertake proposed demolition works.

2.10.5 Given the extent of tree removal proposed, the Phase 1 Habitat and Protected Species Survey Report makes several recommendations on how the proposed development could improve the biodiversity offering of the site beyond the proposed tree replanting. As noted by the Council's Natural Heritage Officer, it is not clear how these recommended enhancement measures would be incorporated in the development. A condition is therefore recommended for a biodiversity enhancement plan to be submitted prior to the start of works, setting out how the recommendations of the Phase 1 Report would be incorporated into the development. The Report also identifies several mitigation measures to ensure the construction period does not impact on any species - a condition is recommended to ensure these are adhered to.

2.10.6 With regard to the proposed landscaping, no concerns were raised by the Natural Heritage Officer, however it was requested that native rose species be added to the native hedge and hedgerow mix specification for additional biodiversity benefit. This recommendation was incorporated into an updated landscaping proposal which was submitted. Overall, it is considered that the proposed native species planting, landscaping and wetland meadow mix (SuDS basin) would be appropriate for the site, ensuring suitable biodiversity enhancement and providing future residents with an attractive landscape offering.

2.10.7 In conclusion, the proposed development would not adversely impact on any protected species, whilst the proposed planting and landscaping would provide biodiversity enhancement. A condition is recommended to ensure additional biodiversity enhancement measures are incorporated. The proposed development is therefore considered to be acceptable with regard to natural heritage considerations.

2.11 AFFORDABLE HOUSING

2.11.1 PAN 2/2010: Affordable Housing and Housing Land Audits, Policies 1 and 2 of FIFEplan (2017), Fife Council's Approved Supplementary Guidance on Affordable Housing (2018) and Planning Obligations Framework Supplementary Guidance (2017) will be taken into consideration with regard to affordable housing provision.

2.11.2 PAN 2/2010: Affordable Housing and Housing Land Audits provides advice on how the planning system can support the Government's commitment to increase the supply of affordable housing. Policy 1 of FIFEplan (2017) states that development proposals must meet the requirements for affordable housing. Policy 2 of FIFEplan sets out that open market housing developments must provide affordable housing at the levels for each Housing Market Area (HMA), consistent with the Affordable Housing Supplementary Guidance. Such affordable housing units must be fully integrated into development sites and be indistinguishable from other housing types. In order to achieve mixed and balanced communities, mixed tenure developments will be promoted. Off-site contributions shall be sought for developments comprising of 10-19 units in urban areas. Fife Council's Supplementary Guidance on Affordable Housing (2018) sets out that housing proposals must accord with the Fife Local Housing Strategy (2015-2020). The Supplementary Guidance further sets out that affordable housing units provided on site should be fully integrated into the development and be visually indistinguishable from market housing, with an approximate density of 30 units per hectare.

2.11.3 Policy 2 sets out affordable housing contributions will not be sought for development proposals for open market housing which involve: fewer than 10 houses in total; remediation of contaminated land; redevelopment of long term vacant or derelict land; or building conversions where it can be demonstrated that the contribution to affordable housing would make the conversion unviable. The Supplementary Guidance provides further clarity on these matters. As per Policy 2 and the Supplementary Guidance, housing developments in the HMA, are expected to provide an affordable housing contribution of 10% of the total number of units proposed. The Supplementary Guidance provides details on how the developer should deliver the affordable units and set out the Council's affordable housing 'credit system', where development can forgo their affordable housing contributions for a site, subject to providing the required number of units on an alternative development site.

2.11.4 Paragraph 5.5 of the Affordable Housing Supplementary Guidance confirms that affordable housing contributions shall not be required for developments involving:

- h. The re-use of long term vacant or derelict land within a defined settlement (excluding former mine workings; and naturalised previously developed land).
- i. Rehabilitation of contaminated land (excluding mine workings) within a defined settlement. This is land covered by or containing any substance which is:
 - causing or is presenting a significant possibility of causing harm; or
 - likely to be causing pollution of controlled water

2.11.5 As this application involves the redevelopment of long term vacant and derelict land (former industrial/manufacturing), confirmed by its inclusion in the Vacant and Derelict Land Register, and as the land has not 'naturalised', the proposed development is exempt from providing any affordable housing contributions. This exemption has been confirmed by Fife Council's Housing Services in their consultee response to this application.

2.12 DEVELOPER CONTRIBUTIONS

2.12.1 Policies 1 and 4 of FIFEplan Local Development Plan (2017), Fife Council's Planning Obligations Framework Supplementary Guidance (2017) and Circular 3/2012: Planning Obligations and Good Neighbour Agreements, apply with regard to the planning obligations required of developments.

2.12.2 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 of 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.

2.12.3 Policy 1, Part B, of the FIFEplan advises that development proposals must mitigate against the loss of infrastructure capacity caused by the development by providing additional capacity or otherwise improving existing infrastructure. Policy 4 of the FIFEplan advises that developer contributions will be required from development if it will have an adverse impact on strategic infrastructure capacity or have an adverse community impact. Policy 4 also states that developments will be exempt from these obligations if they proposals for affordable housing.

2.12.4 Fife Council's Planning Obligations Supplementary Guidance (2017) advises 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 sets out when planning obligations will be sought, where exemptions will apply and how methodologies will be applied when considering the impacts a proposed development may have on existing infrastructure. The priorities to be addressed are educational provision, transport, affordable housing development, greenspace, public art and employment land. This document, approved by Fife Council's Executive Committee, provides up to date calculations and methodologies with regard to existing infrastructure.

2.12.5 Policy 4 of FIFEplan (2017) and Fife Council's Planning Obligations Supplementary Guidance (2017) also advises that planning obligations will not be sought for (amongst others) Town Centre redevelopment, development of brownfield sites (previously developed land) or development of affordable housing. The Supplementary Guidance (2017) further sets out that where a proposed development would create a critical infrastructure capacity issue, particularly in terms of the primary school estate, contributions may still be required.

2.12.6 Section 3.3 of Fife Council's Planning Obligations Supplementary Guidance (2017) sets out that developer contributions will be calculated on the basis of whole sites identified in the Local Development Plan. Applications for parts of allocated sites will pay a proportion of the total site contributions. The matters relating to the impact the proposed development would have on current infrastructure are considered in detail below.

2.12.7 DEVELOPER CONTRIBUTIONS: EDUCATION

2.12.8 The Planning Obligations Supplementary Guidance (2017) advises that new residential developments across Fife will have an impact on the school estate and certain types of development will be required to provide education contributions where there is a shortfall in local school capacity. These contributions will only be required when the need for additional school capacity is brought about directly through the impact of the development and these obligations will take the form of either direct school and nursery provision or financial contributions towards the cost of creating additional capacity for increased pupil numbers. Developments on derelict land within settlement boundaries are exempt from contributions towards education, unless there is a critical capacity risk at a school in the catchment. Critical capacity is defined as where there is an expected shortage of school places within two years from the date of the education

assessment, due to the cumulative impact of development within the relevant school catchment. In these instances, where critical capacity is an issue, the Council may have to refuse an application unless the capacity issue can be addressed through the provision of planning obligations in line with the methodologies included in the Planning Obligations Framework Supplementary Guidance (2017).

2.12.9 In the case of Kirkcaldy (and Dunfermline) there are existing secondary school capacity issues across each town. This will be exacerbated by the high levels of development expected to take place over the next 20 to 30 years; however, this need is not derived from the impacts of development in one specific catchment. Currently the capacity constraints of the existing schools are leading to many out-of-catchment placing requests. This has led to the catchments in each town becoming geographically intertwined with capacity issues at one school impacting heavily on surrounding catchments across each town. Therefore, it is appropriate to take a more strategic view when considering secondary school obligations in these towns. In accordance with the Planning Obligations Framework Supplementary Guidance (2017), a Kirkcaldy-wide approach is utilised to address secondary school capacity issues in a cumulative manner to meet the cost of development-related education capacity requirements. Planning obligation payments to contribute to the costs of the mitigation across Kirkcaldy secondary schools are thus shared across all non-exempt housing development across the catchment area.

2.12.10 This site is identified in the most recent Housing Land Audit (HLA) as 'Victoria Fields' (KIR248), a non-effective site. This planning application is for 105 homes with the first completions expected in 2022 and the last house completions expected in 2025. These values have been used to assess the impact on catchment schools.

2.12.11 The application site is located in the catchment area for: Pathhead Primary School; St Marie's Roman Catholic Primary School; Viewforth High School; and St Andrew's Roman Catholic High School. This site is also within the Kirkcaldy East local nursery area. In accordance with Fife Council Planning Obligations Framework Supplementary Guidance 2017, planning obligations may be required for normally exempt development to contribute towards additional school capacity where there is a critical capacity risk at a school within the catchment. Education Services were consulted on this application to assess and provide comment on the impact on catchment schools. The assessment conducted by Education Services included the 105 units proposed in this application, effective sites identified within the HLA, and a recently approved housing development at Park Road, Kirkcaldy for 25 units (19/02233/FULL).

Pathhead Primary School

At the Pupil Census there were 295 pupils on the school roll organised in 11 classes in accordance with class size regulations. The school has 12 class areas available which provide capacity for a maximum of 342 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 expected at Pathhead Primary School.

Viewforth High School

At the Pupil Census there were 669 pupils on the school roll and the school has capacity for a total of 600 pupils. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently a risk that Viewforth High School will need more class areas than are currently available.

School roll projections also indicate that there is currently a risk that the secondary schools across Kirkcaldy will require additional classrooms than are currently available within the existing estate.

In accordance with the Planning Obligations Framework Supplementary Guidance (2017), a Kirkcaldy-wide approach will be utilised to address secondary school capacity issues in a cumulative manner to meet the cost of development-related education capacity requirements. The cumulative impact of proposed strategic and non-strategic housing development in the catchment area will require an additional 400 pupil places at Viewforth High School. The cost of this work is estimated at £5.0m, to be funded on a pro-rata basis by all non-exempt housing development across the catchment areas.

St Marie's Roman Catholic Primary School

At the Pupil Census there were 381 pupils on the school roll organised in 14 classes in accordance with class size regulations. The school has 14 class areas available which would provide capacity for a maximum of 418 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 expected at St Marie's Roman Catholic Primary School.

St Andrew's Roman Catholic High School

At the Pupil Census there were 802 pupils on the school roll and the school has a maximum capacity for 1137 pupils. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently no capacity risk expected at St Andrew's Roman Catholic High School.

Kirkcaldy East local nursery area

Local nursery areas were approved by Fife Council's Education and Children's Services Committee in September 2019. This site is within the Kirkcaldy East local nursery area. From August 2020 the Scottish Government and Fife Council are 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 not factored into the programme to deliver the Scottish Government's expansion of 1140 hours for nursery pupils when implemented in 2016. Education Services have advised that additional nursery capacity shall be required.

2.12.12 From the assessment undertaken by Education Services, it is concluded that the proposed development, and wider planned developments, would give rise to capacity issues at Viewforth High School/across secondary schools of Kirkcaldy, and within the Kirkcaldy East local nursery area. Within their consultation response to this application, Education Services have confirmed that non-exempt sites are not required to contribute towards the education capacity issues across Kirkcaldy, reaffirming what is set out in Figure 7 of the Supplementary Guidance. Despite the capacity concerns highlighted by Education Services, as this application involves the redevelopment of long-term derelict land within the settlement boundary (confirmed by its inclusion within the Vacant and Derelict Land Register), the development is exempt from contributing towards the identified solution to tackle education capacity issues across Kirkcaldy.

2.12.13 DEVELOPER CONTRIBUTIONS: OPEN SPACE AND PLAY AREAS

2.12.14 Policy 1 (Part C, criterion 4) of the FIFEplan requires proposals to provide green infrastructure in accordance with the Green Network Map. Policy 3 of FIFEplan (2017) ensures that new development makes provision for infrastructure requirements to support new development; including green infrastructure and green network requirements such as open space and amenity space. As detailed in The Planning Obligations Supplementary Guidance (2017), open space provides one part of the strategic green infrastructure requirement for a site,

it is space designed for people to undertake recreational activity. Green infrastructure also includes structural landscaping, amenity planting, sustainable drainage systems, paths, and community growing spaces.

2.12.15 Making Fife's Places Supplementary Guidance (2018) sets out that the requirement for open space provision should be assessed on a case by case basis taking into account any existing greenspaces, play areas and sports facilities which may serve the proposed development. If there are existing open space facilities located within easy walking distance, along a safe and attractive route; then it may be more appropriate for a new proposal to contribute to improvements to existing nearby spaces and facilities rather than providing additional open space onsite.

2.12.16 Making Fife's Places Supplementary Guidance (2018) sets out the open space requirements for developments located outwith a 250 metre walking distance of an existing open space are required to provide 60 square metres of open space per dwelling on site. If the development is within a 250 metre walking distance to an area of open space, an alternative financial contribution towards existing open space is required. The open space provided should be able to accommodate informal activities such as play, walking, sitting, picnics, communal gardening, informal sports and recreation.

2.12.17 Making Fife's Places Supplementary Guidance (2018) states that open space needs to be usable space. It will generally be green in character with a significant proportion of soft landscaping although it can include elements of hard landscaped public spaces such as squares and plazas or people friendly (very low traffic) streets and courts. Some elements of SuDS may also be included as part of the open space requirement if they are fully accessible. Open space is space designed for people to undertake recreational activity. This will generally be informal activity such as play, walking, sitting, picnics, communal gardening, social/community gatherings, informal sports and recreation. Open spaces should have paths and routes passing through them but narrow, connecting greenways and corridors should not be included as part of the open space requirement. Amenity planting and structural landscaping would only be included as part of the open space if it is accessible for people to pass through it (such as paths through a woodland). Small areas of greenspace which have limited usage will not be included as part of the open space requirement.

2.12.18 Upon initial submission of the application, the proposed development proposed a total of approximately 930sqm of useable open space through the provision of single central grassed area. Whilst the Planning Authority is willing to offer a reduction on the open space requirement for this development (which shall be discussed below), this offering, combined with a lack of pedestrian connection to Dens Road greenspace to the south, was contrary to the requirements of Policy 3 of FIFEplan and Making Fife's Places.

2.12.19 Upon discussion of the above with the applicant, a revised site layout was submitted with an increased open space offering, and a pedestrian footpath connection to Dens Road greenspace. With the proposed footpath connection, this would result in 41 of the proposed 105 dwellinghouses being within a 250m walking route of Dens Road greenspace. The Planning Authority is therefore satisfied to remove the 41 units identified from the overall on-site open space requirements for the development. A condition is however recommended to ensure the footpath to connect the site to Dens Road greenspace is provided. As the proposed involves the redevelopment of vacant and derelict land, it is exempt from providing financial contributions to the upgrade of Dens Road greenspace. For the remaining 64 units, approximately 3,730sqm of useable open space, comprising of a redesigned accessible SuDS area and the aforementioned

central grassed area, is proposed. Whilst this is slightly below the 60sqm per unit requirement for the 64 units (3840sqm), the Planning Authority is prepared to relax this requirement on this occasion, given the constraints involved in developing this allocated derelict site, most notably the need to provide a suitable buffer between the proposal and existing noise generating developments to the east, south and west. To accommodate the necessary buffers, the development proposes to make use of high quality landscaping and woodland. Whilst the landscape/woodland areas would not be open/accessible and eat into the area of land which is capable of being developed, they are considered to be of visual and biodiversity benefit. As such, the Planning Authority is content to offer a slight reduction to the open space requirements for the development of this site.

2.12.20 DEVELOPER CONTRIBUTIONS: PUBLIC ART

2.12.21 Policy 4 of the FIFEplan states that a contribution towards on-site public art will be sought in relation to major and prominent housing and retail proposals. Further guidance regarding this is set out in the Planning Obligations Supplementary Guidance (2017) and Making Fife's Places Supplementary Guidance (2018).

2.12.22 The Planning Obligations Supplementary Guidance (2017) and Making Fife's Places Supplementary Guidance (2018) state that contributions will be sought from major applications for housing. In these cases, the required contribution would be £300 per unit. This includes market units only, affordable units would be exempt from this requirement. This can be in the form of pieces of physical art, enhanced boundary treatment, enhanced landscaping etc. The Planning Obligations Supplementary Guidance (2017) sets out that once the financial contributions have been established, the public art element of the development should in general be integrated into the overall design of the proposal rather than providing a sum of money to be spent separately.

2.12.23 Making Fife's Places Supplementary Guidance (2018) advises that public art is about creative activity that takes place in public spaces. Public art may:

- help to reveal or improve existing features of a local place;
- refer to our heritage or celebrate the future;
- be conceptual or highlight a specific issue;
- lead to a temporary performance, event or installation, or to a permanent product;
- engage a range of senses including smell and touch;
- extend the fine arts such as painting or sculpture, or use applied art and design;
- feature architectural craftwork or bespoke street furniture;
- extend landscape design into land art, planting or paving schemes;
- relate to site infrastructure such as bridge design or Sustainable Urban Drainage features;
- use technology to project sound, light or images.

2.12.24 Public art that is commissioned for a particular site must be relevant to the context of that location and to its audience - the public or community who occupy, use or see into that space. The main objective of public art is to enhance the quality of a place, so it must be an integral part of the design process for the overall development and considered from the outset. It is closely related to urban design in the consideration of issues and design principles.

2.12.25 As the application involves the development of vacant and derelict land, and as it is not considered to be visually prominent from a main transport corridor, the application is exempt from public art contributions.

2.12.26 DEVELOPER CONTRIBUTIONS: TRANSPORTATION INTERVENTIONS

2.12.27 Policy 4 of FIFEplan recognises that developments may have a cumulative impact on strategic transport infrastructure within their vicinity. It provides a policy mechanism to ensure a proportionate financial contribution can be secured from such developments to fund improvements to the transport network that are necessary to support growth. Fife Council's Planning Obligations Supplementary Guidance details the assessment of cumulative transport impacts of FIFEplan's growth strategy and sets out the mitigation required to accommodate this growth.

2.12.28 The Planning Obligations Supplementary Guidance considers the spatial relationship between contributing proposed development types and the identified strategic transport interventions. The greater the distance a development site is from an identified strategic infrastructure improvement, the less it pays. This is a result of the dissipation of traffic throughout the road network and the resultant decrease in impact at any given junction, including those on the strategic network where improvements are required. The methodology considers: a) The number of houses within a proposed development; b) The individual and cumulative impact of proposed developments on the strategic road network; c) Existing traffic impacts on identified interventions; d) The proximity of the development to strategic transport interventions identified as being required to deliver the FIFEplan strategy; and, e) The cost of strategic transport interventions.

2.12.29 Figure 3 of the Planning Obligations Supplementary Guidance indicates obligation costs per house for contributing development within the defined zones of Dunfermline, Kirkcaldy, and Glenrothes. Figure 4 illustrates the defined zones and highlights the location of proposed housing allocations against the location of necessary strategic transport interventions stated in Figure 5. The identification of core, intermediate and outer zones is predicated on the 'gravity model' approach which identified the impact of proposed housing allocations on the strategic road network against the impact of how close a site or site/s are to identified strategic transport interventions.

2.15.4 Within Figure 4 of the Planning Obligations Supplementary Guidance, the application site lies within the Kirkcaldy Core Zone and is therefore expected to contribute £4,695 per dwelling, excluding affordable housing, to the transport fund (total of £492,975). As above however, as the proposed development would involve the redevelopment of vacant and derelict land, per the list of exemptions set out within the Supplementary Guidance and Policy 4 of FIFEplan, and as no transportation related contributions are detailed as part of the site's allocation in FIFEplan, the application is exempt from the requirement to provide any contributions towards transportation infrastructure.

2.13 HOUSE IN MULTIPLE OCCUPATION (HMO)

2.13.1 Policy 2 of FIFEplan Local Development Plan (2017) applies with respects to housing being utilised as an HMO.

2.13.2 Policy 2 of FIFEplan advises that the use of a new build house or flat as a house in multiple occupation will not be permitted unless the development is purpose built for such use and that the Planning Authority will impose this restriction by applying a condition to planning permissions.

2.13.3 The proposed dwellings are not intended to be used for housing multiple occupants, however, a condition has been attached to this recommendation to ensure that the properties will not be used as an HMO in the future unless an application for said use is submitted to the Planning Authority for consideration.

CONSULTATIONS

Scottish Water Natural Heritage, Planning Services	No objections. Clarification sought on landscaping and biodiversity enhancements. Bat report required.
Scottish Environment Protection Agency Transport Scotland The Coal Authority NHS Fife Policy And Place Team (Central Area)	No objections. Condition recommended. No objections. No objections. Conditions recommended. No comment. Principle of housing established. Green network requirements need to be met.
Business And Employability Urban Design, Planning Services Education (Directorate) Housing And Neighbourhood Services Environmental Health (Public Protection)	Financial contribution requested. Design and layout improvements requested Overview of education capacity provided, No affordable housing required. No objections providing exceptional circumstances apply. Conditions recommended.
Transportation And Environmental Services - Operations Team Parks Development And Countryside	No comment. No comment.
The Coal Authority Land And Air Quality, Protective Services Transportation Development Management	No objections. Conditions recommended. No objections. Conditions recommended. No objections. Conditions recommended.

REPRESENTATIONS

A total of 23 individual objections have been received in response to this application. The concerns raised in the submitted objections, and the Planning Authority's response to these, are summarised below.

1. Sole point of vehicular access via Calender Avenue
- This matter is covered in detail in Section 2.4 of this report. FIFEplan requirements for the site set out that the sole vehicular access should be via Calender Avenue, with a TS submitted to confirm the road network can accommodate the increase in traffic levels.
2. Significant increase in traffic movements through existing housing estate to north and junction with Hayfield Road

- This matter is covered in detail in Section 2.4 of this report. FIFEplan requirements for the site set out that the sole vehicular access should be via Calender Avenue, with a TS submitted to confirm the road network can accommodate the increase in traffic levels.

3. Noise impacts from construction

- A condition is recommended for a construction environmental management plan to be submitted to confirm how the developer will protect the amenity of neighbouring properties during construction.

4. Loss of trees along northern site boundary (loss of privacy)

- Tree planting and landscaping is proposed along the northern site boundary, whilst there would be at least 18m between existing and proposed properties (complying with Fife Council guidance).

5. Noise impacts from Forbo Flooring and potential prejudicing of business

- This matter is covered in detail in Section 2.5 of this report. A NIA has been submitted which confirms the proposed development would not be impacted by noise produced by Forbo Flooring.

6. Increase in noise and air pollution

- The residential nature of the development is not considered to give rise to adverse noise concerns, whilst an air quality impact has been submitted which confirms no adverse impacts would arise.

7. Linum Grove too narrow to accommodate further vehicles and pedestrians

- The existing road network of Linum Grove and Calender Avenue is considered to be suitably designed to accommodate the additional movements associated with the proposed development. As with the proposed development, the existing road layout has been designed to meet street of people principles and encourage slow traffic movement.

8. Loss of daylight/sunlight

- As discussed in paragraph 2.5.8 of this report, the proposed development would not adversely impact on the levels of daylight and sunlight received by neighbouring properties.

9. Impact from construction traffic

- Construction traffic would enter and exit the site via Smeaton Road.

10. Application site is allocated in FIFEplan for employment uses

- As confirmed throughout the report, the application site is allocated within FIFEplan for residential development and/or employment uses.

11. Overlooking and loss of privacy

- As discussed in paragraph 2.5.8 of this report, the proposed development would not adversely impact on the levels privacy currently enjoyed by neighbouring properties given the distance between, change in levels, proposed boundary treatments and proposed planting.

12. Construction activities will structurally impact neighbouring properties

- A condition is recommended for a construction environmental management plan to be submitted to confirm how the developer will protect the amenity of neighbouring properties during construction.

13. Transportation Statement figures were gathered during Covid restrictions
- As detailed in the submitted Transportation Statement, an appropriate adjustment has been applied to the figures to account for Covid 19 restrictions. The figures presented are considered to be appropriate by TDM.

14. No play equipment proposed, developer should upgrade existing equipment at Jute Place
- As discussed in Section 2.12 of this report, this proposed development is exempt from a requirement to provide contributions to upgrading existing play equipment.

15. Unaware of any notification from developer
- A PAC report has been submitted by the application which confirms all the consultation tasks undertaken. The methods of consultation are considered to be acceptable and in line with the approved PAN.

16. Advised application site would only ever become car parking for hospital
- As confirmed throughout the report, the application site is allocated within FIFEplan for residential development and/or employment uses.

17. Difficulties in accessing rear driveway at application site entrance
- It is noted that the property in question has a front curtilage driveway (with space for one car) and has previously converted the integral garage. Furthermore, it is considered that addition of the proposed connection to the application site would not render the additional space formed by the property owner unusable.

CONCLUSIONS

The proposal is considered to be acceptable in meeting Policies 5 and of SESplan Strategic Development Plan (2014), Policies 1, 2, 3, 10, 11, 13 and 14 of the FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance (2018), Low Carbon Fife Supplementary Guidance (2019), Affordable Housing Supplementary Guidance (2018), Planning Obligations Supplementary Guidance (2017) and relevant National Guidance and Fife Council Guidelines. The proposal is compatible with the area in terms of land use, design and scale and will not cause any detrimental impact to the amenity of the surrounding area, 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. No more than 64 of the residential units hereby permitted to be constructed at the site shall be occupied until a continuous footpath connecting the pedestrian access at the south east of the application to the Dens Road greenspace (Dens Park) to the south west of the application site and to the grounds of Victoria Hospital to the west. The finalised route for the footpath connection shall be agreed in writing by the Planning Authority prior to the occupation of the 64th residential unit.

Reason: In the interests of pedestrian connectivity and access to greenspaces.

2. Unless otherwise agreed in writing with the Council as Planning Authority, the approved surface water drainage scheme as detailed in approved documents shall be implemented in full PRIOR TO THE OCCUPATION OF ANY DWELLING and thereafter maintained in full working order as per the approved maintenance scheme for the lifetime of the development. Appendix 5 of Fife Council's Design Criteria Guidance Note on Flooding and Surface Water Management Plan Requirements shall be signed by a qualified engineer and submitted for the written approval of the Planning Authority prior to the commencement of any works on site.

Reason: In the interests of ensuring appropriate handling of surface water.

3. PRIOR TO ANY WORKS COMMENCING ON SITE, porosity testing shall be carried out to confirm that the swale to be installed along the northern boundary of the application shall allow runoff to dissipate. Confirmation of the results of the porosity testing shall be submitted for the written approval of the Planning Authority.

Reason: In the interests of ensuring appropriate handling of surface water.

4. All prospectively adoptable roads and associated works serving the proposed development as shown on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B) shall be constructed in accordance with the current Fife Council Transportation Development Guidelines. For the avoidance of doubt, the street layout may be subject to minor changes during consideration of the Roads Construction Consent applications. Works shall include the provision of a continuous 2 metres wide footway fronting plots 61 & 62.

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

5. 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 road junctions, including junctions of private accesses with roads, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained throughout the lifetime of the development.

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

6. All roadside boundary markers shall be maintained at a height not exceeding 600mm above the adjacent road channel level throughout the lifetime of the development.

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

7. Prior to occupation of each private detached dwelling, the off-street car parking spaces for that plot, as shown on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B), shall be provided in accordance with the current Fife Council Parking Standards. The parking spaces shall be retained throughout the lifetime of the development.

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

8. Prior to occupation of each private dwelling (plots 3 – 9, 36 – 43 and 64 – 67) served by a private parking court the off-street car parking spaces for those plots, as shown on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B), shall be provided in accordance with the current Fife Council Parking Standards. The parking spaces shall be retained throughout the lifetime of the development.

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

9. The sole means of vehicular access to and from the site for all construction traffic, including site staff traffic, shall be via Smeaton Road at the southeast corner of the site. For the avoidance of doubt, no construction traffic, including site staff traffic, shall be through the existing housing development via Calender Avenue

Reason: In the interest of road safety.

10. Prior to the commencement of any activity on site details of wheel cleaning facilities shall be submitted for the written approval of this planning authority and shall thereafter be available throughout the construction period of the development so that no mud, debris or other deleterious material is carried by vehicles onto the public roads.

Reason: In the interest of road safety; to ensure the provision of adequate wheel cleaning facilities.

11. Prior to the occupation of any of the residential properties, street lighting and footways (where appropriate) serving the property shall be formed and operational to the satisfaction of this Planning Authority.

Reason: In the interest of road safety; to ensure the provision of adequate pedestrian facilities.

12. Prior to the occupation of any dwellings identified as Plots 16-34 inclusive on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B), the 2.6 metre, 2.8 metre and 3.0 metre high acoustic barriers as detailed on said drawing shall be in place. Thereafter, the acoustic barriers shall be retained on site for the lifetime of the development and maintained in full working order. For the avoidance of doubt, the acoustic barriers shall be of vertical close boarded timber fence design with a minimum surface density of 20 kg/m² and shall be installed flush with the ground.

Reason: In the interest of residential amenity; to ensure the dwellinghouses are not adversely impacted by noise produced by neighbouring land uses to the east.

13. Prior to the occupation of any dwellings identified as Plots 53-61 inclusive and Plot 63 on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B), the 2.0 metre high acoustic barrier as detailed on said drawing shall be in place. Thereafter, the acoustic barrier shall be retained on site for the lifetime of the development and maintained in full working order. For the avoidance of doubt, the acoustic barriers shall be of vertical close boarded timber fence design with a minimum surface density of 20 kg/m² and shall be installed flush with the ground.

Reason: In the interest of residential amenity; to ensure the dwellinghouses are not adversely impacted by noise produced by neighbouring land uses to the west.

14. Prior to the occupation of any dwellings identified as Plots 53-61 inclusive and Plot 63 on drawing KIK/SK001 Rev R (Planning Authority drawing ref: 02B), either of the mitigation measures as described in the approved Noise Impact Assessment prepared by EnviroCentre (April 2021) ((Planning Authority drawing ref: 41) to reduce the noise levels of the air handling units located on the roof of the neighbouring hospital laboratory building shall be carried out. Prior to the occupation of any of the said dwellings, the Planning Authority shall be notified of which mitigation measures have been carried out and shall confirm in writing their satisfaction that mitigation measures installed have sufficiently reduced the noise levels from the air handling units which would be experienced within the application site boundary. For the avoidance of doubt, the mitigation measures to be installed shall consist of either the fitting of silencers to the air handling units, or the installation of a roof mounted acoustic barrier.

Reason: In the interest of residential amenity; to ensure the dwellinghouses are not adversely impacted by noise produced by neighbouring land uses to the west.

15. PRIOR TO ANY WORKS COMMENCING ON SITE, samples of the external construction materials finishes of the dwellings (in particular relating to the roof, windows and walls) shall be submitted to and agreed in writing with the Council as Planning Authority. Thereafter the dwellinghouses shall be constructed and finished in full accordance with the agreed samples prior to occupation.

Reason: To define the terms of this permission and ensure that the dwellinghouses are in-keeping with the character of the surrounding area.

16. PRIOR TO ANY WORKS COMMENCING ON SITE, a Construction Environmental Management Plan (CEMP) shall be submitted to Fife Council as Planning Authority for approval in writing. The CEMP shall include a pollution protection measures to avoid an impact on the environment, as well as a scheme of works designed to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration from construction of the proposed development. The use of British Standard BS 5228: Part 1: 2009 "Noise and Vibration Control on Construction and Open Sites" and BRE Publication BR456 - February 2003 "Control of Dust from Construction and Demolition Activities" should be consulted.

It shall provide the following details:

- Site working hours;
- Adherence to good practise in protecting the environment and ecology;
- Dust, noise and vibration suppression; and
- Protection of water environment.

Reason: To ensure the environment in and around the site and residential amenity is protected during construction.

17. PRIOR TO ANY WORKS COMMENCING ON SITE, details of the proposed phasing of the development, including landscaping and tree planting, shall be submitted for the prior written approval of Fife Council as Planning Authority.

Reason: In the interests of the proper planning of the development and to ensure landscaping works are completed at an appropriate stage in the development of the site.

18. All landscaping works, tree planting and open space provision shall be implemented in a phased manner agreed by the Planning Authority under the terms of Condition 17 above, and shall be implemented in full prior to the occupation of the 90th residential unit on the site.

Reason: To ensure landscaping works are completed at an appropriate stage in the development of the site.

19. All tree and vegetation removal associated with this development shall be undertaken outwith the bird breeding season of 1 March to 31 August of any calendar year unless the site is first surveyed by a suitably qualified person and the findings, and any associated mitigation, have been submitted to, and approved in writing by, Fife Council as Planning Authority.

Reason: In the interests of safeguarding nesting birds.

20. PRIOR TO ANY WORKS COMMENCING ON SITE, a plan detailing the location of bat boxes shall be submitted for the written approval of Fife Council as Planning Authority, per the enhancement recommendations of the submitted Bat Activity Survey prepared by EnviroCentre (June 2021) (Planning Authority drawing ref: 50). Thereafter, the bat boxes shall be retained for the lifetime of the development.

FOR THE AVOIDANCE OF DOUBT, all bat boxes shall be located a minimum of 3.0 metres from the ground and shall be unlit, with at least one positioned on a south-facing aspect.

Reason: In the interests of safeguarding bats.

21. The mitigations measures set out in the approved Phase 1 Habitat and Protected Species Survey prepared by EnviroCentre (January 2021) (Planning Authority drawing ref: 37) to safeguard protected species shall be adhered to in full throughout the construction phase.

Reason: In the interests of safeguarding protected species.

22. PRIOR TO ANY WORKS COMMENCING ON SITE, a plan shall be submitted for the written approval of Fife Council as Planning Authority detailing how the development would incorporate the opportunities for biodiversity enhancement as recommended in the approved Phase 1 Habitat and Protected Species Survey prepared by EnviroCentre (January 2021) (Planning Authority drawing ref: 37).

Reason: In the interests of biodiversity enhancement.

23. The management and aftercare of the approved landscaping, planting and SuDS basin shall be carried out in accordance with the details provided on the approved landscape proposals plan (sheet 1) (Planning Authority drawing ref: 24A).

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

24. 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.

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

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

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

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

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

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

27. Prior to the commencement of development on each phase of the proposed scheme of development (as agreed in writing by the Planning Authority per Condition 17 above), remedial stabilisation works to address land instability arising from mine entries and unrecorded shallow

coal mining legacy within that part of the site shall be implemented in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure all land instabilities arising from mine entries and unrecorded shallow coal mining legacy within the site are dealt with.

28. Prior to the occupation of each phase of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure all land instabilities arising from mine entries and unrecorded shallow coal mining legacy within the site are dealt with.

29. Prior to the occupation of dwellinghouses within each phase of the development (as agreed in writing by the Planning Authority per Condition 17 above), the site remediation capping as detailed in the Kaya Consulting Flood Risk Assessment (December 2020) (Planning Authority drawing ref: 36) to increase the site level by 0.5 - 1.0 metres shall have been carried out.

Reason: To ensure the dwellinghouses would not be at risk of flooding.

30. The dwellinghouses provided on the site shall be used solely as a residence for (a) a single person or by people living together as a family; or, (b) not more than 5 unrelated residents living together in a dwellinghouse. For the avoidance of doubt, the dwellinghouse hereby approved shall not be used for Housing in Multiple Occupation.

Reason: In the interests of maintaining a mixed and balanced housing stock as required by Policy 2 of the Adopted FIFEplan 2017.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Guidance:

Scottish Planning Policy (2014)

PAN 1/2011: Planning and Noise

PAN 2/2010: Affordable Housing and Housing Land Audits

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

Circular 3/2012: Planning Obligations and Good Neighbour Agreements

Scottish Government Designing Streets (2010)

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

Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Wildlife and Countryside Act 1981 (as amended)

Wildlife and Natural Environment (Scotland) Act (2011)

Nature Conservation Scotland Act 2004 (as amended)

Bat Conservation Trust Publication on Bat Surveys for Professional Ecologists (2016)

British Standard (BS) 5837:2012 Trees in relation to Design, Demolition and Construction

Development Plan:

SESplan Strategic Development Plan (2014)

SESplan 2 Housing Background Paper

FIFEplan Local Development Plan (2017)

Making Fife's Places Supplementary Guidance Document (2018)

Low Carbon Fife Supplementary Guidance (2019)

Affordable Housing Supplementary Guidance (2018)

Planning Obligations Supplementary Guidance (2017)

Other Guidance:

Fife Council Transportation Development Guidelines

Fife Council Sustainable Drainage Systems (SuDS) - Design Criteria Guidance Note

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)

Fife Council Strategic Housing Investment Plan 2021/22 - 2025/26

Fife Council Housing Land Audit 2019

Fife Council Vacant and Derelict Land Survey (2020)

Fife Council Local Housing Strategy 2020-2022

Fife Council Policy for Development and Noise (2021)

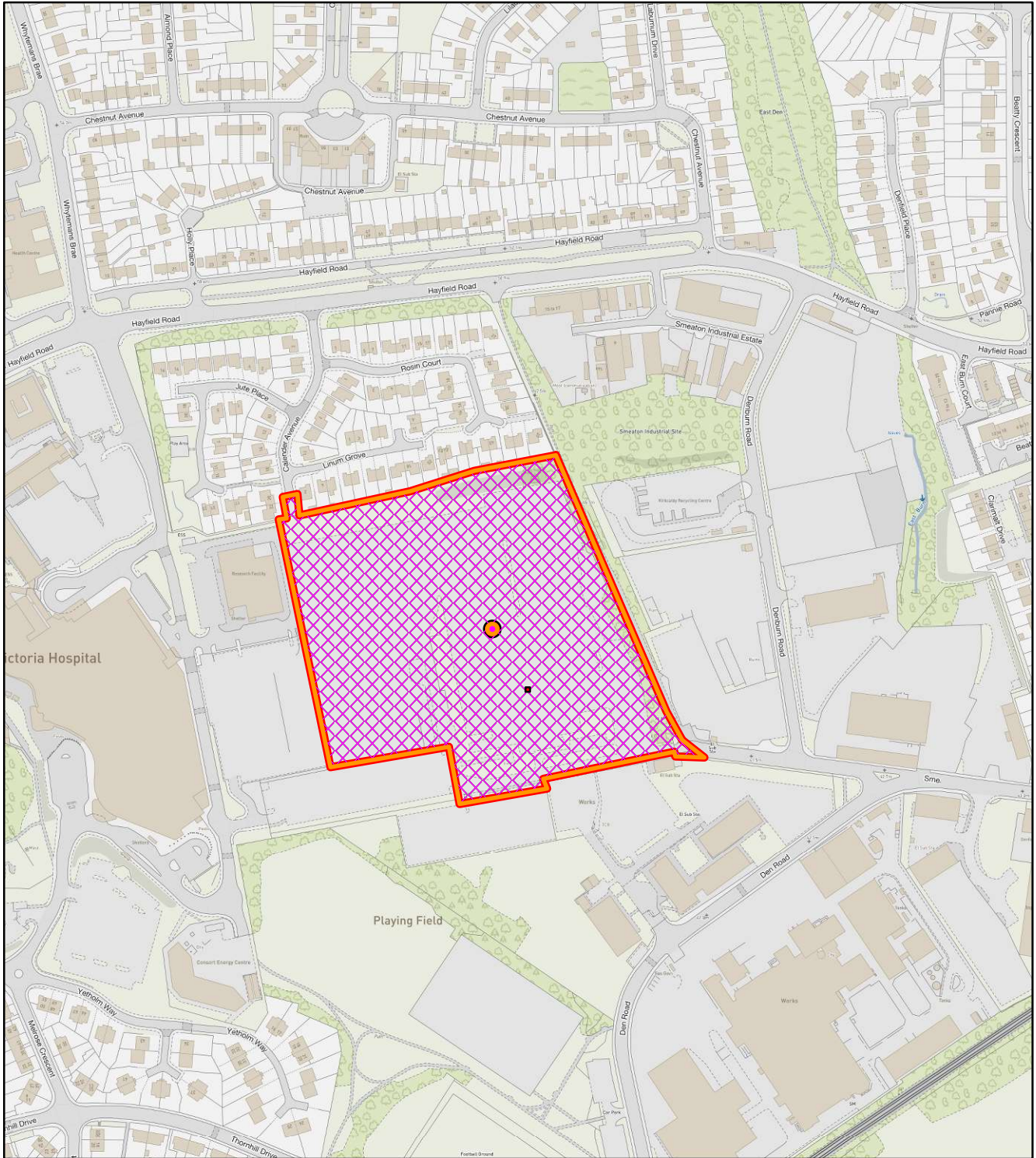
Report prepared by Bryan Reid, Lead Professional – Strategic Development

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

Date Printed 20/08/2021

21/01254/FULL

4M Plant Den Road Kirkcaldy



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Legend

 Application Boundary

0 20 40 80 120
m



Economy, Planning & Employability Services

1st September, 2021

Agenda Item No. 5

21/01720/CON - Scottish Government Consultation under Section 36 of the Electricity Act 1989 for proposed 50MW solar farm and 25MW battery storage facility at former Randolph Colliery Site at Wemyss Estate, Fife

Report by: Pam Ewen, Head of Planning Services

Wards Affected: Glenrothes Central and Thornton; Buckhaven, Methil and Wemyss Villages; and Kirkcaldy East

Purpose: The purpose of this report is to seek the Committee's agreement on the Council's proposed formal response to the consultation from Scottish Ministers under Section 36 of the Electricity Act, 1989.

Recommendation(s)

For the Committee to agree with the conclusions set out in the report and make additional comments as appropriate to enable the submission of the consultation response (Appendix 1 to this Report) as the formal position of Fife Council to Scottish Ministers.

Resource Implications

In terms of Section 57 of the 1997 Planning (Scotland) Act, Scottish Ministers may, on granting consent under Section 36 of the Electricity Act, also grant deemed planning permission with conditions. The Planning Authority would be tasked with subsequently enforcing any conditions of the deemed planning permission, in a similar way to where conditions are imposed by a Reporter on appeal.

Legal & Risk Implications

Fife Council is being consulted as part of the determination process for the Section 36 application. Fife Council is not the determining Authority with regard to this application and is responding to The Scottish Government's Energy Consent Unit (ECU) as a Statutory Consultee. All other statutory consultees will be submitting individual comments and views direct to the ECU. If the Council as a Statutory Consultee is minded to object to the proposals, Scottish Ministers shall be required to convene a Public Local Inquiry unless the areas of objection can be satisfactorily addressed through modifications to the proposal or the imposition of appropriate conditions.

Consultation

Internal consultation was undertaken with officers from:

Archaeology	No objections. Condition recommended.
Environmental Health (Public Protection)	Noise impact assessment recommended.

Flooding Shoreline and Harbours (Structural Services)	No objections.
Land & Air Quality	No objections. Conditions recommended.
Natural Heritage	Further species surveys recommended.
Planning Policy and Place	Detailed assessment is required across a number of themes to determine compliance with Policies 7 and 11 of FIFEplan.
Transportation Development Management	No objections. Looking to engage with applicant to secure land for SSLR.
Urban Design	No objections.

Statutory consultee comments submitted directly to ECU included Transport Scotland, NatureScot, SEPA, Historic Environment Scotland and Thornton Community Council.

1.0 Background

1.1 Site Description

1.1.1 The application site is located approximately 1.5km northeast of Kirkcaldy and approximately 1.25km southeast of the village of Thornton. The approximately 106.9ha site comprises vacant, agricultural land between the A92 and the A915 (Standing Stane Road), and includes land formerly occupied by the historic Randolph Colliery. The site forms part of the Wemyss Estate, which extends to approximately 2400ha.

1.1.2 The application site is comprised mainly of agricultural grassland and arable land used for mixed farming, together with smaller areas of non-agricultural plantation woodland and scrubland. A significant proportion of the land has been previously worked for opencast coal mining and subsequently restored, with woodland and scrubland areas forming part of this previously worked area. Western boundaries of the site are defined by the well vegetated embankments and cuttings associated with the east coast railway line. Eastern boundaries are well defined by existing mixed broadleaved and coniferous planting associated with Moss Wood. Eastern boundaries adjacent to the A915, Standing Stane Road are generally well defined by mixed species of broadleaved tree planting with field boundary hedges. The operational wind turbines of Earseat windfarm lie to the east of the site. Thornton Golf Club lies directly north, separated by mature trees. Internally, field boundaries are defined by well maintained hedgerows with trees and scattered trees and pockets of shrubs where field boundaries are defined by ditches. Further areas of vegetation within the site include regenerating woodland and scrub vegetation on areas previously worked as part of the opencast coal mining operations. There are three residential properties between 35m and 150m of the site boundary.

1.1.3 Views of the site from the surrounding area are generally well screened by intervening mixed species of woodland planting, railway embankment vegetation and roadside vegetation. Land surrounding the site is primarily utilised for agriculture, with medium to large sized arable and pastoral fields well defined by mixed species and coniferous

shelterbelt plantings. There is an operational solar farm located approximately 1.1km west of the site, although it is not perceived within views from Kirkcaldy or surrounding road networks. The site increases in elevation from the north to the south. There are localised increases in height and localised depressions. The lowest elevation in the northern site portion is circa 44m AOD. The highest elevation in the south of the proposed site is circa. 79m AOD.

1.1.4 Per FIFEplan Local Development Plan (2017), the application site is allocated as countryside land with no land use proposal identified, however, the southern boundary of the site forms the indicative route of the proposed Standing Stane Link Road (SSLR). The SSLR is included within the Kirkcaldy East Strategic Land Allocation (KDY025) and is identified as a strategic transport intervention measure required to mitigate the increase in trips on the local and trunk road network by the adopted FIFEplan allocations, particularly those in Kirkcaldy East and Levenmouth. There has been no detailed design work carried out on the proposed SSLR, however it shall pass through the 'Kingslaw' site which is currently under development (10/01774/EIA) and thereafter be located either to the north or south of the Kingslaw Burn that runs along the mutual boundary of the application site and the KDY025 allocation.

1.1.5 The application site is not identified as a green belt or a Local Landscape Area (LLA), however the West Wemyss LLA is in close proximity to the east. A small part of the site includes the identified Kirkcaldy East SDA green network policy area, the River Ore and Kirkcaldy Connections green network policy area is also within close proximity. The woodland area to the east and Thornton Golf Club to the north are identified as a green network asset. Given the historic land uses within the area, the application site is identified as being potentially contaminated and is of high risk for coal mining legacy issues. The application site is made up of a mixture of grade 3.1 and 4.1 agricultural land (per the James Hutton Institute); approximately 26% of the site is grade 3.1. The River Ore flows to the north of the site. The Lappy Burn/ Kingsaw Burn runs along the site boundary at the southern end. The Lappy Burn flows down towards East Wemyss and the sea to the south east of the site. There are a number of minor watercourses/ drainage channels flowing through or adjacent to the site, including a tributary of the River Ore and a tributary of the Lappy Burn. There are no known flood alleviation measures in place in the vicinity of the site. The site has no formal existing drainage network.

1.2 Proposal

1.2.1 The proposed development would comprise the erection of ground mounted solar panels with an output capacity of 50MW and a battery energy storage facility of approximately 25MW capacity, with ancillary development including inverters, substation, internal service tracks, CCTV cameras, perimeter (deer) fencing, landscaping, associated ancillary development, site and access works. The development would cover approximately 87.8 hectares. The proposed solar farm is predicted to generate approximately 54,000,000 kilowatt hours (kWh) per annum, powering the equivalent of 15,000 homes every year. It is anticipated that the proposal will have an operating life of 40 years after which all panels and associated infrastructure would be removed, and the site reinstated.

1.2.2 The proposed panels would measure 2.2m x 1.3m. Each panel would be mounted on frame tables at an inclination of between 10 and 25 degrees depending upon localised topography. Each frame table will be supported on steel/aluminium posts/frames that will be pushed or screwed into the ground to depths of up to 1.5m. Overall panel heights from ground level would range between 2.4 and 3.0m. The spacing between the arrays will vary between 2-6 meters. All panels placed on the site will be orientated to face south and are

fixed in place. As part of the solar PV plug and play system, small connecting cables run along the back of each panel to the end of every row where they connect to the main cables which in turn connect to the inverter stations and primary substation. The battery storage facility shall comprise approximately 14 storage units typically measuring 12.2m (l) x 2.4(w) x 2.6m (h) and would be similar in appearance to shipping containers and would be positioned next to the proposed primary substation. The onsite substation would measure 6m (l) x 3.2m (w), located within a larger compound comprising a permeable hardstanding area of 20 square metres. Inverter stations are small cabin like buildings which would be constructed on a concrete base measuring 7m x 2.5m. Proposed access roads would be kept at existing ground level and would be constructed from permeable hardcore. The area of development would be enclosed by 2.45m high post and wire (deer) fencing; where hedgerows exist or where planting is proposed, the fencing would be located on the internal side of said planting to obscure visual impacts.

1.2.3 It is anticipated that the proposed development would be connected to the network at an existing substation located west of the development at a voltage of 33kV. The grid connection route will be an underground cable either along the landowner's land, public road and/or third party land. This connection does not form part of the Section 36 application.

1.2.4 At the end of the project's operational life the solar farm will be fully decommissioned. This will include the substation which will then be obsolete. The decommissioning would involve the dismantling of the component elements including the electrical equipment and surrounding housing which encases the components to leave the concrete base upon which the substation sits. Following standard practice, the upper part of the base would be broken up and sub soil and topsoil reinstated. Only the lower part of the concrete base would be left in situ in the ground, which would remain benign and inert. The reinstatement of sub soil and topsoil together with hydro seeding would re-establish a grass sward to ensure there would be no evidence that a sub-station had been present upon completion of the decommission stage. The operational lifespan of the project is 40 years and over this time any landscaping associated with proposals and over this period will establish and grow to form mature hedgerows and shrubbery. All landscaping would be retained in situ. The solar panels would be removed from the site in the same way they were transported to the site originally. The cables interconnecting the panels to the electricity grid system would be de-energised and removed from the site, with any cable marker signs removed.

1.3 Planning History

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

- 98/0438 – In 1999, planning permission was approved for removal of coal by opencast methods and formation of access at former Randolph Colliery. This application was approved with a condition which set the requirement for the land to be restored and returned to agricultural use once the mining operations ceased.
- 99/00915/CFULL – In 1999, planning permission was approved for variation to conditions 1 and 7 of 98/0438.
- 01/00094/CFULL– In 2001, planning permission was approved for extraction of clay from existing opencast site.
- 02/00746/CFULL – In 2002, planning permission was approved for variation of Condition 4 (98/0438) to extend coaling operations by 6 months and variation of Condition 15 (98/0438) to amend restoration plan.
- 17/03460/FULL – In 2017, planning permission was approved for engineering operation to extract and process Pulverised Fuel Ash, and restoration of land to agricultural use.

- 19/00943/OBL – In 2019, an application was approved to discharge the planning obligation for 98/0438 relating to final restoration of the site. This discharge of this obligation confirmed that the site has been fully restored and returned to agricultural use.

1.3.2 It is noted that the former open cast coal site has a much more extensive planning history than what is set out above, however many of these additional applications are not located within the site boundary of the current Section 36 application.

1.3.3 In 2012, planning permission was approved for the erection of 8 wind turbines (120m high) and ancillary development including a meteorological mast, a substation/control building and the formation of new or realigned access tracks within the area of land to the north east of the current application site (10/03539/EIA).

1.3.4 The proposed development has previously been screened for Environmental Impact Assessment (EIA) by the ECU under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 where, with consultation with Fife Council, it was concluded that EIA was not required.

2.0 Assessment

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

- Contribution to Renewable Energy Supply
- Principle of Development
- Landscape and Visual Impact
- Residential Amenity
- Ecology
- Transportation and Road Safety
- Loss of Agricultural Land
- Flooding and Drainage
- Land Contamination
- CCTV and Privacy
- Core Paths/ Right of Way
- Archaeology
- Glint and Glare

2.2 CONTRIBUTION TO RENEWABLE ENERGY SUPPLY

2.2.1 Scottish Planning Policy (SPP) (2014) (Delivering Heat and Electricity), SESplan (2013) Policy 10, the FIFEplan (2017) Policies 1 and 11 and Low Carbon Supplementary Guidance (2019) all give support in principle to renewable energy developments, provided that there is no significant adverse impact on local communities and/or the natural environment. This reflects the Scottish Government policy commitment to increasing the amount of electricity generated from renewable sources as set out in the SPP, which also advises that a balance must be struck between the need for sustainable energy sources and their impact on their surroundings.

2.2.2 National Guidance on Renewable Energy contained within SPP supports the full range of renewable energy technologies as the Scottish Government has set a target of achieving the equivalent of 100% of Scotland's electricity from renewable sources by 2020.

2.2.3 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. This document sets out the specific information the Planning Authority would expect to be submitted for all battery storage developments, namely;

- The maximum capacity of the plant being proposed;
- Visualisations of the proposal within its context;
- Assessment of the potential impact on Fife's natural heritage including landscape and ecology;
- Assessment of the potential impact of the proposal on built heritage;
- A Noise Impact Assessment;
- Details of restoration and aftercare/decommissioning of the site; and
- Assessment of likely impact on tourists, visitors to recreation and countryside access facilities, road and path users, and railway traffic needs.

The above considerations also apply to any proposed cabling.

2.2.4 With regard to solar array developments, Fife Council's Low Carbon Supplementary Guidance (2019) sets out that the following information should be submitted;

- Confirmation of the maximum capacity of the plant being proposed;
- Visualisations of the proposal within its context;
- Assessment of the potential impact on Fife's natural heritage including landscape;
- Assessment of the potential impact of the proposal on built heritage;
- Details of restoration and aftercare - decommissioning of the site;
- Landscape and Visual Impact Assessment;
- Detailed natural heritage surveys;
- A Controlled Activities Regulations (CAR) construction site licence – for the management of surface water run-off from a construction site, including access tracks;
- A glint and glare assessment; and
- A Noise Impact Assessment.

2.2.5 The proposed solar array development would have an output of upwards of 50MW, making it one of Scotland's largest solar farms (if not the largest), whilst the addition of the proposed 25MW battery storage development could make a significant contribution to the nation's electricity needs and the Government's energy objectives. The proposed solar farm is predicted to generate approximately 54,000,000 kilowatt hours (kWh) per annum, powering the equivalent of 15,000 homes every year. The weight of these contributions shall be taken into consideration when assessing the impacts of the proposed development.

2.3 PRINCIPLE OF DEVELOPMENT

2.3.1 Scottish Planning Policy (SPP) (2014) (A Low Carbon Place - Delivering Heat and Electricity), Policy 10 of SESplan Strategic Development Plan (2013), Policies 1, 7 and 11 of FIFEplan Local Development Plan (2017) and Low Carbon Supplementary Guidance (2019) shall be considered in the assessment of the principle of development. The Kirkcaldy Area Strategy with FIFEplan must also be considered.

2.3.2 National Guidance on Renewable Energy contained within SPP (2014) (A Low Carbon Place - Delivering Heat and Electricity) supports the full range of renewable energy technologies as the Scottish Government has set a target of achieving 100% of Scotland's electricity from renewable sources by 2020. The SPP advises that Development Plans with special emphasis on planning supplementary guidance are expected to set out the detail criteria by which energy farm proposals would be considered. The support for renewable

energy schemes is tempered by the need to meet statutory obligations to protect local residential amenity, designated areas, species, habitats and historic environments from inappropriate forms of development; and also to ensure the impacts on local communities, aviation interests and broadcasting installations are addressed.

2.3.3 The Strategic Development Plan; SESplan (2013) Policy 10 seeks to promote sustainable energy sources setting a framework for the encouragement of renewable energy proposals that aim to contribute towards achieving a low carbon future. The Adopted FIFEplan (2017) Policy 1 sets out the requirements for development principles.

2.3.4 This policy supports development proposals providing they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. It further states the development will only be supported if it is in a location where the proposed use is supported by the Local Development Plan. In the instance of development in the countryside, the proposed development must be appropriate for the location through compliance with the relevant policies; Policy 7.

2.3.5 Policy 7 of the Adopted Local Plan stipulates that development in the countryside will be supported where it (1) is required for agricultural, horticultural, woodland or forestry operations; or (2) will diversify or add to the above land-based businesses to bring economic support to the existing business; or (3) is for the extension of established businesses; or (4) is for small-scale employment land adjacent to settlement boundaries, excluding green belt areas, and no alternative site is available within the settlement boundary which contributes to the Council's employment land supply requirements; or (5) is for facilities for access to the countryside; or (6) is for facilities for outdoor recreation, tourism or other development which demonstrates a proven need for a countryside location; or (7) is for housing in line with Policy 8 (Houses in the Countryside). In all cases, development must be of a scale and nature compatible with surrounding uses; be well located in respect to available infrastructure and contribute to the need for any improved infrastructure; and not result in an overall reduction in the landscape and environmental quality of the area.

2.3.6 FIFEplan Policy 11: Low Carbon Fife provides the policy framework to assess new development for Low Carbon Energy Schemes such as wind turbines. Policy 11 requires a proposal to demonstrate that the development would not result in unacceptable significant adverse effects or impacts which cannot be satisfactorily mitigated. In assessing impacts, decision takers are required to consider relevant environmental, community and cumulative impact considerations. With regard to solar arrays/farms, visual impact will be an important consideration in assessing these schemes. Rural brownfield land and land outwith green belts, Local Landscape Areas and environmentally sensitive areas are more likely to be suitable locations for such schemes. 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.

2.3.7 FIFEplan's Spatial Strategy: Kirkcaldy Area Strategy, sets out that Kirkcaldy is the location for two Strategic Land Allocations. Between them, these sites will provide around 3,800 houses. Progress has been made with both these sites, particularly at Kirkcaldy East and their development will continue through this Plan period. The Kirkcaldy East Strategic Land Allocation includes a proposed route for the Standing Stane Link Road (SSLR) which is to pass through the Kingslaw site, including the crossing over the east coast main line and land to the west of the Standing Stane Road. The application site is not included within the strategic land allocation, however it is in very close proximity, with the indicative route for the proposed SSLR forming the southern site boundary. The SSLR is identified as a

strategic transport intervention measure (STIM) in the Planning Obligations Framework Guidance 2017. The proposal advises that a 25m buffer has been included along the southern edge of the site to allow works for the SSLR to go ahead in the future

2.3.8 There is a general acceptance from the Planning Authority that large commercial solar and battery storage developments need to be located in the countryside, thus complying with the locational requirements of Policies 1 and 7 (criterion 6) of FIFEplan. Additionally, the need for the sustainable generating capacity is consistently identified in the SPP, Policies 10 of SESplan and 11 of FIFEplan and the Supplementary Guidance to help to address climate change. The application site is not identified as a green belt or a Local Landscape Area, nor is it environmentally sensitive. Taking into account the relevant provisions of the Development Plan and National Guidance and advice, the proposed development is acceptable in general land use terms. For the principle of the development to be supported however, the potential prejudicing of the Kirkcaldy East Strategic Land Allocation (SLA) must also be considered. In this regard, given the intervening railway line and limited views of the site from the SLA, it is considered that the proposed development is unlikely to materially impact on the future delivery of the SLA. Additionally, (as is discussed in detail later in this report), it is considered that satisfactory steps have been taken when designing the layout of the development to ensure the route of the proposed SSLR is not compromised.

2.3.9 Overall, the principle of the proposed development is acceptable in general land use terms. The overall support for the principle of this development is however reliant on the applicant demonstrating compliance with the impact policies of the development plan and other material considerations; as set out in Parts B and C of Policy 1 of FIFEplan (2017), and the subject policies of FIFEplan (2017) and SPP (2014). Compliance with these additional policies and considerations are detailed in the subsequent sections of this report.

2.4 LANDSCAPE AND VISUAL IMPACT

2.4.1 As the application site is located within the countryside, further consideration must be given to the potential visual impact of the proposal. SPP (2014), FIFEplan Local Development Plan (2017) Policies 1, 7, 10, 11, 13 and 14 and the Making Fife's Places Supplementary Guidance Document (2018) apply with regard to the design and visual impact of the proposal.

2.4.2 SPP paragraph 194 promotes positive change that maintains and enhances distinctive landscape character. In addition, SPP paragraph 202 states that development should be designed to take account of local landscape character and the potential effects on landscapes, including cumulative effects. The SPP directs Planning Authorities to adopt a precautionary approach when considering landscape impacts, but also to consider the ways in which modifications to a proposal could be made to mitigate the risk (paragraph 204).

2.4.3 Policy 1 of the Adopted FIFEplan Local Development Plan (2017) advises that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Additionally, Policy 10 of FIFEplan (2017) advises that development will only be supported if it does not have a significant detrimental impact with respect to visual amenity. Policy 13: Natural Environment and Access seeks to protect landscape character and views from inappropriate or insensitive development. Policy 14 of FIFEplan (2017) advises that development which protects or enhances buildings or other built heritage of special architectural or historic interest will be supported, whilst also setting out that developments are expected to achieve

the six qualities of successful places; distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and easy to move around and beyond.

2.4.4 As defined previously, Policy 7 of FIFEplan (2017) advises that development proposals must be of a scale and nature that is compatible with surrounding uses; be well-located in respect of available infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area. Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regard to design. This document encourages a design-led approach to development proposals through placing the focus on achieving high quality design. The document also illustrates how development proposals can be evaluated to ensure compliance with the six qualities of successful places - distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and easy to move around and beyond. Further to this, Appendix B and D of Making Fife's Places Supplementary Guidance (2018) set out site appraisal information in relation to landscape and identify key actions and guidance that should be followed by developers. An appropriate site appraisal (including appropriate mitigation measures where required), following the identified actions within this policy document should be submitted for assessment as part of any planning application.

2.4.5 Views from private individual properties are not a material planning consideration. The degree of visual change to the landscape and the public's general perception about how dominant solar farms would appear in the landscape are however valid considerations. Internal and external relationships between houses and new developments and the dominance that they may have upon the quality or enjoyment of life of the residents of these buildings, individually and in groups or settlements, should be fully assessed. Distant impacts are likely to be more limited but dependent on localised circumstances it may be appropriate to consider properties and settlements beyond the immediate area, depending on sensitivity, to reach a balanced view on the extent and degree of likely impact. General assessment considerations include the magnitude, which are a combination of the relative scale in the landscape and the nature of the proposal and the distance between it and the receptor. While this can include basic physical measurements that affect visibility, the real issue is the receptors experience of the combined change, and that is not simply a function of size or distance

2.4.6 Given the scale of the proposed development, which has been cited as being the largest in Scotland, the potential visual impacts on the landscape must be carefully considered. The application site does not form part of any Local Landscape Area, Green Network or any other local designation, however the scale of the proposed development does have the potential to significantly alter the visual landscape on the edge of the settlements of Kirkcaldy and Thornton.

2.4.7 The proposed development would comprise the erection of ground mounted solar panels with a output capacity of 50MW and a battery energy storage facility of approximately 25MW capacity, with ancillary development including inverters, substation, internal service tracks, CCTV cameras, perimeter (deer) fencing, landscaping, associated ancillary development, site and access works. The development would cover approximately 87.8 hectares. The proposed panels would measure 2.2m x 1.3m. Each panel would be mounted on frame tables at an inclination of between 10 and 25 degrees depending upon localised topography. Each frame table will be supported on steel/aluminium posts/frames that will be pushed or screwed into the ground to depths of up to 1.5m. Overall panel heights from ground level would range between 2.4 and 3.0m. The spacing between the arrays will vary between 2-6 meters. All panels placed on the site will be orientated to face south and are fixed in place. As part of the solar PV plug and play system, small connecting cables run

along the back of each panel to the end of every row where they connect to the main cables which in turn connect to the inverter stations and primary substation. The battery storage facility shall comprise approximately 14 storage units typically measuring 12.2m (l) x 2.4(w) x 2.6m (h) and would be similar in appearance to shipping containers, proposed to be located next to the proposed primary substation. The onsite substation would measure 6m (l) x 3.2m (w), located within a larger compound comprising a permeable hardstanding area of 20 square metres. Inverter stations are small cabin like buildings which would be constructed on a concrete base measuring 7m x 2.5m. Proposed access roads would be kept at existing ground level and would be constructed from permeable hardcore. The area of development would be enclosed by 2.45m high post and wire (deer) fencing; where hedgerows exist or where planting is proposed, the fencing would be located on the internal side of said planting to obscure visual impacts.

2.4.8 The application includes a Landscape and Visual Impact Assessment (LVIA), which considers key documents including the Fife Landscape Character Assessment. The methodology for the LVIA is considered to be appropriate. The submitted LVIA assesses the impact of the proposed development on landscape features, landscape character, the wider landscape and on visual amenity. A range of viewpoints are used, which have previously been agreed by the Planning Authority at pre-application stage, for consideration of visual and landscape impact, and this includes photomontage images to demonstrate impacts.

2.4.8 The application site is located to the northeast of Kirkcaldy and southeast of Thornton. The site was formerly the Randolph Colliery, but has since been restored to agricultural use. The site comprises mainly agricultural grassland and arable land, alongside plantation woodland and scrubland. The western boundary of the site is defined by the embankments and cuttings associated with the east coast rail network. The eastern boundary is defined by existing mixed woodland planting. The boundary adjacent to the A915, is generally defined by tree planting with field boundary hedges. Internally, there are hedgerows, individual trees and areas of shrubs. Views of the site from the surrounding area are generally well screened by intervening woodland planting, the railway embankment vegetation and roadside planting.

2.4.9 The potential landscape and visual impacts of the proposed development have been assessed and considered within the LVIA. The LVIA confirms that the application site does not fall within any Local Landscape Area, Green Network or any other local designation, although the Wemyss Coast Local Landscape Area is nearby to the east/south east. The LVIA sets out that the combination of the topography of the site and its surroundings, along with the intervening land uses and screening, ensure that, overall, the application site is not highly visible from any nearby settlement, and there are no prolonged views available from the road and rail network. It considers that the proposed landscape mitigation measures would generally make a positive contribution to avoid any adverse visual impact on the countryside setting. The LVIA predicts that, following implementation of proposed mitigation measures, there would be no significant adverse landscape and visual impacts, including impacts on landscape character. Any residual impacts on landscape character following mitigation are all considered to be localised. Additionally, the LVIA sets out that that no significant landscape effects are predicted to occur within the Wemyss Coast Local Landscape Area due to topography and screening by adjacent woodland.

2.4.10 A total of 13 viewpoints have been assessed within the LVIA for both construction and operational phases of the proposed development. Generally, the application site and proposed development sits at a low level when viewed from the surrounding area. Localised significant visual effects are predicted (within the LVIA) to occur for assessed viewpoints

adjacent to the A915; Standing Stone Road and from a single viewpoint adjacent to the north eastern portion of the site boundary. However, no significant visual impacts are predicted to occur to these viewpoints once mitigation measures are successfully established. For example, the viewpoints taken from Standing Stone Road present clear views into the proposed development site, however, given the low lying nature of the development, the solar panels and supporting infrastructure would be visually contained within the landscape by existing woodland and the Lomond Hills to the rear. The proposed mitigation of tree and shrub planting would reduce the visual impact and visibility of the proposed development from the viewpoints to a significant degree.

2.4.11 It is considered that the LVIA appropriately considers the residential properties and property clusters within proximity of the site, concluding that localised significant visual effects are likely to occur for residential properties at Ore Mills Farm during the operational phase of the proposed development. Long term impacts have been assessed within the LVIA as reducing to 'not significant' once proposed mitigation measures have been successfully implemented and established. In relation to general landscape mitigation, the proposals include tree lined hedgerows, and mixed species woodland which are considered appropriate and in keeping with the existing landscape context.

2.4.12 Overall the visual impact, following mitigation planting is assessed within the LVIA as having no effect, with four viewpoints (VP 7, 8, 9 and 11) ranging from negligible to moderate impacts. This would indicate that the surrounding landscape has the ability to accommodate the changes associated with this type of development. Following review of the supporting documentation, it is accepted that the landscape has the ability to accommodate the changes associated with the proposed development without significant harm, and that the visual amenity impact from key views, settlements and individual dwellings would be localised, and significantly reduced through the proposed mitigation measures. Conditions are recommended to ensure the screening mitigation is put in place and retained for the lifetime of the development.

2.4.13 The anticipated lifespan of the development is 40 years. The structures are not considered to be suitable visually or structurally as a permanent form of development in the countryside and there remains some uncertainty as to the working life of these farms and how long they will stay in good working order without major replacement. It is proposed that the site would be decommissioned and all structures removed at the end of development's lifecycle, with the planting to remain in situ. To ensure the development is only temporary, a condition is included to limit the development's lifespan to 40 years from the switch on of the panels. A condition is also recommended for a decommissioning and restoration plan to be agreed with the Planning Authority as the development approaches the 40 year mark.

2.4.14 In conclusion, the application site and surrounding landscape is considered to have the capacity to absorb the proposed development. A LVIA has been submitted as part of this application which considers the potential visual impact of the development from a variety of short, medium and long distances around the site, with representative viewpoints included. Existing and proposed planting and woodland would successfully screen and contain the large development.

2.5 RESIDENTIAL AMENITY

2.5.1 Policies 1, 10 and 11 of Adopted FIFEplan Local Development Plan (2017), Low Carbon Supplementary Guidance (2019) and Planning Advice Note (PAN) 1/2011: Planning and Noise apply in terms of residential amenity.

2.5.2 The above FIFEplan policies and guidance set out the importance of encouraging appropriate forms of development in the interests of residential amenity. They generally advise that development proposals should be compatible with their surroundings in terms of their relationship to existing properties, and that they should not adversely affect the privacy and amenity of neighbours. FIFEplan policy 10 sets out the factors to be addressed when considering the impact of a proposal on amenity. The most relevant for low carbon energy proposals are, air quality; contamination; noise; odour; shadow flicker; traffic movements; visual impact, impact on green infrastructure; glint and glare, ice throw and construction impacts. The Low Carbon Supplementary Guidance (2019) sets the requirement for noise impacts to be considered as part of the determination of solar array and battery storage developments, as well as glint and glare impacts from solar arrays.

2.5.3 PAN 1/2011 promotes the principle of how noise issues should be taken into consideration with determining an application. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It is recommended that Environmental Health Officers and/or professional acousticians should be involved in development proposals which are likely to have significant adverse noise impacts or be affected by existing noisy developments. The PAN recommends that Noise Impact Assessments (NIAs)/acoustic reports are submitted to aid the planning authority in the consideration of planning applications that raise significant noise issues. 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.

2.5.4 In this case, the anticipated HGV deliveries and the construction phase of the development could disrupt residential amenity to varying degrees depending on the size and extent of the works involved to prepare the site. These can include soil stripping noise and dust as part of the road construction or site levelling works and pile driving where the panel supporting posts are driven into the ground. Increased traffic can also impact on residential amenity. Additionally, the operational and plant noise from the battery storage containers, central inverters and substation control building could impact on neighbouring properties.

2.5.5 A NIA was not submitted as part of this application, however the noise impacts of the development are discussed in the applicant's supporting statement. Firstly, it is noted that the proposed solar panels would be stationary, meaning that there would be no mechanical noise associated with this part of the development. With regard to construction and road noise, as detailed in the submitted Transportation Statement, the construction traffic associated with the development would be of a limited volume, predicted to last for a maximum duration of 16 weeks - the peak vehicular movements predicted to be associated with week 8 of the construction phase, would result in an average of 18 deliveries to the site per day. The Transportation Statement calculated that on average, the increase in HGV movements on the surrounding road network would be less than 3% above existing traffic levels. The construction operations are cited as being very similar in nature to normal farming activities, meaning that there would be no discernible change in the characteristics of noise generation during that period. It is advised that the site layout has been designed to maximise the separation distance between noisier elements of the development and the nearest noise sensitive properties:

- Cowdenlaws Farm Cottage would be located 240m from the nearest inverter;
- Phantassie would be located 275m east of the energy and substation compound;
- Ore Mills Farm Cottage would be 275m west of the nearest inverter; and
- Mackies Mill would be situated 760m north of the nearest inverter.

Lastly, the substation, battery storage and inverters are stated as being low noise generators. Therefore, operational noise is not considered significant due to low noise levels emitted and the separation distances to the nearest receptors.

2.5.6 In their consultation response, Fife Council's Environmental Health Officers (EHOs) advised that they could not support the application at this time, requesting that an assessment be submitted specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise from the proposed development. On this occasion, given the distances between neighbouring third-party properties and noise emitting features of the development (240m plus), the Planning Authority is satisfied that the development could proceed without such an assessment, however a condition is recommended that would set the requirement for all plant and machinery associated with the development to comply with Fife Council's recommended Noise Rating (NR) levels (measured from residential properties). An additional condition is also recommended for a construction environmental management plan (CEMP) to be submitted to the Planning Authority prior to the commencement of works, setting out what steps would be taken to protect neighbouring properties from amenity impacts associated with the construction period.

2.5.7 Giving consideration to 79 individual neighbouring residential properties, the modelling within the submitted Glint and Glare Assessment indicate that solar reflections are 'geometrically possible' towards 44 receptors (potential observers of a solar reflection). The assessment has indicated that for 42 receptors where a solar reflection is geometrically possible, existing vegetation and level changes would provide screening which would significantly obstruct the views of the reflecting panels. This means that observers located at most dwellings will not experience solar reflections in practice. The assessment has also shown that for two dwellings, marginal views of the proposed solar array development may be possible despite partial screening in the form of existing vegetation. The modelling submitted within the Glint and Glare Assessment indicates that an observer from these two properties would experience solar reflections for less than 60 minutes per day and for more than 3 months of the year. Whilst these impacts would be moderate, mitigation planting/screening is proposed to remove the concerns. A condition is recommended to ensure all identified mitigation planting takes place.

2.5.8 In conclusion, the proposed development is not considered to give rise to adverse residential amenity concerns, with steps taken in designing the layout of the development to protect neighbouring properties. Conditions are recommended to ensure the plant equipment complies with Fife Council's standards and that screen planting is in place.

2.6 ECOLOGY

2.6.1 Policies 1, 10, 11 and 13 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance Document (2018), Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), Wildlife and Countryside Act 1981 (as amended), Wildlife and Natural Environment (Scotland) Act (2011) and Nature Conservation Scotland Act 2004 (as amended) apply in this instance with regard to natural heritage protection.

2.6.2 Policy 11 of FIFEplan sets out that development of low carbon energy schemes such as wind turbines, district heating, solar arrays, or energy from waste will be supported provided the proposals do not result in unacceptable significant adverse effects or impacts which cannot be satisfactorily mitigated, giving due regard to relevant environmental, community and cumulative impact considerations. Effects on the natural heritage (including

birds), and hydrology, the water environment and flood risk shall all be considered by the Planning Authority.

2.6.3 Policy 13 of the FIFEplan (2017) states that proposed developments will only be supported where they protect or enhance natural heritage assets, including trees which have a landscape, amenity or nature conservation value. Where adverse impacts on existing assets are unavoidable the Planning Authority will only support proposals where these impacts will be satisfactorily mitigated. Development proposals must provide an assessment of the potential impact on natural heritage, biodiversity, trees and landscape and include proposals for the enhancement of natural heritage and access assets, as detailed in Making Fife's Places Supplementary Guidance. Policy 13 states that where development is proposed on a site where trees are present, consideration will be given to whether, and in what form, development should be supported, having regard to the desirability of retaining and protecting mature and semi-mature trees, and other examples likely to be become attractive in amenity terms, or of a rare species.

2.6.4 Where the proposed development would potentially impact on natural heritage assets (including species), a detailed study must be undertaken by a suitably qualified person detailing the potential impact of the development.

2.6.5 The application site is mainly comprised of agricultural land, however there are habitats within and close to the site which could support a variety of species, including the river, woodland, scrub, hedgerows and wetland/ponds. Fife Council's Natural Heritage Officer has advised that there are records for a variety of protected species in the general area including badger, otter, bats, red squirrel, geese, a colony of nesting sand martin and schedule 1 birds. The proposed development would result in some habitat loss. A total area of habitat lost would be 4.52 hectares, representing 4.2% of all habitats on the site, with the majority of the loss relating to felling of an area of woodland in the east of the site dominated by a stand of young coniferous plantation used for commercial Christmas trees. As the design of the development includes for the planting of approximately 700m of woodland screening along the perimeter of the site, it is considered that the proposed development would have a minor medium term adverse effect on woodland habitats at a local level, however this would ultimately be offset as the new woodland planting matures.

2.6.6 An Ecological Assessment Report has been provided. This describes the desk-based assessment and field surveys undertaken, some for the previous Environmental Assessment in 2017 and further surveys undertaken in 2020. The Council's Natural Heritage Officers has advised that most of the assessment of effects were considered reasonable, however the assessment of the impact on nesting barn owl and sand martin was considered to be limited and requires further consideration.

2.6.7 Barn owl was found to be nesting close to the site, however there was no assessment undertaken of the impact of the development on barn owl foraging resource. The Natural Heritage Officer has advised that further consideration and assessment is required to ensure that sufficient foraging habitat remains available to barn owl during construction and post-development. Monitoring shall also be required during and post development to determine the effectiveness of any mitigation identified and the need for any adjustment and/or additional measures. As set out in the recommendation to the ECU, the Planning Authority shall recommend that the additional assessment on barn owl foraging be requested by the ECU prior to their determination on the application. Alternatively, Members may wish to recommend a planning condition to ensure the information is submitted to the Planning Authority before works commence.

2.6.8 A sand martin breeding colony was identified within the site during the bird surveys carried out in 2017 and proposed be removed for the development. The report describes that a compensatory sand martin nesting bank is to be provided within the site, next to a pond which is to be retained. This is to accommodate at least 10 sand martin nests. However, as highlighted by the Council's Natural Heritage Officer, no specific survey of the sand martin nesting colony appears to have been undertaken. The breeding bird survey table (p21) refers to 'one colony approximately 10 pairs', however it is not clear how this number was determined. The sand martin nesting colony should be surveyed using the appropriate bird monitoring methodology which would enable the number for apparently occupied burrows/nests (AON) to be determined together with the number of unoccupied burrows and provide mapping of the colonies. Previously, 40-50 AON have been recorded at the site and the photos in the report indicate many nesting holes, (much more than 10) although it is accepted that not all will be occupied. It is recommended that consideration be given to retaining and protecting the existing sand martin nesting colony area. If it is not retained, then any compensatory nesting bank must provide for at least an equivalent colony size, based on a specific survey of the existing colony as discussed above. As above, the Planning Authority shall recommend to the ECU that they request this information prior to determination or make use of a planning condition to ensure the information is submitted to the Planning Authority before works commence.

2.6.9 The Ecological Assessment Report includes mitigation proposals to reduce the impacts of the proposed development on the receptors of the site. Conditions are recommended to ensure these mitigation measures are adhered to.

2.6.10 With regard to biodiversity enhancement, proposals include:

- Implementation of 5m ecological buffer zone around the development. This area would be seeded with a species-rich, neutral grass mix to increase floral diversity and increase the overall biodiversity of the buffers;
- A grassland habitat management regime would be adopted in the ecological buffer zone to increase the thickness of the sward for the benefit of foraging barn owl;
- Approximately 635m of existing hedgerows on site that are species poor and/or defunct would undergo supplementary planting with suitable species of local provenance;
- Bug/bee hotels would be installed in suitable locations (determined by an experienced ecologist);
- Bat boxes would be erected in suitable locations (determined by an experienced ecologist);
- Bird boxes would be erected in suitable locations (determined by an experienced ecologist); and
- Habitat improvement works would be undertaken within the pond located within the eastern potential habitat management area. This would comprise, but not be limited to, supplemental planting of marginal and aquatic plant species to improve the species diversity.

2.6.11 Overall, it is considered that biodiversity enhancement measures proposed would be acceptable. Conditions are recommended to ensure the measures are implemented accordingly with the agreement of the Planning Authority.

2.6.12 NautreScot (formerly SNH) in the consultation response to Fife Council (and in their independent response to the ECU), advised that it was unlikely that the proposal would have a significant effect on any qualifying interests of the nearby Firth of Forth or Loch Leven SPAs, either directly or indirectly. An appropriate assessment was therefore not required.

NatureScot advised that the loss of the two outlying badger setts, if active, would require a license be issued – the granting of any license from NatureScot would be independent of Section 36 and planning processes.

2.6.13 Overall, giving consideration to natural heritage impacts, the Planning Authority does not object to the proposed development, however it is recommended that the ECU request additional surveys/supporting information from the applicant prior to determination of the Section 36 application (and application for deemed planning permission).

2.7 TRANSPORTATION AND ROAD SAFETY

2.7.1 SPP, Policies 1, 3 and 10 of the Adopted FIFEplan Local Development Plan (2017), Fife Council Transportation Development Guidelines (contained within Making Fife's Places Supplementary Guidance) and Scottish Government Designing Streets (2010) apply with regard to this proposal.

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

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

2.7.4 The application site lies to the north-west of the Standing Stane Road; to the east of the east coast railway line; to the south and west of existing green assets (Thornton Golf Course and woodland); and to the north of the Kirkcaldy East Strategic Land Allocation. Vehicular access to the site would be taken from the A915 Standing Stane Road at the existing vehicular access to the former Earlseat Colliery OCCS. The existing junction layout was designed to ensure that all HGV's could only enter and leave by travelling north-eastwards on the A915. The proposed development would continue to make use of this access. The Transportation Statement (TS) submitted as part of the application confirms that this junction is suitable to accommodate HGVs, with visibility splays of 6 metres x 210 metres available in both directions.

2.7.5 The TS notes that the peak trip generation would occur during the construction and eventual decommissioning of the proposed solar farm. The construction period would be some 16 weeks with the peak in week 8 with 36 trips per day (18 in and 18 out). In their consultation response, Fife Council's Transportation Development Management (TDM) Officers advised that they had no concerns regarding the number of additional trips on the public road network. The trip generation during the operational phase would be minimal with

occasional maintenance visits by light vans or 4x4 vehicles (1 per week) which is considered to be insignificant. Chapter 6 of the TS notes that a Construction Traffic Management Plan (CTMP) is to be submitted – a condition is included in the recommendation to secure this. The proposed temporary road signs would require separate permission from Roads and Transportation Services. An additional condition is also recommended for suitable wheel washing facilities to be provided on site during the construction period.

2.7.6 As discussed previously, the southern boundary of the application site meets the northern boundary of the Kirkcaldy East SLA, (site KDY025 in FIFEplan). The mutual boundary between the two sites is also the indicative alignment of the proposed Standing Stane Link Road – also KDY025 in FIFEplan. The Standing Stane Link Road (SSLR) is one of several identified strategic transportation intervention measures required to mitigate the increase in trips on the local and trunk road network by the adopted FIFEplan allocations, particularly those in Kirkcaldy East and Levenmouth. There has been no detailed design work carried out on the proposed SSLR but it would be located either to the north or south of the Kingslaw Burn that runs along the mutual boundary. To protect the possible alignments of the SSLR, it was highlighted to the applicant at the pre-application stage that no solar panels or any supporting infrastructure should be constructed within 25 metres of the southern boundary of the site. The submitted TS and supporting statement confirms that no solar panels or other infrastructure would be constructed within 25 metres of the southern boundary of the application site, providing sufficient room for the SSLR to be delivered in the future.

2.7.7 To aid in the future delivery of the SSLR, Fife Council would welcome a commitment from the applicant to grant a right of access over the necessary land required. As set out in the detailed recommendation affixed to this report, the Planning Authority intend to request the assistance of the Scottish Government's ECU in this matter.

2.7.8 In their consultation response to the ECU, Transport Scotland confirmed that they had no objections to the proposed development and its potential impact on the trunk road network.

2.7.9 In conclusion, the construction, operational and decommissioning stages of the development at not considered to have an adverse impact on the road network, with the existing road junction considered to be suitable to accommodate HGV and other vehicles associated with the development. Sufficient space has been afforded within the development site to ensure the future delivery of the SSLR would not be prejudiced.

2.8 LOSS OF AGRICULTURAL LAND

2.8.1 SPP (Promoting Rural Development), Policies 1 and 7 of FIFEplan Local Development Plan (2017) and Low Carbon Supplementary Guidance (2019) apply with regard to the loss of prime agricultural land.

2.8.2 SPP (Promoting Rural Development) recommends that development on prime agricultural land, or land of lesser quality that is locally important should not be permitted except where it is essential:

- as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or
- for small-scale development directly linked to a rural business; or
- for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives and there is secure provision for restoration to return the land to its former status.

2.8.3 Policy 1 of FIFEplan sets out that in the case of proposals in the countryside or green belt, development must be a use appropriate for its location. Policy 7 sets out that development on prime agricultural land will not be supported except where it complies with the requirements of SPP.

2.8.4 Fife Council's Low Carbon Supplementary Guidance (2019) document sets out the level of information expected to be submitted where solar farm developments are proposed on prime agricultural land – the level of information varies depending on the designation. For the development of grade 2 agricultural land, the Supplementary Guidance advises that this should normally be avoided, with clear justification required to justify the benefits of the development and why the land should be taken out of full agriculture use. For the development of grade 3.1 agricultural land, the Supplementary Guidance sets the requirement for the following information to be provided;

1. Provide an explanation of why the development needs to be located on the site and not on land of a lesser agricultural classification within the area.
2. Provide information on the impact of the proposed development on the local area's supply of farming land within the same classification.
3. If the proposed development site makes up part of an existing farm, provide information on the viability of this farm to continue to function (as an agricultural unit) with the development in situ.
4. Consider the cumulative impact of the proposed development and other permitted large-scale solar PV developments on the supply of agricultural land within the same classification across the local area.

2.8.5 The application site is made up of a mixture of grade 3.1 and 4.1 agricultural land (per the James Hutton Institute); approximately 26% of the site is grade 3.1. It has been advised that as the solar panels would be raised, the opportunity would exist for sheep grazing to take place within the application site. Whilst the potential for sheep grazing has its benefits, crop harvesting would not be possible for the lifetime of the development (between 25- 40 years).

2.8.6 A report containing an assessment of the agricultural characteristics of the site has been submitted in support of the application. The report considers the nature of the soils and agricultural Land Capability for Agriculture (LCA) classification of the site, whilst also setting out the national and local planning policy context relevant to consideration of the potential effects of the proposed development on agricultural land quality. The site comprises mainly agricultural grassland and arable land used for mixed farming, together with smaller areas of non-agricultural plantation woodland and scrubland. A significant proportion of the land has been previously worked for opencast coal mining and subsequently restored. The woodland and scrubland areas within the site form part of this previously worked area. The land within the site is relatively level or very gently sloping at a height of approximately 45 – 50m AOD. It has been advised that the gradients across the site do not limit the quality of the agricultural land. The application site totals approximately 106.9ha of land within the 2400ha Wemyss Estate.

2.8.7 As the proposed development would be a temporary development for the generation of energy from a renewable source, it is considered that it would meet the requirements of SPP and Policies 1 and 7 of FIFEplan (2017). With regard to the Low Carbon Supplementary Guidance (2019), the justification presented by the applicant is considered to be acceptable, and it is considered that temporary loss of 27.8ha of grade 3.1 land would ultimately have a limited impact on the viability of crop production across the wider central Fife area. It is also

noted that the land would remain in agricultural use for sheep grazing and could be used for crop production in the future once the development is decommissioned.

2.8.8 In conclusion, the proposed development is considered to be acceptable with regard to its impact on agricultural land, complying with the requirements of SPP (2014), FIFEplan (2017) and the supplementary guidance (2019).

2.9 FLOODING AND DRAINAGE

2.9.1 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 (2021) 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.

2.9.2 Policy 3 of the FIFEplan (2017) states that development proposals must incorporate measures to ensure that they would be served by adequate infrastructure and services; including foul and surface water drainage, and SuDS. Policy 12 of FIFEplan states that development proposals will only be supported where they can demonstrate compliance with a number of criteria, including 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. The Council's the Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2021) sets out the Council's requirements for information to be submitted for full planning permission to ensure compliance. It should be noted that Section 4.2 of the guidance sets out instances where development will not require and surface water management plan or flood protection authority approval, including developments involving alteration and extension on a permeable area under 50 square metres. Finally, CAR requires that SuDS are installed for all new development, with the exception of runoff from a single dwellinghouse or discharge to coastal waters.

2.9.3 The main development components are solar PV panels set on mounting frames, an onsite substation, 50 inverter stations, an energy storage facility consisting of 14 storage units similar in look to shipping containers, and ancillary construction works including perimeter (deer style) fencing, CCTV units and internal service tracks. The onsite substation would measure 6m (l) x 3.2m (w), located within a larger compound comprising a permeable hardstanding area of 20 square metres. Inverter stations are small cabin like buildings constructed on a concrete base measuring 7m x 2.5m. Energy storage units measure 12.2m (l) x 2.4m (w), set on a concrete base atop a permeable surface. Proposed access roads would be kept at existing ground level and would be constructed from permeable hardcore.

2.9.4 The River Ore flows to the north of the site. The Lappy Burn/ Kingsaw Burn runs along the site boundary at the southern end. The Lappy Burn flows down towards East Wemyss and the sea to the south east of the site. There are a number of minor watercourses/ drainage channels flowing through or adjacent to the site, including a tributary of the River Ore and a tributary of the Lappy Burn. There are no known flood alleviation measures in place in the vicinity of the site. The site increases in elevation from the north to the south. There are localised increases in height and localised depressions. The lowest elevation in the northern site portion is circa 44m AOD. The highest elevation in the south of the proposed site is circa. 79m AO. The site has no formal existing drainage network.

2.9.5 As set out in the submitted Flood Risk Assessment (FRA), the installation of the solar panels would have minimal impact on the ground as the panel stanchions would be small in cross-sectional area and spaced at a distance apart. The front bottom edge of the panels

would be typically 0.8m above existing ground level and within a range of 500mm to 1.2m (depending on local topography). The rear of the panels would be raised between 1.8 and 3m above the ground. Panel rows would be separated by between 2m and 6m, depending on site topography. In addition, there would be spaces between each of the panels as they are affixed to the supporting structure, allowing rainwater to pass through the arrays and disperse evenly. These design features combine to ensure permeability within the solar panels, and runoff will be no greater for the developed site than it is for the pre-developed site. Rainwater would fall onto open ground as usual or run-off the panels through the gaps into the ground to be dispersed by the same routes that are currently in place. The site is gently sloping so there are no steep slopes that could cause significant runoff paths to develop.

2.9.6 In their consultation response to the application, Fife Council's Structural Services (Flooding, Shoreline and Harbours) confirmed that as less than 50 square metres of impermeable hardstanding would be formed on site, they had no comments or concerns to raise (as per the 2021 guidance).

2.9.7 As indicated above, an FRA had been submitted in support of the application. The FRA considers the impacts of fluvial (originating from a watercourse), surface water (pluvial), groundwater, reservoirs and drainage systems (sewers and culverts) flooding – due to the site's location, it is not a risk from coastal flooding. Using information from SEPA's flood maps, the FRA identifies that the extreme north west of site is within the (fluvial) flood risk area of the River Ore, whilst there are small areas of potential surface water flooding throughout the site (particularly along the watercourses). The site is not considered to be at risk from groundwater or reservoir flooding, nor existing sewers. Neither SEPA nor Fife Council hold any records of incidents of flooding at the site. Using these findings, the FRA makes several recommendations to ensure the proposed development would not be at risk of, or increase the risk of, flooding.

2.9.8 In their independent consultation response to the ECU, SEPA confirmed that they had no objections to the application. In terms of flood risk, SEPA indicated that they were satisfied that the recommendations of the FRA had been considered in the design of the site and that the development had been limited to land which is unlikely to flood, including an appropriate allowance for uncertainty. Given this response from SEPA, the Planning Authority does not intend to raise any concerns regarding flood risk in its response to the ECU, a condition is however recommended to ensure the recommendations of the FRA are adhered to.

2.9.9 In conclusion, the development is not of type/size that requires surface water management to be considered, nor would the development give rise to flood risk concerns providing the recommendations of the FRA are adhered to.

2.10 LAND CONTAMINATION

2.10.1 SPP (2014), PAN 33: Development of Contaminated Land (2000), PAN 51: Planning, Environmental Protection and Regulation (2006) and Policies 1 and 10 of FIFEplan Local Plan (2017) apply this instance.

2.10.2 PAN 33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. PAN 51 aims to support the existing policy on the role of the planning system in relation to the environmental protection regimes as set out in SPP. SPP (2014) states that in determining applications for new installations, planning authorities should determine whether proposed

developments would constitute appropriate uses of the land, leaving the regulation of permitted installations to SEPA.

2.10.3 Policy 10 of FIFEplan advises development proposals involving sites where land instability or the presence of contamination is suspected, the developer is required to submit details of site investigation to assess the nature and extent of any risks presented by land stability or contamination which may be present and where risks are known to be present, appropriate mitigation measures should be agreed with the Council.

2.10.4 Given the past land uses associated with the site, including below and above ground coal mining, a Phase 1 Contaminated Land Assessment (CLA) was submitted as part of the application to the ECU. This CLA identified several former historical land uses which may have potentially resulted in the presence of contaminants of concern at or close to the surface of the site, which may be encountered during the proposed development of the site. Southern and central areas of the site have predominantly been occupied by an opencast colliery site, which initially operated through two mine entries, then extracted coal through opencast coal mining methods. Parts of the site have therefore had colliery lagoons or spoil tips and there may be associated spoil waste and Made Ground. There are also records of a rifle range in the southern area of the site which existed for several decades in the early to mid-20th century. More recently, spoil tips or landfilling operations have been undertaken in the central areas of site, with tannery waste being recorded as a potential waste in a landfill site near the western boundary – the landfill boundary is uncertain but is shown to be within this boundary. Contaminants of concern associated with these land uses include metals, hydrocarbons, asbestos and sulphate rich spoil linked with coal mining waste. There is also the potential for the presence of tannery and animal products associated with the landfill. Potential sources of ground gases were identified within the CLA, either on the site or within 100m of the site – it should be noted that no enclosed permanent buildings are proposed as part of the development. The CLA sets out that risks to human health via construction are anticipated to be managed via personal protective equipment.

2.10.5 Based on the findings of the Phase 1 CLA, a limited Phase 2 investigation was recommended to target areas associated with the former opencast colliery workings in the southern and central areas of the site and the location of the former rifle range, and in areas where there are suspected geotechnical risks through landfilling or stockpiling operations. It would also be prudent to investigate the former shallow workings underlying the northern section of site by confirmatory rotary drilling to confirm the exact thicknesses of worked coal seams.

2.10.6 Following a review of the Phase 1 CLA, Fife Council's Land and Air Quality Officers noted that intrusive site works were recommended in order to fully assess any potential risks to the proposed development. These intrusive site works may include the relevant testing of soils, waters, gases and vapours in order to adequately characterise the potential type(s), nature and scale of contamination that may be associated with the site. The outcomes of such investigations would determine the extent of any remedial measures which may be required. To ensure relevant follow up investigations are carried out and reports submitted, Land and Air Quality Officers recommended that the Planning Authority include conditions in its response to the ECU; such conditions are included below.

2.10.7 It is noted that a Mineral Risk Assessment was also submitted in support of the application, recommending intrusive site works in order to determine if there may be potential stability issues at the site owing to the former mining activity which has been undertaken (underground and opencast). Rather than providing comments on this

assessment, it is recommended that this be left to the Coal Authority in their independent consultation response to the ECU.

2.10.8 In conclusion, given the past land uses of the site, there is the potential for the proposed development to be impacted by land contamination. To ensure the site is developed safely, it is recommended that the below conditions be included in the Planning Authority's response to the ECU.

2.11 CCTV AND PRIVACY

2.11.1 The proposed solar farm development shall include the installation of pole mounted infra-red CCTV cameras for security purposes. The law requires that systems must be designed such that they only record relevant images. The installation of CCTV cameras must meet the requirements of the Data Protection Act 1998 and the Codes of Practice for operating CCTV Systems in a compliant manner therefore the fields of view of cameras must be set up correctly to ensure that they do not include unnecessary details or intrude into the privacy of any neighbouring areas. Compliance with the guidance and legislation is not however a planning matter but at the location of the development, the potential range of view would appear to be limited.

2.12 CORE PATHS AND RIGHTS OF WAY

2.12.1 SPP (2014) and Policies 1 and 13 of FIFEplan shall be taken into consideration when assessing impacts on the Core Path Network and rights of way.

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

2.12.3 Policy 13 of FIFEplan sets out that development proposals will only be supported where they protect or enhance natural heritage and access assets including: core paths, cycleways, bridleways, existing rights of way, established footpaths and access to water-based recreation.

2.12.4 Where adverse impacts on existing assets are unavoidable, the Planning Authority will only support proposals where these impacts will be satisfactorily mitigated. The application of this policy will require to safeguard (keep open and free from obstruction) core paths, existing rights of way, established footpaths, cycleways, bridleways and access to water-based recreation. Where development affects a route, it must be suitably re-routed before the development commences, or before the existing route is removed from use.

2.12.5 A claimed right of way route runs north/south along the eastern site boundary, with additional paths and tracks dissecting the site (none of which are core paths). Given the route and location of the claimed right of way, the Planning Authority is satisfied that the proposed development would not have any impact on the route. Additionally, no core paths would be impacted by the development. Whilst the construction period of the proposed development may impact access along the paths and tracks which dissect the site, as these routes are privately owned and maintained, the impeding of access will be a private matter of discussion between the applicant and landowners.

2.12.6 In conclusion, the proposed development would not have any impact on existing claimed rights of way or the core path network.

2.13 ARCHAEOLOGY

2.13.1 Policies 1 and 14 of FIFEplan (2017) apply with regard to archaeology.

2.13.2 FIFEplan Policy 14 states that all archaeological sites and deposits, whether statutorily protected or not, are considered to be of significance. 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 mitigations is proposed. If unforeseen archaeological remains are discovered during development, the developer is required to notify Fife Council and to undertake the appropriate investigations.

2.13.3 The proposal is for the erection of a PV-mounted solar farm across 107ha of agricultural land, a small amount of it formerly occupied by the Randolph Pit (Dysart Colliery). The applicant has submitted an archaeological desk-based assessment that states that the site is of little archaeological potential and concludes that no archaeological mitigation work is required based on (1) the lack of known/recorded archaeology within the development footprint, and (2) what is stated to be minor sub-surface disturbance by development.

2.13.4 The submitted archaeological assessment was reviewed by the Council's Archaeologist who advised that they were not satisfied with the conclusions of the assessment as it draws assumptions without investigating on site.

2.13.5 The application is for a sizable development proposal (Scotland's biggest solar farm) in an area of unknown archaeological potential that will involve areas of significant sub-surface disturbance. Given the absence of any previous archaeological assessment or survey on the site, with the exception of those areas archaeologically sterilised by modern mining, the Council's Archaeologist has advised that there is potential for archaeological deposits to exist on site. It has been advised that historical evidence indicates that this area was, until reclaimed in the 18th century, part of the tract of unimproved ground known as 'Wemyss Moss'. Such mosses were important resources from the prehistoric to the early post-medieval period and in this case, the Planning Authority is aware that this moss was occupied by small medieval and post-medieval mining hamlets. The Council's Archaeologist therefore recommended that a condition be included for a proper archaeological assessment to be undertaken. Such a condition is recommended below.

2.13.6 In conclusion, whilst the application site is not excessively archaeologically sensitive, it is considered that the proposed development has potential to impact on archaeological remains. This potential impact requires to be properly investigated.

2.14 GLINT AND GLARE

2.14.1 Policies 1, 10 and 11 of FIFEplan Local Development Plan (2017), Low Carbon Fife Supplementary Guidance (2019) and BRE Site Layout Planning for Daylight and Sunlight (2011) apply with regard to the consideration of glint and glare.

2.14.2 FIFEplan policy 10 sets out the factors to be addressed when considering the impact of a proposal on amenity, including glint and glare impacts. Policy 11 advises that

development of low carbon energy schemes such as solar arrays will be supported provided the proposals do not result in unacceptable significant adverse effects or impacts which cannot be satisfactorily mitigated. Low Carbon Fife Supplementary Guidance (2019) sets the requirement for glint and glare assessments to be submitted for large solar array developments. As well as the potential to impact neighbouring residential properties, glint and glare can detrimentally impact on aircraft flying within the vicinity and the visibility of road users.

2.14.3 BRE and other guidance indicates that the potential for glint and glare should be considered as part of the planning assessment. Guidance defines glint and glare: 'Glint' is produced as a direct reflection of the sun on the surface of the PV panel whereas, 'glare' is a continuous source of brightness, relative to diffused lighting reflected from the bright sky around the sun. Glare is significantly less intense than glint. Solar PV panels are designed to absorb not reflect solar irradiation, but glint and glare may still be a resultant impact.

2.14.4 The submitted Glint and Glare Assessment considers the potential impacts of the development on neighbouring residential properties, the surrounding road network, train drivers travelling along the east coast railway line and high level aviation (aircraft). The potential glint and glare impacts from the proposed development on neighbouring residential properties has been discussed previously in the report. With regard to impact on high level aviation (aircraft), the assessment contends that the development would not have an adverse impact, however the Planning Authority would recommend that the ECU consult the Civil Aviation Authority (CAA) and Ministry of Defence (MOD) before determining the application. With regard to train drivers, the submitted assessment considers potential impacts continuously along the railway line which forms the western site boundary. The assessment sets out that despite partial screening in the form of the existing vegetation, views of the reflecting panels may be possible for train drivers, however, solar reflections would not occur within a train driver's field of view (30 degrees either side). The impact upon these sections of train track is therefore considered to be low and no mitigation is required. It is recommended that Network Railway be consulted by the ECU to confirm whether the predicted impacts would be acceptable on drivers.

2.14.5 With regard to potential impact on road users, the Glint and Glare Assessment provided examines the A92, A915, A921, B929 and B9130. The assessment and modelling undertaken predicts that no impacts would occur for road users travelling along the A92, A921, B929 and B9130 roads given the terrain and extent of existing screening prevent views of any solar panels within the site. For a 1.09km section of the A915 road however, a review of the available imagery indicates that marginal views of the reflecting panels may be possible due to varying gaps in existing vegetation screening along the roadside; panels would be within road users' field of view for a 0.49km stretch of road. The impact upon this section of road is considered to be moderate. To mitigate the potential impacts on users of the 0.49km stretch of the A915, it has been recommended that gap filling and/or new planting take place where more substantial gaps exist. Mitigation is not considered to be required for the remaining 0.6km section of road given as the panels would not be within the field of vision. Further to the implementation of the recommended mitigation, no impact is predicted. Noting Transport Scotland's comments on the potential glint and glare impacts of the development, the Planning Authority is satisfied that provided the identified mitigation is in place, the proposed development would not have an adverse impact on road users.

2.14.6 In conclusion, the glint and glare from the proposed solar panels is not predicted to impact on neighbouring residential properties, road users, train drivers travelling along the east coast railway line or high level aviation (aircraft). The Planning Authority recommend

however the ECU consult with national bodies before determining the application to confirm that the submitted assessment is to their standards.

3.0 Conclusions

Fife Council, as Planning Authority, is generally supportive of the proposed development. The proposed development, cited as being one of Scotland's largest solar farms, has the potential to make a substantial contribution towards meeting the nation's electricity needs and the Government's energy objectives, consistent with the requirements of SPP (2014), Policy 10 of SESplan Strategic Development Plan (2013), Policies 1 and 11 of FIFEplan Local Development Plan (2017), and Fife Council's Low Carbon Supplementary Guidance (2019).

With a 25 metre buffer proposed between development and the route of the proposed Standing Stane Link Road, it is concluded that the development would not prejudice the delivery of the identified strategic transport intervention measure which forms part of the Kirkcaldy East SLA.

Providing the identified screening and mitigation measures are secured, the Planning Authority is satisfied that the proposed development would not give rise to adverse landscape, visual impact, residential amenity, transportation, road safety, flooding or drainage, land contamination or privacy concerns. It is recommended that the ECU give consideration to the need for more detailed ecology information with regard to barn owl foraging and sand martin colonies.

4.0 Recommendation

It is recommended that Fife Council, as Planning Authority, advise Scottish Government that in their view planning permission should be granted subject to the following conditions and reasons:

1. PRIOR TO ANY WORKS COMMENCING ON SITE, the developer shall provide to the Planning Authority details of a bond or other financial provision which will be put in place to cover all decommissioning and site restoration costs. No work shall commence on the site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained throughout the operational life of the development hereby approved.

Reason: To ensure that there are sufficient funds available throughout the life of the development to carry out the full restoration of the site following decommissioning.

2. The permission hereby granted shall be for a period of forty years from when electricity is first exported from any of the approved solar panels to the electricity grid network (the "First Export Date"), and, on expiry of that period, the solar farm and its 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, all unless retained with the express prior planning application approval of the Planning Authority.

Reason: In the interests of visual amenity; in recognition of the temporary nature of the development and to secure removal.

3. In the event that the solar farm fails to produce electricity supplied to the grid for a continuous period of 6 months then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the solar farm and its ancillary equipment shall be dismantled and removed from the site within the following six months and the ground fully reinstated in accordance with a ground restoration plan to be submitted for the written approval of Fife Council as Planning Authority as required by the conditions of this consent prior to the commissioning of the solar farm.

Reason: In the interests of visual and amenity and to ensure a full and satisfactory restoration of the site should it fall into disuse.

4. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by the Council, as Planning Authority. Thereafter:

- a) no later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the site operator and a copy submitted to the Planning Authority for written approval;
- b) no later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft DRP, shall be submitted to, and approved in writing by the Planning Authority and thereafter, the detailed DRP shall be implemented in accordance with the approved details.

The DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: To ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.

5. PRIOR TO THE COMMENCEMENT OF ANY DELIVERIES ASSOCIATED WITH THE CONSTRUCTION PHASE TO THE SITE, visibility splays 6 metres x 210 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and the A915, 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 an adequate visibility splays

6. PRIOR TO ANY WORKS COMMENCING ON SITE, there shall be provided within the curtilage of the site a turning area for vehicles suitable for use by the largest vehicles expected to visit or in connection with the operation of the site. The turning area shall be formed outwith the parking areas and both shall be available as required through the lifetime of the development unless otherwise agreed in writing with this Planning Authority.

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

7. PRIOR TO ANY WORKS COMMENCING ON SITE, A Construction Traffic Management Plan (CTMP) covering the construction of the development shall be submitted for written approval of the Planning Authority. The CTMP shall contain details on routing and timing of deliveries to site, site operatives parking area, traffic management required to allow off site operations such as public utility installation, pedestrian access etc. The approved CTMP shall thereafter be implemented for the duration of the construction works.

Reason: In the interest of road safety; to ensure minimum disruption to residents and road users in the vicinity of the site.

8. BEFORE ANY EARTHMOVING OR CONSTRUCTION WORKS START ON SITE, full details of adequate wheel cleaning facilities to ensure that no mud, debris or other deleterious material is carried by vehicles onto the roads used by the public shall be submitted for approval in writing by the Planning Authority. The approved facilities shall be provided, retained and maintained throughout the construction of the solar farm.

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

9. 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.

10. PRIOR TO ANY WORKS COMMENCING ON SITE, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

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

11. PRIOR TO ANY WORKS COMMENCING ON SITE, a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted for approval in writing by this Planning Authority. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner, and thereafter maintained in full working order for the lifetime of the development..

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

12. PRIOR TO ANY WORKS COMMENCING ON SITE, a further ecological survey shall be undertaken across the site to identify any changes in the baseline conditions set out within the RPS 'Ecological Assessment Report' (March 2021) and confirm the activity status of any protected features likely to be impacted, as per the mitigation measures recommended in the Ecological Assessment Report. A report on the findings of the ecological survey shall be

submitted for the written approval of the Planning Authority before any works commence on site.

Reason: In the interests of protecting the ecology of the site and surrounding area.

13. PRIOR TO ANY WORKS COMMENCING ON SITE, an Ecological Clerk of Works (ECoW) shall be appointed, the name and contact details for whom shall be submitted for the written acknowledgement of the Planning Authority.

Reason: In the interests of protecting the ecology of the site and surrounding area.

14. Throughout the entirety of the construction period, the mitigation recommendations detailed in the RPS 'Ecological Assessment Report' (March 2021) shall be adhered to in full.

Reason: In the interests of protecting the ecology of the site and surrounding area.

15. The biodiversity enhancement measures detailed in the RPS 'Ecological Assessment Report' (March 2021) shall be carried out in full before the First Export Date. Details (including locations) of the bug/bee hotels, bat boxes and bird boxes shall be submitted for the written approval of the Planning Authority prior to their installation on site.

Reason: In the interests of protecting the ecology and improving the biodiversity of the site and surrounding area.

16. PRIOR TO ANY WORKS COMMENCING ON SITE, an assessment on sand martin nesting colony, undertaken by a suitably qualified professional, shall be carried out across the site, with a report submitted for the written approval of the Planning Authority.

FOR THE AVOIDANCE OF DOUBT, the sand martin nesting colony shall be surveyed using the appropriate bird monitoring methodology which would enable the number for apparently occupied burrows/nests (AON) to be determined together with the number of unoccupied burrows. The submitted report shall provide mapping of the colonies. Where the report concludes that it would not be possible to retain the existing sand martin nesting colony, then compensatory nesting bank shall be provided for at least an equivalent colony size. Any compensatory nesting bank shall be agreed in writing by the Planning Authority before any works are undertaken on the site which could disturb the existing sand martin nesting colony.

Reason: In the interests of safeguarding sand martins.

17. PRIOR TO ANY WORKS COMMENCING ON SITE, an assessment on barn owl foraging, undertaken by a suitably qualified professional, shall be carried out across the site, with a report submitted for the written approval of the Planning Authority. The report shall examine the impact of the development on barn owl foraging resources and shall set out suitable mitigation measures if required. The report shall also set out details of a regular monitoring schedule for the lifetime of the development, to be agreed in writing by the Planning Authority, to determine the effectiveness of any mitigation measures installed and the need for any adjustment and/or additional measures.

Reason: In the interests of safeguarding barn owls.

18. NO DEVELOPMENT SHALL COMMENCE ON SITE until the risk of actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment

(Phase I Desk Study) has been submitted by the developer to and approved in writing by the planning authority. Where further investigation is recommended in the Preliminary Risk Assessment, no development shall commence until a suitable Intrusive Investigation (Phase II Investigation Report) has been submitted by the developer to and approved in writing by the planning authority. Where remedial action is recommended in the Phase II Intrusive Investigation Report, no development shall commence until a suitable Remedial Action Statement has been submitted by the developer to and approved in writing by the planning authority. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures.

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

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

19. NO ELECTRICITY SHALL BE EXPORTED FROM ANY OF THE APPROVED SOLAR PANELS TO THE ELECTRICITY GRID NETWORK UNTIL remedial action at the site has been completed in accordance with the Remedial Action Statement approved pursuant to condition 18. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement - or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site - all development work on site (save for site investigation work) shall cease immediately and the planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement - or any approved revised Remedial Action Statement - a Verification Report shall be submitted by the developer to the local planning authority.

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

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

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

Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the planning authority or (b) the planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the

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

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

21. PRIOR TO ANY WORKS COMMENCING ON SITE, a Construction Environmental Management Plan (CEMP) shall be submitted to Fife Council as Planning Authority for approval in writing. The CEMP shall include a pollution protection measures to avoid an impact on the environment, as well as a scheme of works designed to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration from construction of the proposed development. The use of British Standard BS 5228: Part 1: 2009 "Noise and Vibration Control on Construction and Open Sites" and BRE Publication BR456 - February 2003 "Control of Dust from Construction and Demolition Activities" should be consulted.

It shall provide the following details:

- Site working hours;
- Adherence to good practise in protecting the environment and ecology;
- Dust, noise and vibration suppression; and
- Protection of water environment.

Reason: To ensure the environment in and around the site and residential amenity is protected during construction.

22. The total noise from all fixed plant, machinery or equipment associated with the development (hereby approved) shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation.

For the avoidance of doubt, day time shall be 0700-2300hrs and night time shall be 2300-0700hrs.

Reason: In the interests of residential amenity; to ensure adjacent residential dwellings are not subjected to adverse noise from the development.

23. PRIOR TO ANY WORKS COMMENCING ON SITE, the developer shall secure the implementation of a programme of archaeological work in accordance with a detailed written scheme of investigation which has been submitted by the developer and approved in writing by this Planning Authority.

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.

24. FOR THE AVOIDANCE OF DOUBT, no development shall take place within 25 metres of the southern application site boundary where it meets the land identified within FIFEplan

Local Development Plan (2017) for the proposed Standing Stane Link Road (Site ref. KDY025).

Reason: To ensure the development does not impact on the delivery of the Standing Stane Link Road, strategic transport inversion measures which has been identified by the Planning Authority.

25. FOR THE AVOIDANCE OF DOUBT, per the recommendation of the RPS Flood Risk Assessment (March 2021) a 10 metre buffer shall be maintained between development and either side of all existing watercourses/ drains within the application site, with all solar panels located within any area of land identified as having the potential to be subjected to surface water flooding raised above the ground by at least 800mm.

Reason: In the interests of flood risk management.

Background Papers

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

National Guidance:

Scottish Planning Policy (2014)

PAN 1/2011: Planning and Noise

PAN 33: Development of Contaminated Land (2000)

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

Scottish Government Designing Streets (2010)

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

Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Wildlife and Countryside Act 1981 (as amended)

Wildlife and Natural Environment (Scotland) Act (2011)

Nature Conservation Scotland Act 2004 (as amended)

Data Protection Act 1998

Codes of Practice for operating CCTV Systems

Development Plan:

SESplan Strategic Development Plan (2017)

FIFEplan Local Development Plan (2017)

Making Fife's Places Supplementary Guidance Document (2018)

Low Carbon Fife Supplementary Guidance (2019)

Planning Obligations Supplementary Guidance (2017)

Other Guidance:

Fife Council Transportation Development Guidelines

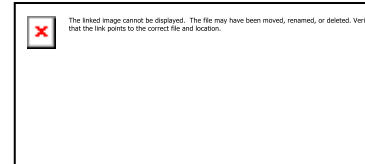
Fife Council Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2021)

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Your Ref:

Our Ref: 21/01720/CON

Date 1st September 2021

Dear Sir/Madam

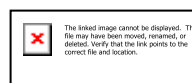
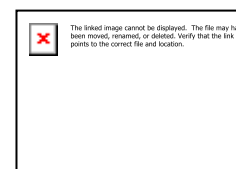
Application No: 21/01720/CON
Proposal: ECU00002222 - Consultation under Section 36 of the Electricity Act 1989 for proposed 50MW solar farm and 25MW battery storage facility
Address: Former Randolph Colliery Site at Wemyss Estate

Having presented the application to Elected Members of the Central and West Planning Committee, Fife Council can confirm that they are generally supportive of the proposed 50MW solar farm and 25MW battery storage facility development subject to the following comments.

1. The proposed development has the potential to make a substantial contribution towards meeting the nation's electricity needs and the Government's energy objectives, consistent with the requirements of SPP (2014), Policy 10 of SESplan Strategic Development Plan (2013), Policies 1 and 11 of FIFEplan Local Development Plan (2017), and Fife Council's Low Carbon Supplementary Guidance (2019). Having considered the location of the proposed development, the Planning Authority is satisfied that the development would not undermine the Spatial Strategy within FIFEplan, nor impact on the Kirkcaldy East Strategic Land Allocation (SLA). The Planning Authority must stress however the importance of maintaining at least a 25 metre buffer/separation between any development works and the indicative route of the Standing Stane Link Road (as defined within FIFEplan) which forms the southern boundary of the application site. The Standing Stane Link Road is identified as a strategic transport intervention measure (STIM) in the Planning Obligations Framework Guidance 2017, one of several identified measures required to mitigate the increase in trips on the local and trunk road network by the adopted FIFEplan allocations, particularly those in Kirkcaldy East and Levenmouth. The Planning Authority can provide further details on the indicatively proposed route of the Standing Stane Link Road if required.

2. From the information submitted as part of the application, which includes a Landscape and Visual Impact Assessment which considers several key viewpoints and

Planning Services
Fife House, North Street, Glenrothes, KY7 5LT



receptors, the Planning Authority is satisfied that the proposed development would not give rise to adverse landscape or visual impact concerns, providing the screening mitigation measures identified are secured. Planning conditions are recommended to ensure a detailed landscaping plan is provided, and thereafter the landscaping planting takes place and is properly maintained. Notwithstanding the acceptability of the development with regard to landscape and visual impact considerations, the proposed development is not considered to be suitable visually or structurally as a permanent form of development in the countryside and a condition is therefore included to limit the lifespan of the development to 40 years (Condition 2). Recognising the temporary nature of the development, it is also recommended that planning conditions be used to ensure a site restoration plan is devised, and a financial bond is in place to cover the cost of site restoration works once the temporary consent comes to an end.

3. The submitted Ecological Assessment Report, including recommendations, is broadly considered to be reasonable, however the assessment of the impact on nesting barn owl and sand martin colonies is considered to be limited and requires further consideration. In the first instance, the Planning Authority would recommend that Energy Consent Unit request updated assessments on the impacts on barn owl foraging and sand martin colonies prior to the determination of the application and the Planning Authority reconsulted. If, however it is deemed by the Energy Consent Unit that such assessments would not be required prior to determination, the Planning Authority would request that planning conditions (Conditions 16 and 17) be included to ensure the information is submitted to the Planning Authority prior to the commencement of works. Additionally, to ensure suitable biodiversity enhancement takes places, conditions are recommended to make sure the recommendations of the Ecological Assessment Report are adhered to in full.

4. With regard to residential amenity considerations, including air quality, glint and glare, traffic movements, noise, odour, visual impact, impact on green infrastructure, construction impacts, privacy and overshadowing, the Planning Authority is satisfied that the proposed development would not give rise to any significantly adverse concerns. It is noted that Environmental Health Officers recommended that a noise impact assessment be submitted prior to determination, however it is the position of the Planning Authority that a condition (Condition 22) to control the noise rating levels of all fixed plant, machinery and equipment associated with the development would be sufficient on this occasion, given the separation between such items and neighbouring properties. A condition is also recommended for a Construction Environmental Management Plan to be submitted to confirm how the developer will safeguard neighbouring properties during the construction period.

5. Provided the necessary 25 metre buffer is provided between development and the proposed Standing Stane Link Road, the Planning Authority do not have any transportation or road safety concerns to raise. Conditions are however recommended to ensure an appropriate turning area and visibility splays are provided/maintained, and

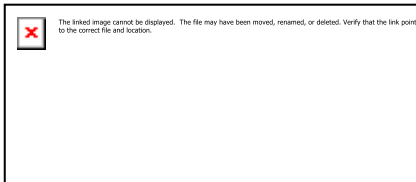
a Construction Traffic Management Plan (CTMP) covering the construction period submitted.

6. The submitted Glint and Glare Assessment concludes that the proposed development would not have an adverse impact on train drivers travelling along the east coast railway line and high level aviation (aircraft). The Planning Authority do not feel best placed to comment on these conclusions and would recommend that the Energy Consent Unit consult with the Civil Aviation Authority (CAA), Ministry of Defence (MOD) and Network Rail prior to determining the application.

7. An archaeological desk-based assessment has been submitted that states that the site is of little archaeological potential and concludes that no archaeological mitigation work is required based on (1) the lack of known/recorded archaeology within the development footprint, and (2) what is stated to be minor sub-surface disturbance by development. The conclusions/recommendations of this assessment are not shared by the Planning Authority and it considered that there is potential for archaeological deposits to exist on site – this potential requires to be fully investigated before works commence on site. A condition (Condition 23) is therefore recommended for a written scheme of investigation to be prepared and an archaeological investigation undertaken on the site.

Further commentary on the Planning Authority's assessment of the proposed development is set out within the attached committee report.

Yours sincerely



Bryan Reid
Lead Professional

RECOMMENDED CONDITIONS

1. PRIOR TO ANY WORKS COMMENCING ON SITE, the developer shall provide to the Planning Authority details of a bond or other financial provision which will be put in place to cover all decommissioning and site restoration costs. No work shall commence on the site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained throughout the operational life of the development hereby approved.

Reason: To ensure that there are sufficient funds available throughout the life of the development to carry out the full restoration of the site following decommissioning.

2. The permission hereby granted shall be for a period of forty years from when electricity is first exported from any of the approved solar panels to the electricity grid network (the "First Export Date"), and, on expiry of that period, the solar farm and its 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, all unless retained with the express prior planning application approval of the Planning Authority.

Reason: In the interests of visual amenity; in recognition of the temporary nature of the development and to secure removal.

3. In the event that the solar farm fails to produce electricity supplied to the grid for a continuous period of 6 months then it shall be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the solar farm and its ancillary equipment shall be dismantled and removed from the site within the following six months and the ground fully reinstated in accordance with a ground restoration plan to be submitted for the written approval of Fife Council as Planning Authority as required by the conditions of this consent prior to the commissioning of the solar farm.

Reason: In the interests of visual and amenity and to ensure a full and satisfactory restoration of the site should it fall into disuse.

4. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by the Council, as Planning Authority. Thereafter:

- a) no later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the site operator and a copy submitted to the Planning Authority for written approval;

- b) no later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft DRP, shall be submitted to, and approved in writing by the Planning Authority and thereafter, the detailed DRP shall be implemented in accordance with the approved details.

The DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: To ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.

5. PRIOR TO THE COMMENCEMENT OF ANY DELIVERIES ASSOCIATED WITH THE CONSTRUCTION PHASE TO THE SITE, visibility splays 6 metres x 210 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and the A915, 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 an adequate visibility splays

6. PRIOR TO ANY WORKS COMMENCING ON SITE, there shall be provided within the curtilage of the site a turning area for vehicles suitable for use by the largest vehicles expected to visit or in connection with the operation of the site. The turning area shall be formed outwith the parking areas and both shall be available as required through the lifetime of the development unless otherwise agreed in writing with this Planning Authority.

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

7. PRIOR TO ANY WORKS COMMENCING ON SITE, A Construction Traffic Management Plan (CTMP) covering the construction of the development shall be submitted for written approval of the Planning Authority. The CTMP shall contain details on routing and timing of deliveries to site, site operatives parking area, traffic management required to allow off site operations such as public utility installation, pedestrian access etc. The approved CTMP shall thereafter be implemented for the duration of the construction works.

Reason: In the interest of road safety; to ensure minimum disruption to residents and road users in the vicinity of the site.

8. BEFORE ANY EARTHMOVING OR CONSTRUCTION WORKS START ON SITE, full details of adequate wheel cleaning facilities to ensure that no mud, debris or other deleterious material is carried by vehicles onto the roads used by the public shall be submitted for approval in writing by the Planning Authority. The approved facilities shall be provided, retained and maintained throughout the construction of the solar farm.

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

9. 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.

10. PRIOR TO ANY WORKS COMMENCING ON SITE, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

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

11. PRIOR TO ANY WORKS COMMENCING ON SITE, a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted for approval in writing by this Planning Authority. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner, and thereafter maintained in full working order for the lifetime of the development..

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

12. PRIOR TO ANY WORKS COMMENCING ON SITE, a further ecological survey shall be undertaken across the site to identify any changes in the baseline conditions set out within the RPS 'Ecological Assessment Report' (March 2021) and confirm the activity status of any protected features likely to be impacted, as per the mitigation measures recommended in the Ecological Assessment Report. A report on the findings of the ecological survey shall be submitted for the written approval of the Planning Authority before any works commence on site.

Reason: In the interests of protecting the ecology of the site and surrounding area.

13. PRIOR TO ANY WORKS COMMENCING ON SITE, an Ecological Clerk of Works (ECoW) shall be appointed, the name and contact details for whom shall be submitted for the written acknowledgement of the Planning Authority.

Reason: In the interests of protecting the ecology of the site and surrounding area.

14. Throughout the entirety of the construction period, the mitigation recommendations detailed in the RPS 'Ecological Assessment Report' (March 2021) shall be adhered to in full.

Reason: In the interests of protecting the ecology of the site and surrounding area.

15. The biodiversity enhancement measures detailed in the RPS 'Ecological Assessment Report' (March 2021) shall be carried out in full before the First Export Date. Details (including locations) of the bug/bee hotels, bat boxes and bird boxes shall be submitted for the written approval of the Planning Authority prior to their installation on site.

Reason: In the interests of protecting the ecology and improving the biodiversity of the site and surrounding area.

16. PRIOR TO ANY WORKS COMMENCING ON SITE, an assessment on sand martin nesting colony, undertaken by a suitably qualified professional, shall be carried out across the site, with a report submitted for the written approval of the Planning Authority.

FOR THE AVOIDANCE OF DOUBT, the sand martin nesting colony shall be surveyed using the appropriate bird monitoring methodology which would enable the number for apparently occupied burrows/nests (AON) to be determined together with the number of unoccupied burrows. The submitted report shall provide mapping of the colonies. Where the report concludes that it would not be possible to retain the existing sand martin nesting colony, then compensatory nesting bank shall be provided for at least an equivalent colony size. Any compensatory nesting bank shall be agreed in writing by the Planning Authority before any works are undertaken on the site which could disturb the existing sand martin nesting colony.

Reason: In the interests of safeguarding sand martins.

17. PRIOR TO ANY WORKS COMMENCING ON SITE, an assessment on barn owl foraging, undertaken by a suitably qualified professional, shall be carried out across the site, with a report submitted for the written approval of the Planning Authority. The report shall examine the impact of the development on barn owl foraging resources and

shall set out suitable mitigation measures if required. The report shall also set out details of a regular monitoring schedule for the lifetime of the development, to be agreed in writing by the Planning Authority, to determine the effectiveness of any mitigation measures installed and the need for any adjustment and/or additional measures.

Reason: In the interests of safeguarding barn owls.

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

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

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

19. NO ELECTRICITY SHALL BE EXPORTED FROM ANY OF THE APPROVED SOLAR PANELS TO THE ELECTRICITY GRID NETWORK UNTIL remedial action at the site has been completed in accordance with the Remedial Action Statement approved pursuant to condition 18. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement - or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site - all development work on site (save for site investigation work) shall cease immediately and the planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement - or any approved revised Remedial Action Statement - a Verification Report shall be submitted by the developer to the local planning authority.

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

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

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

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

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

21. PRIOR TO ANY WORKS COMMENCING ON SITE, a Construction Environmental Management Plan (CEMP) shall be submitted to Fife Council as Planning Authority for approval in writing. The CEMP shall include a pollution protection measures to avoid an impact on the environment, as well as a scheme of works designed to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration from construction of the proposed development. The use of British Standard BS 5228: Part 1: 2009 "Noise and Vibration Control on Construction and Open Sites" and BRE Publication BR456 - February 2003 "Control of Dust from Construction and Demolition Activities" should be consulted.

It shall provide the following details:

- Site working hours;
- Adherence to good practise in protecting the environment and ecology;
- Dust, noise and vibration suppression; and
- Protection of water environment.

Reason: To ensure the environment in and around the site and residential amenity is protected during construction.

22. The total noise from all fixed plant, machinery or equipment associated with the development (hereby approved) shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation.

For the avoidance of doubt, day time shall be 0700-2300hrs and night time shall be 2300-0700hrs.

Reason: In the interests of residential amenity; to ensure adjacent residential dwellings are not subjected to adverse noise from the development.

23. PRIOR TO ANY WORKS COMMENCING ON SITE, the developer shall secure the implementation of a programme of archaeological work in accordance with a detailed written scheme of investigation which has been submitted by the developer and approved in writing by this Planning Authority.

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.

24. FOR THE AVOIDANCE OF DOUBT, no development shall take place within 25 metres of the southern application site boundary where it meets the land identified within FIFEplan Local Development Plan (2017) for the proposed Standing Stane Link Road (Site ref. KDY025).

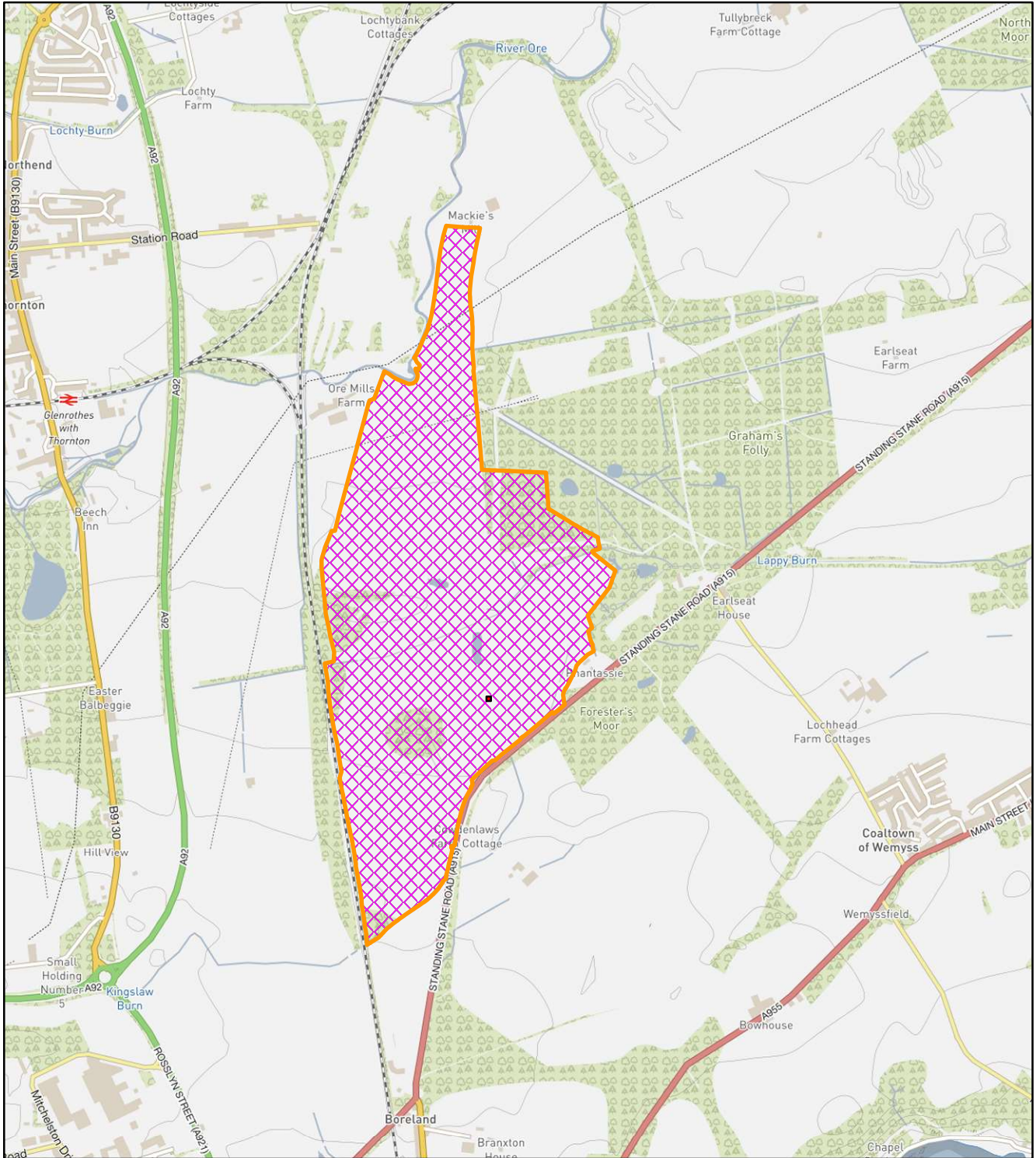
Reason: To ensure the development does not impact on the delivery of the Standing Stane Link Road, strategic transport inversion measures which has been identified by the Planning Authority.

25. FOR THE AVOIDANCE OF DOUBT, per the recommendation of the RPS Flood Risk Assessment (March 2021) a 10 metre buffer shall be maintained between development and either side of all existing watercourses/ drains within the application site, with all solar panels located within any area of land identified as having the potential to be subjected to surface water flooding raised above the ground by at least 800mm.

Reason: In the interests of flood risk management.

21/01720/CON

Scottish Government Consultation - former Randolph Colliery Site Wemyss Est



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Legend	
 Application Boundary	
0 100 200 400 600  m	
 Fife COUNCIL Economy, Planning & Employability Services	

ITEM NO: 6

APPLICATION FOR APPROVAL REQUIRED BY CONDITION(S) REF: 21/01809/ARC

SITE ADDRESS: FREESCALE SITE DUNLIN DRIVE DUNFERMLINE

PROPOSAL : APPROVAL OF MATTERS SPECIFIED BY CONDITIONS 1 (K,L,M) AND 23 OF 20/03250/PPP FOR FORMATION OF ACCESS, LINK ROAD, FOOTPATHS, CYCLEPATHS AND SCHOOL CAR PARK, ASSOCIATED SUDS AND DRAINAGE INFRASTRUCTURE AND SITE ENGINEERING FOR DUNFERMLINE LEARNING CAMPUS

**APPLICANT: FIFE COUNCIL
FIFE HOUSE NORTH STREET GLENROTHES**

**WARD NO: W5R03
Dunfermline Central**

CASE OFFICER: Bryan Reid

DATE REGISTERED: 16/06/2021

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 representations have been received with are contrary to the officer recommendation.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

1.0 BACKGROUND

1.1 SITE DESCRIPTION

1.1.1 The application site extends to approximately 25 hectares of a wider site, which measures approximately 49ha and is the subject of a recently approved planning permission in principle (Ref: 20/03250/PPP), for a mixed use development including residential units and assisted living apartments (Class 9); college, two high schools and nursery (Class 10); care home (Class 8); pub / restaurant (Class 3); coffee drive thru and a petrol filling station (Sui Generis). The application site is situated on the north east of Dunfermline and is bound by the remainder of the PPP site to the north east, east, south and west. Calaiswood Crescent runs east/west through the site. Calais Muir Wood and Allocated Site DUN 051 (Axis Point - Employment Land) is located to the south of the application site. An area of sloping woodland and grassed bund form the eastern site boundary of the current application site. The application site predominantly comprises of scrubland and areas of hardstanding following demolition of the Hyundai manufacturing facility which was never occupied. There is a SuDS pond situated towards the south eastern corner of the application site which has areas of tree planting along its northern and eastern boundary. This area towards the south east corner of the application site is defined as a Green Network Asset and an area of Protected Open Space by FIFEplan (2017). Beyond Sandpiper Drive to the east of the site is the M90; Fife Leisure Park and a roundabout are situated to the north, and there are further residential areas to the north west accessed from Dunlin Drive.

1.1.2 Calais Muir Wood to the south of the application site is identified as Ancient Woodland and is subject to a Tree Preservation Order (TPO) Area designation (Ref: W0051). It is also identified as a Green Network Asset and an area of Protected Open Space by FIFEplan (2017). None of the trees within the application site itself are subject to a Tree Preservation Order, however, there are small pockets of trees recorded as Semi-Natural Woodland to the north/east of the south easterly SuDS pond.

1.1.3 There is an existing core path (P647/01) running along Gypsy Lane to the south of the application site and core path (P651/02) running along the footpath next to Sandpiper Drive, located to the east of the application site.

1.1.4 The application site is located within the settlement boundary of Dunfermline as defined on the adopted FIFEplan 2017 Proposals Map. It is designated as an employment / development opportunity site DUN 059 Halbeath Interchange. The identified uses for the site are noted as employment (18.3ha), education (3.7ha), hotel (0.46 ha), retail (1.36ha), residential (13.88ha), green buffer (0.84ha) and open space (1.21ha). The site has however been the subject of a recent planning permission in principle approval (Ref: 20/03250/PPP), for a mixed use development including residential units and assisted living apartments (Class 9); college, two high schools and nursery (Class 10); care home (Class 8); pub / restaurant (Class 3); coffee drive thru and a petrol filling station (Sui Generis). The eastern side of the application site and Calais Muir Wood to the south of the application site are designated as protected open space within FIFEplan. The application site also sits within the Calais Muir Green Network Policy Area (reference: DUNGN07).

1.2 PROPOSAL

1.2.1 This application is for approval of matters specified in Conditions 1(k, l and m) and 23 of planning permission in principle approval 20/03250/PPP. Condition 1 states: A further application(s) for the following matters shall be submitted for the approval of the Planning Authority:

k) Sustainable Drainage System (SuDS) and drainage infrastructure;

l) Site engineering; and

m) Roads, access, footpath and cycle path provision;

Condition 23 requires the developer to apply to the Planning Authority where they propose to remove additional trees from within the site which were not covered in the tree removal works approved in planning permission in principle application.

1.2.2 The proposal is for the formation of access, a north/south core (spine) road, footpaths, cyclepaths and school car park, associated SuDS and drainage infrastructure and site engineering. Such features were detailed in the approved masterplan for the planning permission in principle (PPP) application. The application is for engineering/enabling works which would permit the developer to commence infrastructure works on site in preparation of detailed applications coming forward for the college and school buildings which would form the new 'Dunfermline Learning Campus'. It is proposed to relocate the existing Woodmill and St Columba's Roman Catholic High Schools to the Dunfermline Learning Campus for 2024.

1.2.3 The proposal includes removal of additional trees to facilitate the proposed spine road and car parking area. No removal of trees is proposed at Calais Muir Wood. The site engineering works would include the creation of level platforms throughout the site which would enable sports pitches to be introduced. The site surface drainage strategy incorporates a Sustainable Drainage System (SuDS). The majority of the proposed development would discharge surface water to the existing SuDS pond located in the south easterly corner of the site, with the southerly proposed sports pitch platforms to incorporate on plot attenuation which would outfall to a strategic surface water sewer provided by Shepherd Offshore to the west. Works to reconfigure the south easterly SuDS pond and outlet structure shall be required.

1.3 PLANNING HISTORY

1.3.1 Planning history associated with this site includes:

- 11/04948/PPP for a mixed use development of classes 1 (retail), 4 (business), 5 (general industrial), 6 (warehousing and distribution), 7 (hotel), 9 (residential) and 10 (education) with onsite installation of renewable energy plant. This was approved on 17 January 2014 with a legal agreement requiring the provision of an educational contribution, 25% affordable housing and landscaping maintenance.

- 11/04948/PPP was later modified by application 14/00809/PPP which varied the terms of condition 1 of 11/04948/PPP to allow for a different mix of land uses on the site. Condition 1 originally stated that: -14/00685/ARC approved Matters Specified within Conditions 2 (a, b, c, k, l and m), 7, 8 and 21 of 14/00809/PPP. These matters were preliminary requirements relating to the overall strategies for design, masterplanning, SUDS, public art etc. This application was approved on 16 July 2014. The overall masterplan, phasing and design framework was approved through this application.

- Application 14/00685/ARC also approved a phasing plan along with the overall masterplan, however a revised phasing plan was submitted through application 14/04233/ARC. This amended the timescales for delivery of certain on-site infrastructure and wider transportation

interventions previously approved through application 14/00685/ARC. This application was approved on 5 March 2015.

- Application 16/03359/ARC was approved on 24th November 2016. This resulted in an updated masterplan and phasing plan for the whole mixed use development site required under conditions 2(a) and 2(b) of the original Planning Permission in Principle. These documents replace the masterplan and phasing plans agreed through applications 14/00685/ARC and 14/04233/ARC. This consent introduced a larger area of education land within the site as Fife College were looking to relocate to the site.
- Application 19/03679/ARC for approval of matters specified by condition 2 (B) of planning permission 14/00809/PPP (amendment to 16/03359/ARC) was approved on 1st March 2020. This consent did not result in any changes to the land uses proposed under the overall masterplan, the main changes related to the phasing.
- The first phase of residential development was approved through application 15/01159/ARC. This was approved for 225 residential units along with internal road infrastructure, open space, play provision and public art. The western end of Calaiswood Crescent was approved as part of this application.
- Application 16/01294/ARC was approved to complete Calaiswood Crescent through the site required under condition 2(e) of the original consent.
- An application for the approval of matters (ref: 21/00528/ARC) required by conditions for Phase 2 of residential development of 193 residential units (Approval of condition 2(d) of planning permission 14/00809/PPP) is currently under consideration.
- Application 20/03250/PPP was approved on 14 May 2021 for planning permission in principle for a mixed use development including residential units and assisted living apartments (Class 9); college, two high schools and nursery (Class 10); care home (Class 8); pub / restaurant (Class 3); coffee drive thru and a petrol filling station (Sui Generis). This application amended the uses previously approved under various applications including 11/04948/PPP and 14/00809/PPP.
- An application for the approval of matters (ref: 21/01229/ARC) required by condition 1(m) of application 20/03250/PPP for formation of access and construction of core road (D-E) (Southern Access Road) was recently approved by the Central and West Planning Committee in July 2021.

2.0 ASSESSMENT

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

- Compliance with 20/03250/PPP
- Visual Impact and Layout
- Residential Amenity
- Road Safety Impact
- Tree Impact and Landscaping
- Ecology Impact
- Contamination, Land Stability and Air Quality
- Flooding and Drainage

2.2 COMPLIANCE WITH 20/03250/PPP

2.2.1 Whilst the principle of development does not need to be revisited for this application of Matters Specified in Conditions, given it has already been considered acceptable through the approval of 20/03250/PPP, the proposal still needs to comply with the conditions set out in the original PPP to be considered through the Approval of Matters Specified in Conditions process. In this regard, the current application has been submitted under conditions 1(k, l, m) and 23 of

20/03250/PPP which requires further applications for SuDS (1k); site engineering (1l); roads, access, footpath and cycle path provision (1m); and removal of additional trees (23).

2.2.2 Condition 2 of 20/03250/PPP states that every application submitted under the terms of Condition 1 shall include specific information where relevant. Compliance with Condition 2 shall be discussed throughout the report where the condition relates to a specific topic. Some conditions however require specific plans to be submitted for context only; these are parts (a), (b) and (e). Sufficient information has been submitted to discharge these matters. Condition 3, which similarly sets out specific information which is required to be submitted, is not relevant for this application, applying only to applications submitted under Condition 1(a-j).

2.2.3 Conditions 11, 12, 14, 15, 16 and 19 of 20/03250/PPP are all of relevance to this application, setting out requirements for how all roads through the site shall be constructed to adhere to current guidelines, whilst also ensuring sufficient off-street parking is provided to serve the educational facilities that are to be constructed in the future.

2.2.4 As detailed above, condition 23 of 20/03250/PPP sets the requirement for the applicant to submit updated tree survey reports where they propose to fell or lop any trees within the application site above those previously permitted to be felled or lopped under the planning permission in principle application.

2.2.5 Conditions 24 and 26 of 20/03250/PPP relate to ecology matters. Condition 24 requires that all habitat management and biodiversity protection/enhancement measures will be undertaken in accordance with the approved Site Biodiversity Action Plan 2021-2023, V3, dated 9th December 2020. Condition 26 restricts any trees from being felled around the south east SUDS pond until a bat and bird survey has been undertaken and approved by Fife Council. These conditions would remain attached to the PPP permission and would be applicable to any future consent approval for this site.

2.2.6 Overall it is considered that the proposed development complies with the masterplan and has met the general submission requirements for the relevant conditions where appropriate. The details submitted to meet the required matters under condition 2 shall be considered in the following paragraphs.

2.3 VISUAL IMPACT AND LAYOUT

2.3.1 SPP, Designing Streets (2010), SESplan Strategic Development Plan (2017), FIFEplan Local Development Plan (2017) Policies 1, 10 and 14, and Making Fife's Places Supplementary Guidance (2018) apply with consideration to the design and layout of the proposed development.

2.3.2 SPP paragraph 42 sets out that a pleasant, positive sense of place can be achieved by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement. Paragraph 194 promotes positive change that maintains and enhances distinctive landscape character. In addition, SPP paragraph 202 states that development should be designed to take account of local landscape character and the potential effects on landscapes, including cumulative effects. The SPP directs Planning Authorities to adopt a precautionary approach when considering landscape impacts, but also to consider the ways in which modifications to a proposal could be made to mitigate the risk (paragraph 204).

2.3.3 Designing Streets (2010) is the Scottish Government's Policy Statement for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. This document sets out that street design must consider place before movement, whilst street design is a material consideration in determining planning applications. Street design should meet the six qualities of successful places. Furthermore, it is advised that street design should be based on balanced decision-making and must adopt a multidisciplinary collaborative approach.

2.3.4 SESplan (2017) Policy 2 aims to deliver better quality development and places which respond to climate change, Local Development Plans, design frameworks masterplans/briefs and development proposals should be:

- a) Place-led;
- b) Active and healthy by design.
- c) Resilient and future-ready; and
- d) Efficient resource consumption.

2.3.5 FIFEplan (2017) Spatial Strategy promotes an increase in Quality of Place through new development in Fife. FIFEplan Policy 1 Part C requires proposals to demonstrate adherence to the six qualities of successful places. Policy 10 (Amenity) of FIFEplan requires proposals to demonstrate that development would not result in a significant detrimental impact on amenity in relation to visual impact. Policy 14 provides more detail on these principles of good placemaking, advising that development which protects or enhances buildings or other built heritage of special architectural or historic interest will be supported. Policy 14 additionally sets out that developments are expected to achieve the six qualities of successful places: distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and, easy to move around. Fife Council will apply the six qualities of successful places in order to assess a proposal's adherence to these principles.

2.3.6 Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regard to design. This document encourages a design-led approach to development proposals through placing the focus on achieving high quality design. It additionally sets out that design issues should be considered from the neighbourhood or block scale. This document also illustrates how development proposals can be evaluated to ensure compliance with the six qualities of successful places. The Supplementary Guidance also sets out the level of site appraisal an applicant is expected to undertake as part of the design process. This includes consideration of the landscape setting, character and the topography of the site.

2.3.7 Condition 2(j) of 20/03250/PPP sets the requirement for 'a site engineering plan indicating earthworks, retaining walls, engineering solutions and platforming, to include sections through the site' to be submitted with future approved matters application. The site engineering plan shall demonstrate and clarify the net developable area of the proposed land uses. It is considered that the plans and supporting information submitted meets the requirements of this condition. Condition 19 of the PPP set the requirement for a north-south core road to be provided as part of the education facilities linking the third means of vehicular access from Sandpiper Drive with Calaiswood Crescent. The core road shall have a carriageway width of 6.75 metres with 2 metre wide grass verges on both sides of the carriageway; and a 3 metre wide footway/cycleway on the south and east side of the carriageway.

2.3.8 The layout of the proposed spine road, school car park and platforms (for sports pitches) is in-keeping with the masterplan details approved as part of the PPP application. Given the nature of the proposed engineering and site preparation works, considering the approved PPP

masterplan, it is contended that the visual impact of the proposed enabling works would largely be expected. The Dunfermline Learning Campus site is anticipated to be constructed over the next three years, and the proposed enabling works would be viewed in the context of a large scale construction site until the completion of the Dunfermline Learning Campus and as such would not raise any immediate visual impact concerns. As the development of the wider site progresses, with both residential and education uses coming forward, the proposed road, car park and platformed areas would be viewed within the context of these developments, and similarly would raise no significant visual impact concerns.

2.3.9 A sweeping road layout is proposed to best accommodate the various slopes and level changes across the site. Grass verges are proposed along both sides of the spine road, with a 3m shared footway and cycleway proposed to follow the route of the spine road. The footway/cycle would be located on the western side of the spine road, separated by a grass verge. Various east/west connections are proposed to provide pedestrian access from the spine road path directly into the centre of the Dunfermline Learning Campus (details of the pedestrian/cycle paths through the Learning Campus shall be submitted separately in future applications). Designated footpath/pedestrian routes are also proposed through the school car park. A variety of consistent surface materials and colours are proposed throughout the site to assist in differentiating between users of space and direct pedestrians - for example, the material for the pedestrian routes within the car park would match the footway, making clear where pedestrians should move and encouraging vehicles to slow and give priority to pedestrians. The Council's Urban Design Officer recommended that additional pedestrian paths be provided within the car park area rather than the proposed marked crossing. Whilst this recommendation is noted, it is considered that it has the potential to confuse drivers within the car as it may not be clear as to which routes/areas are accessible to cars. No landscaping details have been submitted (this is noted by the Urban Design Officer), however, as landscaping is not an essential component of site engineering works, the Planning Authority is content for this information to be submitted in a later application.

2.3.10 In conclusion, the visual impact of the proposed enabling works have largely been agreed through the approved masterplan, with the layout proposed considered to be consistent with the masterplan and conditions included on the PPP application. The proposed development is therefore considered to be acceptable with regard to visual impact and layout considerations.

2.4 RESIDENTIAL AMENITY

2.4.1 Policies 1 and 10 of Adopted FIFEplan Local Development Plan (2017), Planning Advice Note (PAN) 1/2011: Planning and Noise and Fife Council Customer Guidelines on Daylight and Sunlight (2018) apply with regard to the consideration of residential amenity.

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

2.4.3 PAN 1/2011 promotes the principle of how noise issues should be taken into consideration with determining an application. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It is recommended that Environmental Health Officers and/or professional acousticians should be involved in development proposals

which are likely to have significant adverse noise impacts or be affected by existing noisy developments. The PAN recommends that Noise Impact Assessments (NIAs)/acoustic reports are submitted to aid the planning authority in the consideration of planning applications that raise significant noise issues. 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.

2.4.4 As per Fife Council Customer Guidelines on Daylight and Sunlight (2018), sunlight is considered to be the rays of light directly from the sun from a southerly direction, whereas daylight is the diffuse light from the sky that can come from any direction. The guidance considers these two forms of natural light as follows; sunlight received by residential properties' main amenity spaces; and daylight received by neighbouring windows serving habitable rooms. The guidance details the 25 degree and 45 degree assessment to measure the impact of loss daylight as a consequence of a development. This guidance additionally states that proposed developments should allow for the centre point of neighbouring properties' amenity spaces to continue to receive more than two hours of sunlight (calculated on 21st March).

2.4.5 As detailed in paragraph 2.2.2 above, Condition 3 of 20/03250/PPP set the requirement for applications submitted under Condition 1(a-j) to be supported by various documents, including a noise impact assessment and scheme of works. As this current application has been submitted under Conditions 1(k, l and m) and 23, there is no requirement for a noise impact assessment or scheme of works to be submitted. Whilst it is acknowledged that the use of the spine road and car park by vehicles could result in noise being produced, as there are no existing noise sensitive uses along its length and as it would not be used until the first phase of the Learning Campus was ready to be opened, it is not necessary to assess the noise impacts of the proposed spine road at this stage.

2.4.6 Additionally, given the spine road's separation from existing residential properties and the Calais Muir Wood, it is considered that no significant concerns would be raised with regard to light pollution from streetlights. It is recognised that the application also includes site engineering works to create platforms (enabling future construction works and formation of sports pitches). The potential light pollution impacts from the Learning Campus and associated sports pitches were assessed as part of 20/03250/PPP, with a condition included on that application for full details of a lighting scheme to be submitted as part of any application submitted under the terms of Condition 1(g). As above, there is no requirement for this information to be submitted at this time.

2.4.7 Furthermore, given the separation of the proposed spine road and enabling engineering works from neighbouring properties the proposed works would not have an adverse impact on the levels of daylight and sunlight currently enjoyed by residential properties.

2.4.8 Lastly, Fife Council's Environmental Health Officers (EHOs) confirmed that that they had no comments to make on this application. The content of this response was questioned in the objections submitted to the application. In response to the concerns from objectors, the Planning Authority is content with the comments submitted by the EHO as there was little for them to review within this application; as set out in the preceding paragraphs, noise impacts assessments, schemes of work and lighting strategies shall be submitted as appropriate for future approved matters applications.

2.4.9 In conclusion, given the nature of the proposed works, there is no requirement for this application to be supported by a noise impact assessment, scheme of works or lighting strategy.

The formation of the proposed spine road and cars parks etc. and undertaking of site engineering works is not considered to raise adverse residential amenity concerns, consistent with the requirements of Policies 1 and 10 of FIFEplan (2017).

2.5 ROAD SAFETY IMPACT

2.5.1 SPP, Policies 1, 3 and 10 of the Adopted FIFEplan Local Development Plan (2017), Fife Council Transportation Development Guidelines (contained within Making Fife's Places Supplementary Guidance) and Scottish Government Designing Streets (2010) apply with regard to this proposal.

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

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

2.5.4 As advised above, Conditions 11, 12, 14, 15 and 16 of 20/03250/PPP are all of relevance to this application, setting out requirements for how all roads through the site shall be constructed to adhere to current guidelines, whilst also ensuring sufficient off-street parking is provided to serve the educational facilities that are to be constructed in the future. Condition 19 sets the specific requirement for a 'north-south core road' to be provided as part of the education facilities, linking the third means of vehicular access from Sandpiper Drive (approved under application 21/01229/ARC) with Calaiswood Crescent. Condition 19 additionally sets out that the core road shall have a carriageway width of 6.75 metres, with 2 metre wide grass verges on both sides of the carriageway; and a 3 metres wide footway/cycleway on the south and east side of the carriageway.

2.5.5 The plans and supporting documents relating to the proposed roads, cycleways, footpaths, car parks and bus stances are considered to meet the information requirements of Condition 2.

2.5.6 The proposed development would comprise of the formation of the core road referred to by Condition 19 (known as the 'spine road'), school car park, school bus drop off area and junctions for future road connections within the PPP site. As required by Condition 19, the proposed spine road would have a carriageway width of at least 6.75m throughout, and would feature grass verges and a 3m wide footway/cycleway along its edges. The spine road would link the recently approved access road along the southern site boundary (leading from Sandpiper Drive) with Calaiswood Crescent.

2.5.7 Conditions 11, 12, 14 and 15 require the roads, boundary markers and visibility splays to be constructed to particular standards. From the technical drawings submitted as part of this application, the Planning Authority is satisfied that the proposed roads have been designed in accordance with current guidelines.

2.5.8 Condition 16 of 20/03250/PPP sets the requirement for off-street parking (including cycle and visitor parking spaces) to be provided on site to serve each particular use approved as part of the PPP application, prior to that use being occupied. A total of 249 delineated off-street car parking spaces are proposed within the 'school car park' which forms part of this development. A total of 17 bus parking bays within a dedicated school bus drop off area are also proposed. The school bus drop off area would employ a one way system, with buses entering the drop off area (and bays) in a forward gear via the southern access from the proposed spine road, buses would then reverse out of bays before travelling northwards and exiting the drop off area on to the spine road. A bypass lane is proposed to allow a bus to pass a bus being reversed out of a bay to minimise the potential for buses queuing on the spine road. The proposed school car park would likewise make use of a one way system, with vehicles entering from the southern access point and egressing from the north. Appropriate road signage and markings are proposed to manage the one way systems.

2.5.9 Upon their initial assessment of the proposed development, Fife Council's Transportation Development Management (TDM) Officers, in consultation with the local bus operators, raised concerns regarding the aisle width of the proposed bus drop off area (and angle of entry into bays). To address these concerns, revised plans for the proposed bus drop off area were submitted, with the aisle width increased (and a bypass lane added) and angle of entry to bays reduced. Following the submission of the amended plans, TDM confirmed that they had no objections to the layout of the bus drop off area. TDM also confirmed that the proposed car park layout was acceptable in road safety terms, however it was noted that it could not be confirmed whether the number of car parking spaces proposed would be adequate until a detailed application for the school building is submitted.

2.5.10 A sweeping road layout is proposed to best accommodate the various slopes and level changes across the site. Grass verges are proposed along both sides of the spine road, with a 3m shared footway and cycleway proposed to follow the route of the spine road. The footway/cycle would be located on the western side of the spine road, separated by a grass verge. Various east/west connections are proposed to provide pedestrian access from the spine road path directly into the centre of the Learning Campus (the pedestrian/cycle paths through the Learning Campus shall be submitted separately in a future application). Due to the nature of the existing road network outwith the application site, combined with the routing and traffic calming measures incorporated into the proposed design, the proposal would raise no concerns with regard to it creating a 'rat run' for vehicles past the schools. The acceptability of an increase in traffic to the area/site as of consequence of development has previously been assessed by the Planning Authority during the determination of 20/03250/PPP; this does not require to be revisited as part of this application, with the proposed spine road designed/required to facilitate vehicular movement through the site and provide access to the Learning Campus. No concerns were raised regarding the proposed road layout by TDM Officers. Conditions have been recommended by TDM to ensure the roads infrastructure is constructed per the approved plans and in accordance with current guidelines.

2.5.11 In addition to the concerns of the proposed spine road be used as a 'rat run', third parties also raised concerns regarding the large number of parking spaces proposed which would be

contrary to green objectives to reduce car movements, and the lack of a Travel Plan. The submitted objections cite that approximately 800 parking spaces are proposed, as above however, this enabling works application proposes 249 spaces. The number of off-street parking spaces currently proposed is not considered to be in excess for the use of the two schools set to occupy the Dunfermline Learning Campus, however the number of spaces proposed will be considered during the Planning Authority's assessment of any future application for the two schools (and college). As for the need for a travel plan, this is covered by Condition 10 of the PPP which sets out that one is required within 6 months following the occupation of the educational uses on the wider development site.

2.5.12 In conclusion, the layout of proposed spine road, bus drop off, school car park and pedestrian/cycle paths are considered to be acceptable in road safety terms, complying with the conditions of the PPP and current Fife Council guidelines.

2.6 TREE IMPACT AND LANDSCAPING

2.6.1 Policies 1, 10 and 13 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance Document (2018) and British Standard (BS) 5837:2012 Trees in relation to Design, Demolition and Construction apply with regard to the potential impact on trees.

2.6.2 Policies 10 and 13 of FIFEplan set out that development proposals will be only be supported where they protect or enhance natural heritage assets, including trees which have a landscape, amenity or nature conservation value. Policy 13 states that where development is proposed on a site where trees are present, consideration will be given to whether, and in what form, development should be supported, having regard to the desirability of retaining and protecting mature and semi-mature trees, and other examples likely to be become attractive in amenity terms, or of a rare species.

2.6.3 Making Fife's Places Proposed Supplementary Guidance Document (2017) details that 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. The purpose of the stipulation within Making Fife's Places Supplementary Guidance with regard to development within the falling distance of trees is primarily to safeguard the health of trees and make sure that trees are retained on site in the long-term. By ensuring that new developments are located outwith the falling distance of semi-mature/mature trees, this significantly reduces the future possibility of trees (regardless of whether or not they are protected) being pruned back or felled in the interests of residential amenity given the perceived (and actual) threat of trees (or large branches) falling which accompanies living in close proximity of large trees.

2.6.4 BS 5837:2012 Trees in relation to Design, Demolition and Construction provides advice on the formation of hard surfaces within the Root Protection Areas (RPAs) of trees, suggesting the use of appropriate sub-base options such as three-dimensional cellular confinement systems.

2.6.5 Category (Cat.) A and B trees are expected to be retained and are considered by Fife Council to be site constraints. Cat. C is a lower classification and is not generally seen as a constraint to development. Cat. U trees are those which cannot realistically be retained as living trees. The Planning Authority does not raise any concerns regarding the removal of Cat. U trees. If tree felling is proposed, the Planning Authority would expect suitable replacement planting to take place (native species).

2.6.6 Condition 23 of 20/03250/PPP is relevant to landscape and tree impact considerations of this ARC application.

23. All existing trees and shrubs within the site shall not be lopped, topped, felled or removed, or disturbed in any way without the prior written consent of the Planning Authority unless in accordance with the submitted Tree Removals & Protection Plan (Drawing No: 50404-602, Revision P04) or any further refined Landscape Framework submitted for approval of matters specified in conditions. No development in or adjacent to, an area containing trees, shrubs, or other natural heritage features to be retained shall commence until those features have been protected by suitable fencing. No work shall take place until details of the protective fencing have been approved in writing by the Planning Authority.

2.6.7 Calais Muir Wood is outwith but, immediately to the south of the application site and is identified as SNH Ancient Woodland. It is subject to a Tree Preservation Order Area designation. The proposal does not propose any changes to the trees within the Calais Muir Wood, with a 15 metre landscape buffer secured to provide separation between the wider application site and Calais Muir Wood. A construction exclusion zone will be formed including erection of protective barriers to ensure that the woods are protected during construction works. In accordance with SPP and FIFEplan Policy 13 the proposal will protect Calais Muir Wood.

2.6.8 The Tree Survey and Arboricultural Method Statement by HEL (dated June 2021) recorded two tree groups which would be impacted by the proposed enabling works. Group 1/Area A within the report covers the large, approximate 3.8ha, woodland area along the eastern site boundary, with Group 2/Area B comprising of 26 trees located centrally within the site. None of the trees within the application site are subject to a Tree Preservation Order. None of the trees within the application site are subject to a SNH Ancient Woodland designation. There are small pockets of trees recorded as SNH Semi-Natural Woodland to the north of the south easterly SUDS pond, however these are located outwith the current application site boundary. From examining the layout of the proposed enabling works and indicative locations of buildings, the Planning Authority is satisfied no buildings would be located within the falling distance of trees.

2.6.9 As per the Tree Protection and Removals Plan approved as part of 20/03250/PPP, approximately 0.9ha of trees were approved to be removed from Area A (eastern woodland). The approved tree removal equated to the removal of approximately 0.51ha of trees within the current approved matters application site. Examining the Tree Protection Plan submitted for the current application, the area of trees identified for removal has increased from 0.51ha to approximately 0.82ha. Group 1/Area A is identified as being a young mixed plantation that is closely planted and unmanaged, considered to be of Cat. B2 value as a group, with the group being of moderate quality mainly for its value as a landscape feature. It is noted that no Cat. A trees of high quality would be impacted by the proposed enabling works. Given the Planning Authority's previous acceptance of the removal of trees within the eastern woodland plantation area given their low arboricultural value and as extensive compensatory planting is proposed to take place around the woodland plantation and throughout the site (confirmed within the Landscape Framework document approved as part of 20/03250/PPP), the Planning Authority is satisfied that the additional area of tree removal now proposed would not have an adverse impact on the overall visual and biodiversity qualities of the area currently provided by these trees. Whilst finalised landscaping and replanting details have not been submitted as part of this application, it should be noted that Conditions 3(f) and 5(i) require the submission of detailed landscaping and open space plans/frameworks as part of the approved matters application submitted for the schools and college development to which this enabling works application directly influences. Upon assessment of the first approved matters application for the schools or

college, the Planning Authority shall ensure that the landscaping strategy submitted takes account of the additional area of trees now proposed to be removed.

2.6.10 A tree protection plan has been submitted as part of the application and addresses the changes to tree removal works. The submitted plan confirms that protective fencing would be erected outwith the RPAs of the trees within the eastern woodland area that are to be retained, ensuring that they would be protected from damage and accidental removal during construction works. The tree protection measures are considered acceptable and this part of Condition 23 of 20/03250/PPP can effectively be discharged. A condition is included in the recommendation on this application for the Planning Authority to be notified to inspect the tree protection measures once they are in place.

2.6.11 Noting the long-term lack of maintenance of the eastern woodland area, the enactment of a 10-year Woodland Management Plan for woodland has been recommended within the submitted Tree Survey and Arboricultural Method Statement, with the aim of maximising landscape/visual amenity and wildlife habitat. Key projects would include eradication of invasive non-native species where present, provision of appropriate public access and woodland management to increase habitat diversity of the woodland. Consideration would also be given to appropriate thinning/coppice management to promote mixed habitats, including the presence of dead wood and the introduction of woodland ground flora species. It is considered that the woodland management plan would improve the biodiversity offering and accessibility of the woodland area, offsetting some of the impacts of the proposed removal works. A condition is recommended for the woodland management plan to be submitted to the Planning Authority and subsequently implemented.

2.6.12 Group 2/Area B comprises of an even-aged and homogenous young stand of mainly silver birch trees on over 0.1ha of land that has developed by natural regeneration following demolition of the former Hyundai Factory. Given the young age of the trees (less than 10 years old) with stem diameters of less than 150mm and average height of 4.5m, the trees were identified as a Cat. C2 grouping, with the trees being of low quality mainly for their value as a landscape feature. All of the trees within this group are identified for removal. Given the age, girth, height and limited ecological or landscape interest of the trees within the group, their proposed removal is not opposed by the Planning Authority.

2.6.13 In conclusion, following on from the indicatively proposed tree removal plans set out in the planning permission in principle application, an additional area of woodland needs to be cleared to facilitate the proposed enabling works and future development of the site. The Planning Authority is satisfied that the additional areas of tree removal would not have a significant landscape impact given the extensive level of replanting proposed for the site and woodland management plan which is to be introduced for the retained woodland. The proposed development is therefore considered to be acceptable with regard to tree and landscape considerations, complying with Policies 1, 10 and 13 of FIFEplan and the Making Fife's Places Supplementary Guidance.

2.7 ECOLOGY IMPACT

2.7.1 Policies 1, 10, 11 and 13 of FIFEplan Local Development Plan (2017), Making Fife's Places Supplementary Guidance Document (2018), Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), Wildlife and Countryside Act 1981 (as amended), Wildlife and Natural Environment (Scotland) Act (2011) and Nature Conservation Scotland Act 2004 (as amended) apply in this instance with regard to natural heritage protection.

2.7.2 Policy 11 of FIFEplan sets out that development of low carbon energy schemes such as wind turbines, district heating, solar arrays, or energy from waste will be supported provided the proposals do not result in unacceptable significant adverse effects or impacts which cannot be satisfactorily mitigated, giving due regard to relevant environmental, community and cumulative impact considerations. Effects on the natural heritage (including birds), and hydrology, the water environment and flood risk shall all be considered by the Planning Authority.

2.7.3 Policy 13 of the FIFEplan (2017) states that where a proposed developments will only be supported where they protect or enhance natural heritage assets, including trees which have a landscape, amenity or nature conservation value. Where adverse impacts on existing assets are unavoidable the Planning Authority will only support proposals where these impacts will be satisfactorily mitigated. Development proposals must provide an assessment of the potential impact on natural heritage, biodiversity, trees and landscape and include proposals for the enhancement of natural heritage and access assets, as detailed in Making Fife's Places Supplementary Guidance. Policy 13 states that where development is proposed on a site where trees are present, consideration will be given to whether, and in what form, development should be supported, having regard to the desirability of retaining and protecting mature and semi-mature trees, and other examples likely to be become attractive in amenity terms, or of a rare species.

2.7.4 Where the proposed development would potentially impact on natural heritage assets (including species), a detailed study must be undertaken by a suitably qualified person detailing the potential impact of the development.

2.7.5 Conditions 2(m), 24 and 26 of 20/03250/PPP are relevant to the consideration of ecology impactions.

2. Every application for approval of matters specified by Condition 1 shall be submitted for the written approval of the Planning Authority with the following information, unless otherwise agreed with between the applicant and Planning Authority acting reasonably:-

(m) Updated Ecological Surveys including surveys of any trees to be removed.

24. For the avoidance of doubt, all habitat management and biodiversity protection and enhancement measures will be undertaken in accordance with the Site Biodiversity Action Plan 2021-2025, Version 3, dated 9th December 2020 by ECOS Countryside Services LLP unless otherwise agreed in writing with the planning authority.

26. Prior to the removal of any trees adjacent to the south east SUDS pond, a bat survey and a check for nesting birds will be required the results of which shall be submitted to, for the written approval of Fife Council as Planning Authority.

2.7.6 With regard to Condition 24 of the PPP, it is considered that proposed enabling works would not undermine or impact on any of the previously agreed habitat management and biodiversity protection and enhancement measures. With regard to Condition 26, no tree removal adjacent to the south east SuDS pond is proposed as part of this application.

2.7.7 Considering the submission requirements of Condition 2(m), a Preliminary Ecological Assessment (PEA) (Applied Ecology, February 2021), Interim Ecology Survey Report (Aecom, June 2021) and Tree Survey and Arboricultural Method Statement (HEL, June 2021) have been submitted. The Tree Survey and Arboricultural Method Statement findings has been addressed previously within this report. The PEA concluded that although the site did contain a number of habitats of low ecological value, as is typical of brownfield sites, there were also numerous areas considered to be of greater ecological importance, including mosaics of open brownfield habitats

with more established grasslands, woodlands and wetlands. A number of faunal surveys were also undertaken to inform the PEA, and although no signs of otter, badger or water vole were found, suitability for tree-roosting bats, red squirrel, great crested newt, hedgehog, a range of nesting birds, and potentially reptiles was identified. Further surveys recommended by the PEA included:

- spring/summer assessment of aquatic invasive species;
- static detector monitoring for bats and further investigation of tree roosts;
- sampling for great crested newt;
- red squirrel survey;
- invertebrate assessment.

Recommendations were also included regarding actions needed in order to avoid contravention of the legislation relating to the protection of nesting birds, reptiles and invasive species, as well as a number of prior to commencement surveys.

2.7.8 Following on from the PEA, the Aecom interim report, advised that a survey examining the presence of great crested newts was undertaken in April 2021 where it was confirmed no evidence was found, meaning no mitigation measures or further assessments were required prior to works commencing on site. The interim report sets out that further assessment for the potential of water vole and otters is to be undertaken, however given past survey results none are expected to be found. With regard to bats, the monitoring undertaken by Aecom confirms that bats are concentrated around the south east SuDS pond - as above, no tree removals within this area are currently proposed. When undertaking an initial red squirrel survey, Aecom have advised that only grey squirrels have been encountered, diminishing the likelihood of red squirrels being present, however further surveys are to be completed to confirm whether any licensing will be required to remove trees containing dreys. Considering non-native invasive species, the PEA confirmed the presence of 'sea buckthorn' a non-critical invasive species. A management plan is to be devised by Aecom; however further checks are to be undertaken by Aecom in the Summer months when plants are fully grown. Given the timing and findings of nesting bird and badger surveys within the PEA, no additional surveys for these species have been undertaken or recommended. Given the findings of the PEA and Aecom interim report, the Planning Authority is satisfied that the proposed enabling works are unlikely to have an adverse impact on protected species and as such the application can be determined.

2.7.9 The Aecom interim report additionally sets out that an Ecological Clerk of Works (ECoW) is to be appointed to ensure the site is continuously monitored throughout the construction of the enabling works. An overview of the ECoW tasks has been included and the Planning Authority are satisfied that if adhered to, the site should be developed without causing harm to native species and other ecological features. A condition is included for the ECoW to be in place at the start of works (with contact details submitted to the Planning Authority), and for a summary report to be submitted on completion of the enabling works.

2.7.10 In conclusion, assessments undertaken advise that the proposed enabling works is unlikely to impact on natural heritage features, including protected species, and the Planning Authority is satisfied that the application meets the submission requirements of the conditions of the PPP approval. A condition is included for the ECoW to be in place. The proposed development is thus considered to be acceptable with regard to ecology considerations.

2.8 CONTAMINATION, LAND STABILITY AND AIR QUALITY

2.8.1 PAN 33: Development of Contaminated Land (2000), PAN 51: Planning, Environmental Protection and Regulation (2006) and Policies 1 and 10 of FIFEplan Local Plan (2017) apply with regards to land stability in this instance.

2.8.2 PAN 33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. PAN 51 aims to support the existing policy on the role of the planning system in relation to the environmental protection regimes as set out in SPP. Policy 10 of FIFEplan advises development proposals involving sites where land instability or the presence of contamination is suspected, the developer is required to submit details of site investigation to assess the nature and extent of any risks presented by land stability or contamination which may be present and where risks are known to be present, appropriate mitigation measures should be agreed with the Council.

2.8.3 In their consultation response on this application, Fife Council's Land & Air Quality Officers noted that an air quality assessment had not been submitted, despite their request for such an assessment to be submitted at the PPP stage. The lack of an air quality assessment is also noted in several of the submitted objections. Nevertheless, the Planning Authority has not requested an assessment for this application as condition 3(a) of 20/03250/PPP only set the requirement for an air quality assessment to be submitted for approved matters applications submitted under condition 1(a) to 1(j). With this current application submitted under the terms of condition 1(k, l and m), there is no requirement for air quality impacts to be considered as part of this current approved matters application.

2.8.4 With regard to contamination, Conditions 2(l) and 7 of 20/03250/PPP set the requirement for phase 2 intrusive site investigation to be carried out and a report submitted. Condition 8 of the PPP sets the requirement for any required remedial action to be undertaken prior to occupation of any buildings.

2.8.5 Land & Air Quality Officers advised that they were generally satisfied with the Phase 1 and Phase 2 Investigation Report submitted as part of this application. The report concludes that no obvious visual or olfactory signs of potential contamination were encountered during the ground investigations, with no obvious evidence for contamination or contaminating sources encountered. No remedial measures were identified, however some further ground gas investigations have been recommended once the final design of the Learning Campus is realised. The Land & Air Quality Officers have requested that the outcomes of these investigations be passed to them for comment once available; there is no need to condition this however as the information is required to be submitted for the future detailed applications for the school and college buildings.

2.8.6 Overall, this application does not require to be supported by an air quality impact assessment, with the ground investigation information submitted considered to be acceptable, complying with the requirements of the PPP.

2.9 FLOODING AND DRAINAGE

2.9.1 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 (2021) 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.

2.9.2 Policy 3 of the FIFEplan (2017) states that development proposals must incorporate measures to ensure that they would be served by adequate infrastructure and services; including foul and surface water drainage, and SuDS. Policy 12 of FIFEplan states that development proposals will only be supported where they can demonstrate compliance with a number of criteria, including 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. The Council's the Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2021) sets out the Council's requirements for information to be submitted for full planning permission to ensure compliance. It should be noted that Section 4.2 of the guidance sets out instances where development will not require and surface water management plan or flood protection authority approval, including developments involving alteration and extension on a permeable area under 50 square metres. Finally, CAR requires that SuDS are installed for all new development, with the exception of runoff from a single dwellinghouse or discharge to coastal waters.

2.9.3 Condition 2(g) of 20/03250/PPP set the requirement for detailed designs, including appropriate technical reports, for the SuDS and other drainage infrastructure associated with the development to be submitted. This application has been supported by technical drawings for the SuDS and other items of drainage related infrastructure (including sewer connections and manholes etc.), as well as supporting calculations and completed Fife Council design and check certificates. A Flood Risk Assessment was previously undertaken for the site and submitted (and approved) as part of the PPP application. An updated Drainage Strategy and Flood Risk Assessment has been submitted for this application.

2.9.4 The wider development (PPP) site already benefits from an existing SuDS which was developed to support the former Hyundai facility, with the existing SuDS ponds situated to the south west and south east corners of the site. The south western pond would discharge to the Calais Burn to the south west of the application site, with the downstream drainage channel passing through a twin pipe culvert crossing underneath an existing access track, then joining further ponds within the Calais Muir Woods. The south eastern SuDS pond is fed by an existing drainage channel then outfalls south to subsequent ponds and then to the Pinkerton Burn (itself which feeds into Inverkeithing Burn). There are several existing drainage channels within the Calais Muir Woods to the south of the site.

2.9.5 Below ground pipework shall be installed throughout the enabling works application site to convey surface water towards the south easterly SuDS pond, with a surface water road drain and gullies also proposed along the full length of the spine road and throughout the school car parking area. Overland flow of landscaped areas is also proposed to drain towards the south easterly SuDS pond. The western extent of the application site, encompassing the platform areas for sports pitches, would drain off site to the south westerly SuDS pond. To accommodate the surface water runoff from the proposed development, the south easterly SuDS would be suitably upgraded to Sewers for Scotland (4th Edition) standards. Foul water would be directed to the Scottish Water system.

2.9.6 With regard to flood risk, the submitted Drainage Strategy and Flood Risk Assessment confirms that the proposed development would not give rise to adverse concerns, including downstream of the application site through appropriate attenuation measures. SEPA were consulted on this application and confirmed they have no objections. SEPA did however advise that they are willing to engage with the applicant to further the blue/green infrastructure proposals for the site. This is noted, however it is considered that it would be more beneficial for such discussions to take place later in the design process.

2.9.7 Structural Services (Flooding, Shoreline and Harbours) Officers were consulted on this application to provide comment on the proposed drainage arrangements and supporting calculations. Upon review, Structural Services confirmed they were satisfied with the submitted information.

2.9.8 In conclusion, the proposed development would not give rise to flood risk, with suitable drainage arrangements proposed to accommodate surface water runoff. The proposed development is therefore considered to be acceptable with regard to flooding and drainage considerations, meeting the requirements of the PPP.

CONSULTATIONS

Scottish Water	No objections.
Scottish Environment Protection Agency	No objection. Willing to provide input on Blue-Green Infrastructure proposals.
Natural Heritage, Planning Services	No comments.
Trees, Planning Services	No comments.
Urban Design, Planning Services	Details of landscaping requested. Recommended further consideration be given to pedestrian movements in car park.
Land And Air Quality, Protective Services	Air quality impact assessment requested. Site Investigation Report is generally satisfactory.
Education (Directorate)	No comment.
Environmental Health (Public Protection)	No comment.
Structural Services - Flooding, Shoreline And Harbours	No objections.
Transportation Development Management	No objections. Conditions recommended.

REPRESENTATIONS

A total of 8 objections have been received in response to this application, comprising of seven from individual third parties and one from the Calais Wood Conservation Group. The concerns raised in the submitted objections, and the Planning Authority's response to these, is summarised below.

1. Lack of travel plan

- The timing for the submission of a Travel Plan, within 6 months of the opening of the education facilities was agreed as part of the planning permission in principle (20/03250/PPP); condition 10.

2. Circa 800. parking spaces proposed

- The plans submitted for this enabling works application proposes 249 parking spaces. The number of spaces proposed for the two schools which will occupy the Dunfermline Learning Campus is considered to be appropriate. Any additional parking spaces proposed for the college shall be assessed once a detail approved matters application for said development is submitted.

3. No east/west pedestrians paths proposed
 - This application is for enabling works and the Planning Authority would not expect details of all pedestrian paths within the wider development site at this time. As detailed in paragraph 2.3.9 of this report, such details would be expected to be submitted as part of future detailed application for the school and college campuses.
4. No public/community use access and parking proposed
 - As above, this application is for enabling works and the Planning Authority would not expect full details for connections within the wider development site at this time.
5. Environmental Health (Public Protection) and Land & Air Quality Officer consultee responses not sufficient
 - The comments provided by the consultees are considered to be robust and credible for the items they were requested to review.
6. Proposed SuDS design does not provide mitigation for hydrocarbon pollution from vehicles, spillage or winter road salt run-off into downstream receptors
 - Mitigation indices for controlling polluted surface water are detailed in the submitted Drainage Strategy and Flood Risk Assessment.
7. Proposed SuDS design does not consider potential for downstream flooding as a consequence of development
 - As discussed in paragraph 2.9.6 of this report, the proposed development is not considered to give rise to an increase risk of flooding. Detailed information can be found within the submitted Drainage Strategy and Flood Risk Assessment.
8. No details of replacement tree planting
 - This application is for enabling works and the Planning Authority would not expect details of all replacement planting within the wider development site at this time. As detailed in paragraph 2.6.9 of this report, such details would be expected to be submitted as part of future detailed application for the school and college campuses.
9. Proposed spine road cuts into green network
 - The impact on trees as a consequence of the proposed works is detailed in full in section 2.6 of this report.
10. Proposed spine road layout will encourage high vehicle speeds
 - As detailed in paragraph 2.5.9 of this report, the layout of the proposed spine road is considered to be appropriate and would ensure the road would not be used as a 'rat run'.
11. Noise impacts from increased activity and traffic on surrounding residential properties
 - A noise scoping letter was submitted and approved as part of 20/03250/PPP which considered noise impacts of the proposed mixed use development on existing properties. Additionally, condition 3 of 20/03250/PPP sets the requirement for further noise information to be submitted as part of applications submitted under condition 1(a-j) (which does not include this enabling works application).
12. No planting proposed along Dunlin Drive/Shin Way
 - As detailed above, the Planning Authority would not expect the current enabling works application to include details of planting.

13. No air quality impact assessment submitted

- As detailed in paragraph 2.8.3 of this report, there is no requirement for an air quality impact assessment to be submitted as this time.

CONCLUSIONS

The application is considered to be in accordance with the requirements of the Planning Permission in Principle (20/03250/PPP) that preceded it, and in particular with the masterplan that has been approved. The proposed enabling works would allow the envisioned Dunfermline Learning Campus to come forward on schedule. The general layout of the spine road, footpaths, cyclepath, car park and bus stances is acceptable, with the tree removal and drainage infrastructure considered to be appropriate. The development would not adversely affect natural heritage assets and would comply with all technical matters of the PPP and other material considerations. The development is therefore considered acceptable in all regards and would comply with the Development Plan and conditions set out within 20/03250/PPP.

RECOMMENDATION

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

1. PRIOR TO THE COMMENCEMENT OF WORKS, the developer shall secure the implementation of an Ecological Clerk of Works (ECoWs), the name and contact details for whom shall be submitted in writing to the Planning Authority before development commences. Thereafter, the appointed ECoW shall be retained by the developer for the duration of the construction works unless otherwise agreed in writing by the Planning Authority.

Reason: In order to safeguard the ecology of the site.

2. PRIOR TO THE COMMENCEMENT OF WORKS, the developer's appointed Ecological Clerk of Works shall carry out a survey of the site for possible ecological concerns and submit a report of findings to the Planning Authority for approval in writing.

Reason: In order to safeguard the ecology of the site.

3. PRIOR TO THE REMOVAL OF ANY TREES WITHIN THE WOODLAND PLANTATION, temporary fencing shall be installed within the plantation to clearly delineate the trees identified for removal on the approved Tree Protection Plan (Planning Authority ref. 127) and those to be retained. The details of the temporary fencing shall be agreed in writing by the Planning Authority prior to installation. No tree removal shall take place until the Planning Authority has confirmed in writing that the measures as implemented are acceptable.

Reason: To secure the preservation of trees in accordance with section 159(a) of the Town and Country Planning (Scotland) Act 1997.

4. PRIOR TO THE ERECTION OF THE PROTECTIVE TREE FENCING to safeguard the retained trees within the site during construction, as described in the approved Tree Survey and Arboricultural Method Statement (prepared by HEL, June 2021) (Planning Authority ref. 125) and as shown on the accompanying Tree Protection Plan (Planning Authority ref. 127), a 3 metre

wide pre-emptive tree clearance route on the removal side, as delineated by the temporary fencing under the terms of Condition 3, is permitted to establish an open, felled corridor, sufficient that the tree protective fencing can be erected along it. Thereafter, the protective measures shall be erected in full and retained in full throughout the construction period and no building materials, soil or machinery shall be stored in or adjacent to the protected areas.

Reason: To secure the preservation of trees in accordance with section 159(a) of the Town and Country Planning (Scotland) Act 1997.

5. PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK, the developer's appointed Ecological Clerk of Works shall submit a summary report to the Planning Authority, setting out the activities that were supervised and any advice given, and any ecological issues that arose and what action was taken during the course of the construction works.

Reason: In order to safeguard the ecology of the site.

6. PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK, the pedestrian footpath links within car park shall be in place per the details shown in the approved School Car Park Proposed Hardworks Layout Plan (Planning Authority ref. 024A).

Reason: In the interests of road and pedestrian safety.

7. Unless otherwise agreed in writing with the Council as Planning Authority, the approved surface water drainage scheme as detailed in approved documents shall be implemented in full PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK and thereafter maintained in full working order for the lifetime of the development.

Reason: In the interests of ensuring appropriate handling of surface water.

8. PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK, a 10 year woodland management plan to guide the future management and maximise the landscape/visual amenity and wildlife habitat within the plantation woodland area within the application site boundary shall be submitted for approval in writing by the Planning Authority. Thereafter, the woodland area shall be maintained in accordance with the details of the approved management plan.

Reason: In the interests of the long-term maintenance of the visually and ecologically important woodland.

9. PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK, all roads and associated works serving the proposed development shall be constructed in accordance with Making Fife's Places Supplementary Guidance and the current Fife Council Transportation Development Guidelines (Appendix G thereof) to a standard suitable for adoption, as shown on the approved Spine Road Overall Plan Layout (Planning Authority ref. 025).

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

10. PRIOR TO THE FIRST USE OF THE SCHOOL CAR PARK, the construction and delineation of the parking, bus stances, manoeuvring, servicing, turning and access driveway areas shall be completed in accordance with the approved plans.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction. The car parking spaces shall be future proofed for conversion to additional ELV charging points with the provision of ducting.

11. Visibility splays 2.5 metres x 43 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and Sandpiper Drive, 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.

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:

Scottish Planning Policy (2014)

PAN 1/2011: Planning and Noise

PAN 33: Development of Contaminated Land (2000)

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

Scottish Government Designing Streets (2010)

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

Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Wildlife and Countryside Act 1981 (as amended)

Wildlife and Natural Environment (Scotland) Act (2011)

Nature Conservation Scotland Act 2004 (as amended)

British Standard (BS) 5837:2012 Trees in relation to Design, Demolition and Construction

Development Plan:

SESplan Strategic Development Plan (2013)

FIFEplan Local Development Plan (2017)

Making Fife's Places Supplementary Guidance Document (2018)

Planning Obligations Supplementary Guidance (2017)

Other Guidance:

Fife Council Transportation Development Guidelines

Fife Council Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2021)

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

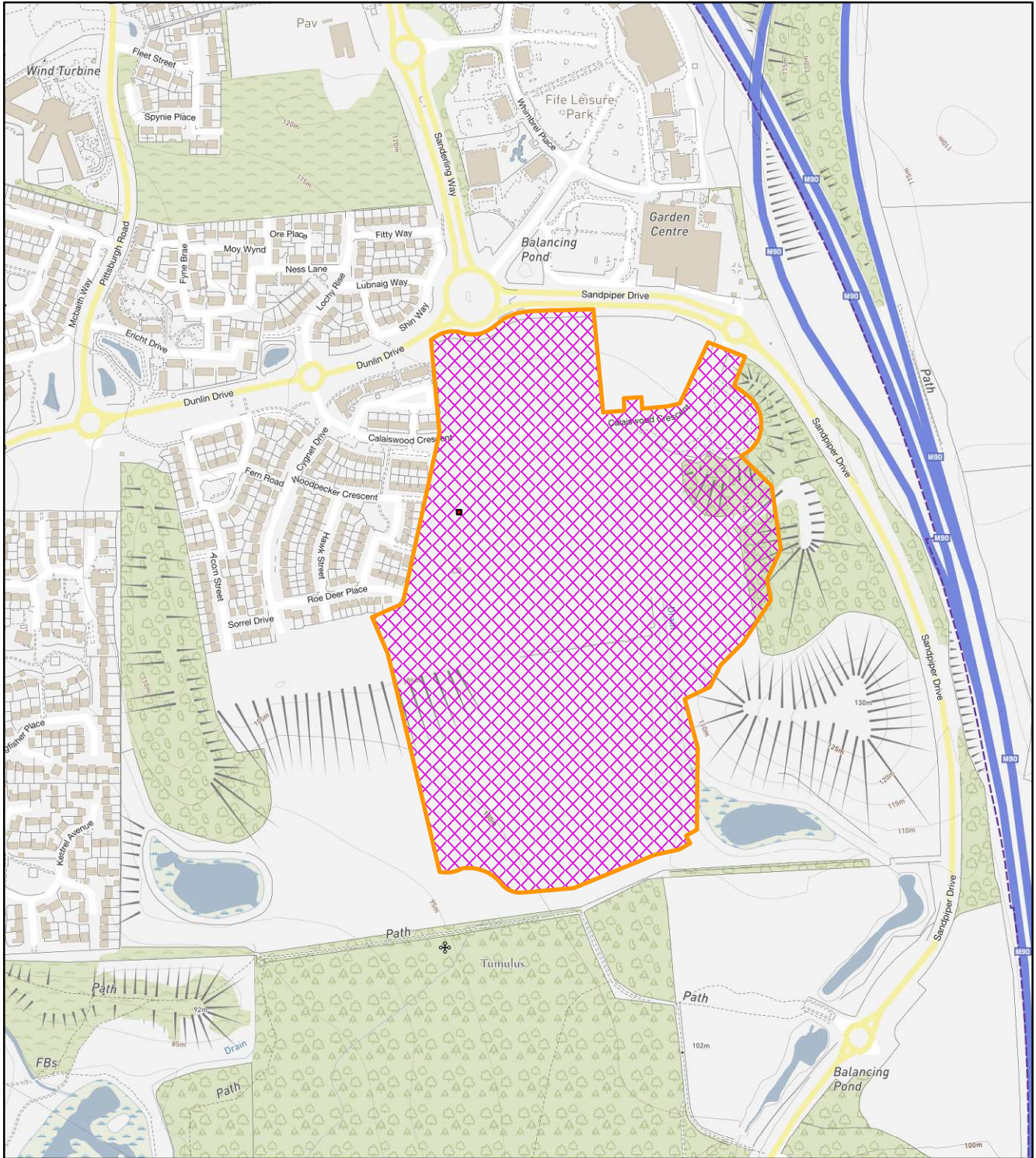
Report prepared by Bryan Reid, Lead Professional – Strategic Development

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

Date Printed 16/08/2021

21/01809/ARC

Freescale Site Dunlin Drive Dunfermline



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Legend	
 Application Boundary	
0 35 70 140 210  m	
 Economy, Planning & Employability Services	

ITEM NO: 7

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/01338/FULL

SITE ADDRESS: PITTSBURGH RETAIL PARK MAIN STREET HALBEATH

PROPOSAL : ERECTION OF THREE RETAIL UNITS (CLASS 1), TWO CAFÉ/RESTAURANT UNITS (CLASS 3) WITH ASSOCIATED DRIVE THRU ELEMENT (SUI GENERIS) AND ONE CAFE/RESTAURANT UNIT (CLASS 3) WITH ASSOCIATED PARKING AND EXTERNAL WORKS (SECTION 42 APPLICATION TO VARY CONDITION 3 OF 20/00545/FULL TO ALLOW OPERATING HOURS INCLUDING DELIVERIES FROM 5:30 AM FOR CLASS 3 UNIT SHOWN AS COSTA ON APPROVED DRAWINGS)

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

**WARD NO: W5R03
Dunfermline Central**

CASE OFFICER: Scott Simpson

**DATE 07/05/2021
REGISTERED:**

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

It is considered expedient for Committee to determine this application as it relates to a condition which was varied at the Central and West Planning Committee on 29th September.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

1.0 BACKGROUND

1.1 The application relates to an area of land measuring approximately 6461.5 square metres which is located on Main Street and within the Dunfermline Settlement Boundary as designated within the Adopted FIFEplan (2017). A car paint spraying centre and car wash previously occupied the site, however, these have been removed and construction of a retail and café development (planning permission reference 20/00545/FULL) is underway. A number of mature trees are located along the northern and north-western boundary and the site is surrounded by residential properties to the south and east, the A907 distributor road to the north and west and a dilapidated two-storey hotel to the east. The nearest residential property (9 MacDonald Square) is located directly to the east of the application site with other residential properties (9 to 57 Main Street) located between approximately 23 and 33 metres to the south of the application site. Access into the application site is taken from Main Street to the south. The site does not have any designated land use and is located approximately 100 metres to the east of the Halbeath Retail Park Commercial Centre as designated within the Adopted FIFEplan (2017).

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

- Full planning permission (20/00545/FULL) for erection of three retail units (Class 1), two café/restaurant units (Class 3) with associated drive-thru element (Sui Generis) and one cafe/restaurant unit (Class 3) with associated parking and external works was approved with conditions at the Central and West Planning Committee on 29th September 2020. The Committee decided to vary condition 3 to restrict the operating hours of all the units on site to daytime operating hours only (7 am to 11 pm).
- A Section 42 Application for full planning permission (20/02292/FULL) to vary condition 3 of planning permission reference 20/00545/FULL to allow opening from 5 am for the Class 3 unit shown as Costa on the approved drawings was refused at the Central and West Planning Committee on 30th October 2020. This refusal was appealed (PPA-250-2350) to the Planning and Environmental Appeals Division (DPEA) and the appeal was dismissed on 4th March 2021. The reporter considered in their appeal decision notice that it cannot be said with confidence what the current noise climate on Main Street is between the hours of 5 am and 7 as direct noise monitoring had not been carried out at this location during this time and only estimates derived from the noise monitoring within the site had been used. They further advised that intermittent noise levels associated with vehicles and customers may be more disturbing to local residents than absolute levels or than the relative difference with existing background noise levels might indicate. They concluded that it had not been adequately demonstrated that the extended hours of operation of the café unit between 5 am and 7 am would not adversely affect the amenity of residents living on the opposite side on Main Street, therefore, the proposal would not comply with the Development Plan and the appeal was dismissed.
- Full planning permission (15/01551/FULL) for erection of 5 retail units (Class 1) and parking area (demolition of former hotel) (renewal of application reference 12/00851/FULL) was

approved on 24th September 2015 by the West Planning Committee. No condition relating to operating hours was attached to this consent, however, condition 8 required that an acoustic report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise from the proposed development be submitted for approval in writing by Fife Council as Planning Authority.

- Full planning permission (12/00851/FULL) for erection of 5 retail units (Class 1) and parking area (demolition of former hotel) was approved to the south-east of the application site on 11th May 2012 under delegated powers. Condition 9 of this consent required that an acoustic report be submitted for approval in writing by Fife Council as Planning Authority.

- Full planning permission (08/03343/WFULL) for change of use from service station to car wash facility was approved with conditions on 3rd March 2009.

1.3 The proposal seeks to vary condition 3 of planning permission reference 20/00545/FULL (see section 1.2 above) to allow opening, including deliveries, from 5.30 am for the Class 3 unit shown as Costa on the approved drawings. Condition 3 required that "The hours of operation of all units, including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority". The reason for this condition stated that it was "In order to retain proper control over the use of the development and to safeguard the residential amenity of the surrounding area".

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

"The hours of operation of Units 1 to 4 and the adjacent Class 3 unit (2746 sqft) as shown on the approved site plan, including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority. The hours of operation of the unit shown as Costa on the approved site plan, including deliveries to this unit, shall be restricted to between 5.30 am and 11 pm, Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority".

1.4 Application Procedure

1.4.1 Section 39 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that " a planning authority may decline to determine an application for planning permission for the development of any land" if "in the period of two years ending with the date on which the current application is received, the Scottish Ministers have refused a similar application referred to them under section 46 or have dismissed an appeal against the refusal of, or an appeal under section 47(2) in respect of, a similar application" and "in the opinion of the authority there has not, since the Scottish Ministers refused the similar application or dismissed the appeal, been any significant change in the development plan (so far as material to the current application) or in any other material consideration". As per section 1.3 above, the refusal of application reference 20/02292/FULL was appealed to the DPEA and dismissed within the last two years. This application was similar to the proposal currently under consideration, however, the previous proposal requested that the approved Costa operate from 5 am, whereas the current proposal requests opening hours from 5.30 am. The appeal decision advised that it could not be determined with confidence what the current noise climate on Main Street, between the hours of 5 am and 7 am was, as direct noise monitoring had not been carried out at this location and it was concluded that it had not been demonstrated there would be no detrimental noise impact, given that the noise report lacked this information. The current application includes an updated

noise report which includes this information, as noise monitoring was carried out on Main Street between the hours of 5 am and 7 am and the noise report also directly addresses intermittent noise. Fife Council as Planning Authority considered that it was inappropriate to decline to determine the current application as it now includes further information specifically designed to address the reporter's comments regarding the robustness of the noise report, which formed the basis for his dismissal of the appeal.

1.4.2 A physical site visit has not been undertaken for this planning application, however, the case officer has previously visited the application site for past applications and has also driven past the site recently. All necessary information has been collated digitally to allow the full consideration and assessment of the proposal. A risk assessment has been carried out and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal. An advert was published in The Courier newspaper on 13th May 2021 and letters notifying neighbours within 20 metres of the application site were sent out on 12th May 2021.

2.0 Planning Assessment

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

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

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

2.2.1 This application has been submitted under Section 42 (S42) of the Town and Country Planning (Scotland) Act 1997 (as amended). S42 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Whilst the effect of a grant of permission under S42 is to create a new planning permission, the original planning permission will continue to subsist whatever the outcome of an application under S42 of the Act. S42 states that 'On such an application, the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and: if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. However, if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous planning permission was granted, they shall refuse the application.'

2.2.2 A S42 application therefore does not revisit the principle of development on the site but only considers the appropriateness of the conditions attached to the previous consent. In assessing whether any condition is still relevant there will be the requirement to consider certain aspects of the development. Although S42 does not require the developer to specify which condition(s) they are looking to change or remove, the developer must support the application with sufficient information to identify and justify conditions for amendment or removal. In this instance, the agent has indicated that condition 3 should be varied to allow the Costa unit to open at 5.30 am and they have submitted a supporting statement and updated noise report regarding this. These submissions are further considered under section 2.3 below.

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

2.3 Residential Amenity

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

2.3.2 The nearest residential property (9 MacDonald Square) is located approximately 5 metres to the east of the application site and this property is situated at a slightly higher level than the application site. The next closest residential properties on Main Street would be located between approximately 23 and 33 metres to the south of the application site. The Costa drive-thru unit would be, more specifically, located approximately 41 metres to the north of 51 Main Street and approximately 110 metres to the south-west of 9 MacDonald Square. The other Class 3 unit which would be located on the western side of the approved retail units would be located approximately 69 metres to the north of 36 Main Street and approximately 76 metres to the north of 51 Main Street.

2.3.3 The supporting statement advises that it will be noted that the previous planning application (20/02292/FULL) to vary condition 3 to allow Costa to open from 5 am was refused at the Central and West Planning Committee on September 2020. They further advise that this refusal was then appealed to the DPEA and dismissed by the reporter with their comments relating to the robustness of the noise report as it did not include direct noise monitoring on Main Street and the impact of intermittent noise. The agent advises that the noise report has been updated to take into account the reporter's comments and that noise monitoring was carried out on Main Street and it fully takes into account intermittent noise. They consider that this shows that the operation of Costa from 5.30 am would result in no significant noise impact on the amenity of noise sensitive premises. They further advise that the findings of the updated noise report, where noise monitoring has now taken place directly on Main Street, show that the noise level impact on residential properties along Main Street will actually be lower than those predicted under the original noise report. They state that this is because predicted background noise levels on Main Street were set lower, within the original noise report, than would normally be merited to ensure that any margin of error would be compensated for.

2.3.4 The agent has also submitted an updated noise report and this has been carried out by a professional acoustic consultant. This advises that there would be no significant detrimental impact on any neighbouring noise sensitive properties due to the proposed Costa drive-thru opening from 5.30 am. The original noise report carried out noise monitoring within the site and derived estimated background noise levels for Main Street. The current updated noise report bases its findings on noise monitoring carried out directly on Main Street and mid-way along the

block of houses (36 to 42 Main Street). This was carried out during Monday 15th March, Saturday 27th March and Sunday 11th April 2021 over the 5 am to 7.15 am periods. The report advises that it is not known the extent of the lockdown over this period, however, the noise report assumes that the readings should be seen as a lower level estimate of normal activity and that the level of traffic and extent of activity will more than likely increase once normal levels of activity resume. The findings show that the existing average noise levels are already high in the area with these being over 50 dbA. The report advises that the findings based on site specific noise monitoring on Main Street demonstrate that the actual noise impact on residential properties on Main Street would be less than previously projected in the original noise report.

2.3.5 The noise report also assesses intermittent noise such as voices or radios within vehicles with windows open, opening and closing of doors, deliveries to the Costa Unit and vehicles driving along the site, along the drive-thru access and along Main Street and it concludes that the impact of noise resulting from the proposal would not lead to any ongoing disturbance to the closest neighbouring residential properties. The report also advises that the noise assessment has been led by comments from the appeal decision which related to further noise sources from the site and these have been assessed and found to be within the relevant BS4142 criteria between the hours of 5 am and 7 am which is within acceptable limits for a residential area. BS4142 is based on a comparison between the sound which is being assessed and the background sound which would exist without it. The rating level is then modified by any corrections for the character of the sound, be that tonal, impulsive, or intermittent. The noise report concludes that based on direct noise-monitoring on Main Street and the relevant noise calculations that there would be no significant noise impact on surrounding residential properties as a result of the proposed variation to condition 3 of planning permission reference 20/00545/FULL. The acoustic consultant has also advised that this updated noise assessment only relates to the morning period and the proposal should not be assessed as a 24 hr opening where customer activity could potentially be an issue. They advise that the type of client and associated activity at 5.30 am can be assumed to be completely different to that which might occur at 11 pm or later which could potentially occur after pubs/clubs closing.

2.3.6 An updated noise report has been submitted and its findings are summarised above. Fife Council's Environmental Health Public Protection team advise that they agree with the methodology used and the findings of the noise report, therefore, they have no objections to the proposal. The noise report is, therefore, considered to be competent and to adequately assess noise from the approved development and this demonstrates that there would be no significant noise impact on surrounding residential properties if the approved Costa unit were to open from 5.30 am. The noise report also assesses the impact of intermittent noise and its findings are based on direct noise monitoring on Main Street as per the comment contained within the appeal decision for planning reference 20/02292/FULL (see section 1.2 above). These findings are accepted, and Fife Council's PP team also agree with these findings, therefore, the proposal to vary condition 3 would be acceptable in terms of noise impact and would comply with the Development Plan in this respect.

2.3.7 The reporter also makes reference to the impact of lighting on the surrounding area, in their decision notice for appeal reference PPA-250-2350. This was assessed under planning application 20/00545/FULL by Committee and condition 4 (Lighting Scheme) is recommended again, which requires that full details of any proposed lighting scheme shall be submitted for approval in writing by Fife Council as Planning Authority. The submitted scheme shall indicate the measures to be taken for the control of any glare or stray light arising from the operation of the artificial lighting and shall demonstrate that this will have no detrimental impact on any neighbouring public roads or sensitive properties with regards to light spillage and glare. The

proposed impact of lighting subject to this condition would, therefore, have no significant impact on neighbouring residential dwellings and would comply with the Development Plan in this respect.

2.4 Tests of a Condition

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

2.4.2 The proposed varied wording of condition 3 would still meet both tests of relevance, as well as tests of enforceability and precision. The submitted evidence also demonstrates that the proposed variation to the wording of condition 3 would meet the tests of necessity and reasonableness as the noise monitoring on Main Street and the noise calculations assess the period between 5 am and 7.15 am, and this demonstrates that there would be no significant impact on the surrounding area if the Costa unit were to open from 5.30 am. There is, however, no further robust evidence, as per the DPEA comments in relation to appeal reference PPA-250-2350, to demonstrate if the Costa Unit could open before this time. The varied condition is, therefore, necessary to control the operating hours of the Costa Unit so that it can only open from 5.30 am in terms of noise impact and is reasonable in this regard.

2.4.3 The current approved condition 3 would partially meet the necessity and relevance tests, in so far as it is required to restrict the operating hours of some of the units on the site and is relevant to the development, however, based on the current evidence submitted and as per the findings of the acoustic report it would not be considered necessary or reasonable to restrict the operating hours of the Costa unit from 7 am when there would be no significant noise impact on the surrounding area, if it were to open from 5.30 am. The approved condition 3 would, therefore, not meet all of the six tests of a condition as it is not considered reasonable or necessary to restrict the operating hours of the Costa unit to open from 7 am when there would be no significant noise impact on the surrounding area if it were to open from 5.30 am.

2.4.4 Consequently, the wording of condition 3 should be varied to allow the Costa unit to operate from 5.30 am to 11 pm, Monday to Sunday. A condition regarding this matter is recommended. It is also considered necessary to re-visit the relevant conditions previously attached to planning permission reference 20/00545/FULL. Works have commenced on site in relation to this planning permission and conditions 10 (wheel cleaning), 12 (landscaping details), 13 (landscaping), 14 (tree protection during construction), 15 (contaminated land risk assessment) and 18 (energy efficiency measures) have been discharged, therefore, it is not considered necessary to include these conditions again on any future potential planning permission. The proposal, would, therefore, be acceptable subject to the aforementioned variation to condition 3 and subject to all of the other required conditions which were attached to planning permission reference 20/00545/FULL.

CONSULTATIONS

Environmental Health (Public Protection)	No objections
Transportation, Planning Services	No objections

REPRESENTATIONS

None

CONCLUSIONS

The proposed variation of condition 3 of planning permission reference 20/00545/FULL would meet all of the six tests of a condition whilst the existing previously approved condition 3 is not considered necessary or reasonable as the submitted evidence demonstrates that there would be no significant noise impact on Main Street were the approved Costa unit to open from 5.30 am. The proposal, would therefore, comply with the Development Plan in this respect and would be acceptable subject to the recommended variation of condition 3 and the inclusion of the other required conditions which were attached to planning permission reference 20/00545/FULL.

RECOMMENDATION

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

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

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

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

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

Reason: In the interests of safeguarding residential amenity.

3. The hours of operation of Units 1 to 4 and the adjacent Class 3 unit (2746 sqft) as shown on the approved site plan for planning permission reference 20/00545/FULL, including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority. The hours of operation of the unit shown as Costa on the approved site plan, including deliveries to this unit,

shall be restricted to between 5.30 am and 11 pm, Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority"

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

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

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

5. The noise mitigation measures as specified within the submitted noise impact assessment report (Plan Reference 22 of planning permission reference 20/00545/FULL) shall be carried out in full BEFORE THE DEVELOPMENT IS BROUGHT INTO USE and this shall include a defined parking area for delivery vehicles which shall be closer to the centre of the block containing units 1 to 4. A site plan at a scale of no more than 1:500 which shows this delivery vehicle parking area shall be submitted to and approved in writing by Fife Council as Planning Authority. The development shall, thereafter, be carried out in accordance with these approved details unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of safeguarding residential amenity.

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

- The provision of a new 2 metres wide footway behind a 2.5 metres wide grass verge including a 2/3 car space layby on the Main Street frontage of the site to the west of the proposed vehicular access and as shown on the proposed site plan (Plan Reference 03C of planning permission reference 20/00545/FULL);
- The provision of a replacement bus boarder and bus stop markings to the east of the new vehicular access.

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

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

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

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

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

9. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; the off-street car and cycle parking as shown on the proposed site plan (Plan Reference 03C of planning permission reference 20/00545/FULL) shall be provided in accordance with the current Fife Council Parking Standards contained within the Transportation Development Guidelines. The parking spaces shall be retained throughout the lifetime of the development.

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

10. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; the SUDs details, hereby approved and the recommendations contained within the Flood Risk Assessment (Plan Reference 15CPlan of planning permission reference 20/00545/FULL), shall be carried out in full.

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

11. NO BUILDING SHALL BE OCCUPIED UNTIL remedial action at the site has been completed in accordance with the Remedial Action Statement approved pursuant to condition 15 of planning permission reference 20/00545/FULL. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement - or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site - all development work on site (save for site investigation work) shall cease immediately and the planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement - or any approved revised Remedial Action Statement - a Verification Report shall be submitted by the developer to the local planning authority.

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

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

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

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

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

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

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

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Policy and Guidance

Scottish Planning Policy (SPP) (2014)

PAN 1/2011 Planning and Noise

Circular 4/1998: the use of conditions in planning permissions

Circular 3/2013: Development Management Procedures: Annex 1 (Applications under Section 42)

Development Plan

Adopted FIFEplan (2017)

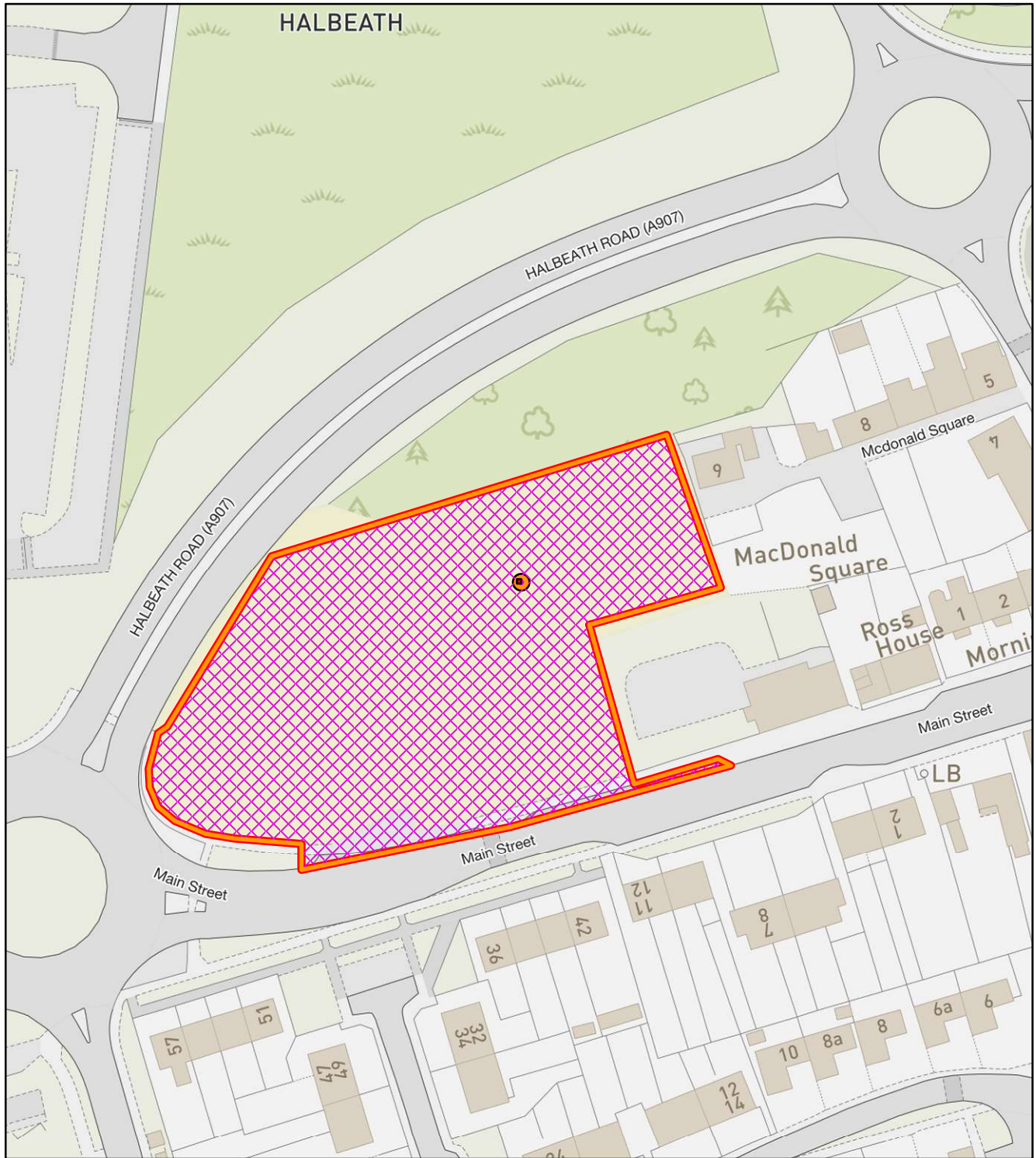
Report prepared by Scott Simpson, Chartered Planner

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

Date Printed 06/08/2021

21/01338/FULL

Pittsburgh Retail Park Main Street Halbeath



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 8

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/01426/FULL

SITE ADDRESS: LIDL GB LTD ESPLANADE KIRKCALDY

PROPOSAL : ERECTION OF RETAIL UNIT (CLASS 1) AND FORMATION OF ACCESS, CAR PARKING, HARDSTANDING, AND ASSOCIATED LANDSCAPING WORKS (S42 FOR THE REMOVAL OF CONDITION 20 - 20/00450/FULL)

**APPLICANT: LIDL GREAT BRITAIN
1 CODDINGTON CRESCENT EUROCENTRAL MOTHERWELL**

**WARD NO: W5R09
Burntisland, Kinghorn And West Kirkcaldy**

CASE OFFICER: Daniel Farmer

DATE 21/05/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because: The condition that is requested to be removed was originally applied to the planning permission by the Planning Committee.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

1.0 BACKGROUND

1.1 The application site is within the defined settlement boundary of Kirkcaldy as per the Adopted FIFEplan (2017) and is designated as an area of mixed use (KDY37). This designation includes the preferred uses of a hovercraft terminal and associated commuter parking; residential use; commercial uses including convenience or comparison retail in accordance with the sequential approach, and hotels, restaurants or other catering facilities; class 4 office accommodation; and leisure, tourism and visitor facilities. The application site is approximately 1.15 hectares in area and comprises of brownfield land on the former Stagecoach depot site which is currently under construction for a retail unit under planning application reference 20/00450/FULL. The site previously contained a large depot building surrounded by areas of hardstanding; however, this building has now been demolished for construction to begin on the approved unit.

1.2 The site takes access from the A921 (Esplanade) which runs along its eastern and southern boundary. There are two current access points from the site onto the A921, one to the south of the site and one to the east. The traffic signals serve a supermarket which is beyond the A921 to the south. Beyond the A921 to the east are a number of commercial units. The Tiel Burn runs along the northern boundary of the site with further commercial units beyond this. The Tiel Burn flows from west to east and flows under the Tiel Bridge which is at the north east corner of the site, approximately 25 metres from the site boundary. As it exits the bridge to the east the Tiel Burn is designated as part of the Firth of Forth Site of Specific Scientific Interest (SSSI). Beyond Tiel burn to the north of the site is a car park which is utilised by residential properties on Link Street. To the west of the site are residential properties and commercial properties. The site is relatively flat however the land to the west rises with the neighbouring residential properties and petrol station sitting higher than the site.

1.2 The proposal seeks to remove condition 20 of planning permission reference 20/00450/FULL which relates to the amended sustainable travel connectivity improvements for those entering the application site over the burn from the north. Condition 20 of the permission states that "BEFORE THE STORE IS OPEN, an amended site plan showing details of connectivity improvements for cyclists and pedestrians approaching the site from the north shall be submitted for approval. For the avoidance of doubt the connectivity improvement proposals submitted with this application are not considered acceptable.". The reason for this condition advised that the condition was issued "In the interest of connectivity and permeability." The condition was not part of the original officer recommendation for the approved full application and was added by the Planning Committee to seek an alternative connecting route to enter the site from the north as opposed to what had been approved on the plans.

1.3 Relevant planning history associated with the application site is as follows:-

- 16/02147/FULL for the erection of a retail unit (Class 1) with associated car parking and trolley bays was approved at Planning Committee February 2017. A related non-material variation (NMV) request was made to reduce the size of the store, alter the external design and make some amendments to the boundary treatment and external features under planning reference 16/02147/NMV1. This was agreed in September 2017. The full application and related NMV request were never implemented and have now lapsed.

- 17/03841/FULL Section 42 application for the removal of Planning Condition 15 of planning application reference 16/02147/FULL was then approved in March 2018. Planning Condition 15 stated "Prior to the opening of the retail unit, there shall be provided within the curtilage of the

site 142 No parking spaces for vehicles in accordance with the current Fife Council Parking Standards. The parking spaces shall be retained through the lifetime of the development". The Planning Condition was amended to reflect the number of spaces required on the site, following the reduction in floor space. A further condition was added to the consent to restrict the floor space of the store to 2,125sqm, to reflect the reduction in parking spaces. A request for a NMV to this application under reference 17/03841/NMV1 for an increase in floor area was refused in November 2019 as this would require planning permission. Development has started on-site through planning application 17/03841/FULL.

- 20/00450/FULL for the erection of retail unit (Class 1) and formation of access, car parking, hardstanding, and associated landscaping works was approved by Planning Committee in January 2021. This application made amendments to the original approved 2016 planning application. The developments notable changes include a Class 1 retail unit comprising of 2290sqm of gross internal area; an increase in parking spaces from 122 to 130 and the store height increased from 6.7m to 7m.

1.4 A physical site visit has not been undertaken for this planning application. All necessary information has been collated digitally to allow the full consideration and assessment of the proposal. A risk assessment has been carried out and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal.

2.0 ASSESSMENT

2.0.1 The issues to be assessed against the Development Plan and other guidance in relation to the variation of condition 6 includes:

- Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended
- Road Safety/Transportation
- Tests of a Condition

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

2.1.1 Section 42 of the Act provides applications for planning permission to develop land to be progressed without complying with conditions which were imposed on a planning permission. Section 42 states that on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and that the planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 42 of the Act.

2.1.2 Section 42 applications do not revisit or re-establish the principle of development on the site but only consider the appropriateness of the conditions attached to the previous related consent. When assessing whether any condition attached to the application is relevant, there will be a requirement to consider certain aspects of the approved development. Section 42 applications require the developer to specify which condition(s) they are looking to amend or remove, the developer must support the application with sufficient information to identify and justify conditions for amendment or removal. With reference to this application, the agent has indicated that condition 20 should be removed as the applicant is not able to physically create connectivity improvements on land which is not owned or controlled by the applicant. The agent

has submitted a supporting statement with justification. These submissions are further considered below.

2.1.3 The main matters for consideration are whether the proposed removal of condition 20 would undermine the acceptability of the development and whether the condition accords with the six tests which all planning conditions must meet. If the removal of the condition would undermine the acceptability of the development, it needs to be established if there are material considerations which would outweigh these considerations. The condition in question relates exclusively to the requirement for a pedestrian and cycle path entering the site from the north and the relevant material planning considerations are assessed below.

2.2 Road Safety/Transportation

2.2.1 FIFEplan policies 1, 3 and 10 as well as Fife Council's Transportation Development Management Guidelines within Making Fife's Places supplementary guidance apply in this instance. These policies indicate development will only be supported where it has no road safety impacts. In this instance the policies will be applied to assess what impact the proposed removal of condition 20 would have on the general road safety of the surrounding area.

2.2.2 The national context for the assessment of the impact of new developments on transportation infrastructure is set out in Scottish Planning Policy (SPP) (A connected Place). The SPP (Promoting Sustainable Transport and Active Travel) indicates that the planning system should support developments which optimise the use of existing infrastructure and reduce the need to travel. The overarching aim of this document is to encourage positive change to more sustainable forms of transport and reduce reliance on the car. The design of all new development should follow the place-making approach set out in the SPP and the principles of Designing Streets, to ensure the development of places which follow the six principles: distinctive; welcoming; adaptable; resource efficient; safe and pleasant and easy to move around and beyond.

2.2.3 Policy 1 Part C (2) of the Adopted FIFEplan states that the developments must provide required on-site infrastructure or facilities, including transport measures to minimise and manage future levels of traffic generated by the proposal. Policy 3 (Infrastructure and Services) states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner.

2.2.4 Transportation Development Management have been consulted as part of this application and have no objections to the proposed removal of Condition 20. They stated that the applicant had not exhausted all options to incorporate a connection between the site and the north. The applicant raised concerns over third party ownership of land which they are unable to develop on, however, part of the land is owned by Fife Council and there would be no issues around land ownership. However, Transportation Development Management advised that, despite the positive intentions of the condition, a new footbridge over Tiel Burn into a private car park and paths would not bring much betterment to the existing adopted and illuminated routes which are in close proximity to the site. These include the existing routes into the site from either side of the esplanade as well as connections from Bridge Street to the west and Fergus Wynd to the north which are adopted, illuminated and provide safe entry into the site. Furthermore, there is an existing footbridge connecting Bridge Street to the car park on Fergus Wynd to the north. A proposed footbridge over Tiel Burn may not have sufficient lighting in place and as such may not be as safe a way to access the site. Therefore, if the condition is removed, acceptable routes are already existing around the site and no further transportation issues would arise as a result of

the condition removal. Accordingly, the proposal would comply with Policy 1, 3 and 10 of FIFEplan.

2.3 Tests of a Condition

2.3.1 In order to fully assess the removal of the condition, it is important to consider if condition 20 meets the six tests of a planning condition established through planning Circular 4/1998 "The Use of Conditions in Planning Permission". For reference, the six tests are necessity, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other regards.

2.3.2 The current approved Condition 20 of the full planning application meets the test of being relevant to the development and relevant to planning as it provides an aim to create a sustainable entrance into the site in line with SPP and Making Fife's Places Supplementary Guidance. However, the current wording of the condition does not meet the tests of the Circular in terms of being reasonable, precise, enforceable or necessary. The condition is unreasonable as it is expected that the applicant is to create a footbridge over the Tiel Burn onto third party land which is currently private land with no existing street lighting. The current wording of the condition states that an amended site plan must be submitted for approval showing details of connectivity improvements. However, there is no statement within the condition requiring the approved site plan or scheme to be implemented. Therefore, it is unreasonable to enforce condition 20 as there is no requirement for the approved plan to be installed on the application site. With regards to the test of conditions, condition 20 cannot be deemed necessary in complying with the overall principle of the development. A small footbridge and path currently exist to the northwest of the site and can be maintained throughout the lifetime of the development. Transportation have advised that the development of a new footbridge over Tiel Burn beyond the site would not bring much betterment to the existing walking routes to the site, particularly as the land over the Burn does not have appropriate lighting. Finally, the condition is imprecise in that it does not specify the nature of improvements required and fails to specify the need to implement the approved plan, or when that should occur.

2.3.3 As such, if condition 20 is retained within the original application, it would be unenforceable by the Planning Authority, nor can it be deemed necessary due to the existing links in place beyond the site. The approved Condition 20 would, therefore, only meet two of the six tests of a condition as it is not considered enforceable, precise, reasonable or necessary for the applicant to provide the connectivity improvements envisaged by the Planning Committee.

2.3.4 The proposed removal of Condition 20 of planning permission: 20/00450/FULL is supported as the current condition does not meet the tests of Planning Circular 4/1998 Use of Conditions in Planning Permissions in terms of being necessary, precise, reasonable and enforceable. The proposed alternative route would not provide much betterment to the existing routes and any proposed condition requiring further connections is unlikely to meet the tests of the Circular. The proposed development would remain acceptable subject to all other conditions attached to planning permission reference 20/00450/FULL.

CONSULTATIONS

Transportation, Planning Services
Scottish Water

No objections to removal of condition.
No comment

REPRESENTATIONS

None.

CONCLUSIONS

The proposed removal of Condition 20 of planning permission reference 20/00450/FULL is acceptable in this instance as the current condition does not meet all of the six tests of a condition. Furthermore, any proposed alternative would not meet the tests of Planning Circular 4/1998. No transportation issues are raised in regard to the removal of the condition and the proposal would, therefore, comply with the Adopted FIFEplan.

RECOMMENDATION

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

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

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

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

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

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

3. Prior to the retail unit being opened, the access bellmouth from the public road shall be constructed with a maximum throat width of 7.3 metres with 6 metre radius kerb, including a raised table, coloured surfacing and warning signs to protect and highlight the existing footway/cycleway.

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

4. Prior to the retail unit being opened, the former bus workshop "in" vehicular access shall be reconstructed as a footway/cycleway to tie-in with the existing footway/cycleway on the Esplanade frontage of the site.

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

5. Prior to the opening of the retail unit, the construction and delineation of the parking, manoeuvring, servicing, turning and access driveway areas shall be as shown proposed site plan 4181(T)02 Rev C, including the 3 metres wide footpath/cyclepath raised table between the customer access to the proposed building and the Esplanade adjacent to the proposed parking space '12'.

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

6. Prior to the opening of the retail unit, there shall be provided within the curtilage of the site 130 No parking spaces for vehicles in accordance with the current Fife Council Parking Standards as shown proposed site plan 4181(T)02 Rev C. The parking spaces shall be retained through the lifetime of the development.

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

7. Prior to the opening of the retail unit, there shall be provided within the curtilage of the site 10. No covered and secure cycle parking spaces in accordance with the current Fife Council Parking

Standard as shown proposed site plan 4181(T)02 Rev C. The parking spaces shall be retained through the lifetime of the development.

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

8. Prior to the opening of the retail unit, visibility splays of 3 metres x 90 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and the public road, 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.

9. Within 9 months of the opening of the retail unit, proposals for the provision of pedestrian and cycle facilities across the Esplanade to the existing southbound bus stop, including an assessment of the demand for the crossing itself, shall be submitted to and approved in writing by Fife Council. The agreed facilities shall be implemented within 12 months of the opening of the retail unit, and shall be implemented in accordance with the agreed plans.

Reason: In the interest of road safety

10. Within 6 months of the occupation of the retail unit, a Staff Travel Plan, aimed to encourage more sustainable means of travel, shall be submitted and approved in writing. A staff travel survey is required in order to write the Travel Plan, which shall identify modal targets, the measures to be implemented, and the system of management monitoring, review, reporting and the duration of the plan. The travel plan shall incorporate measures designed to encourage modes of travel other than the private car.

Reason: In the interest of sustainability and promoting different modes of travel.

11. BEFORE CONSTRUCTION STARTS ON SITE, a Scheme of Works designed to mitigate the effects on sensitive premises/ areas (i.e neighbouring properties and road) of dust, noise and vibration from the proposed development shall be submitted and approved in writing by Fife Council as planning authority for written approval. This shall include details of the working hours for the construction process. This shall include details of the working hours for the construction process and shall comply with 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). Development shall take place in accordance with the details approved through this condition.

Reason: In the interests of residential amenity.

12. BEFORE ANY WORK STARTS ON SITE, a Construction and Environmental Management Plan (CEMP) for the site shall be submitted to and approved in writing by Fife Council as planning authority. This shall include:

- (i) details of buffer zones for the Tiel Burn;
- (ii) pollution prevention measures during construction;
- (iii) details of storage areas to be utilised during the construction period; and

- (iv) details of any proposed construction access routes.
- (v) details of wheel washing facilities

Once approved the construction of the development on the site shall be undertaken entirely in accordance with the provisions of the approved method statement.

Reason: In the interests of protecting the adjacent water body.

13. BEFORE ANY DEVELOPMENT STARTS ON SITE, final landscaping details shall be submitted for the written approval of Fife Council as planning authority. These details shall include a final landscaping plan with additional tree planting throughout the site and in particular along the frontage (A921) of the site. The landscaping plan shall also provide full details of the landscaping enhancement along the Tiel Burn.

Reason: In the interests of biodiversity enhancement and good design.

14. BEFORE ANY WORKS START ON SITE, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. These details shall include consideration of the various habitats proposed on site and shall incorporate measures to promote biodiversity. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

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

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

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

16. BEFORE ANY DEVELOPMENT STARTS ON SITE, a scheme of tree protection measures to protect trees adjoining the site during construction shall be submitted and approved in writing by Fife Council as Planning Authority. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of protecting the trees neighbouring the site.

17. BEFORE ANY DEVELOPMENT STARTS ON SITE, an updated boundary treatment plan with elevation details shall be submitted for the written approval of Fife Council as planning authority which provides high quality boundary treatment on the northern and western boundaries. For the avoidance of doubt the proposals submitted with this application are not considered acceptable. All boundary treatments shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and good design.

18. BEFORE THE UNIT IS BROUGHT INTO USE, full details of all the installations and/or erection of any extract ventilation system, including details of the methods of treatments of

emissions and filters to remove odours and control noise emissions have been submitted and approved in writing by Fife Council as planning authority and the works specified in the approved scheme have been installed in accordance with the details approved through this condition. Such works shall thereafter be retained, operated at all times when the units are in use and maintained in accordance with the manufacturer's instructions unless otherwise agreed in writing with Fife Council as planning authority. Unless otherwise agreed in writing, noise from all fixed plant and equipment at the site should not exceed a rating level of 35dB L Aeq,15min during the night-time period when measured 1m from the windows closest noise sensitive receptors and should not exceed a rating level of 45dB L Aeq, 1h when measured at the closest noise sensitive receptor during the daytime period.

Reason: In the interests of protecting residential amenity.

19. The gross internal floor space of the retail development shall not exceed 2487sqm including any mezzanine levels and the net internal trading floor space shall not exceed 1500sqm including any mezzanine levels. Within that maximum level, no more than 30% of the net retail sales area shall be used for comparison (non-food) retailing purposes. Any increase in the sizes shall only be made with the written approval of Fife Council as planning authority.

Reason: In the interests of defining the permission and protecting the vitality and viability of the town centre.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Policy and Guidance

Scottish Planning Policy (SPP) (2014)

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

Circular 3/2013: Development Management Procedures, Annex I: Applications for Planning Permission Under S42 of the Act

Development Plan

Adopted FIFEplan (2017)

Making Fife's Places Planning Policy Guidance (2018)

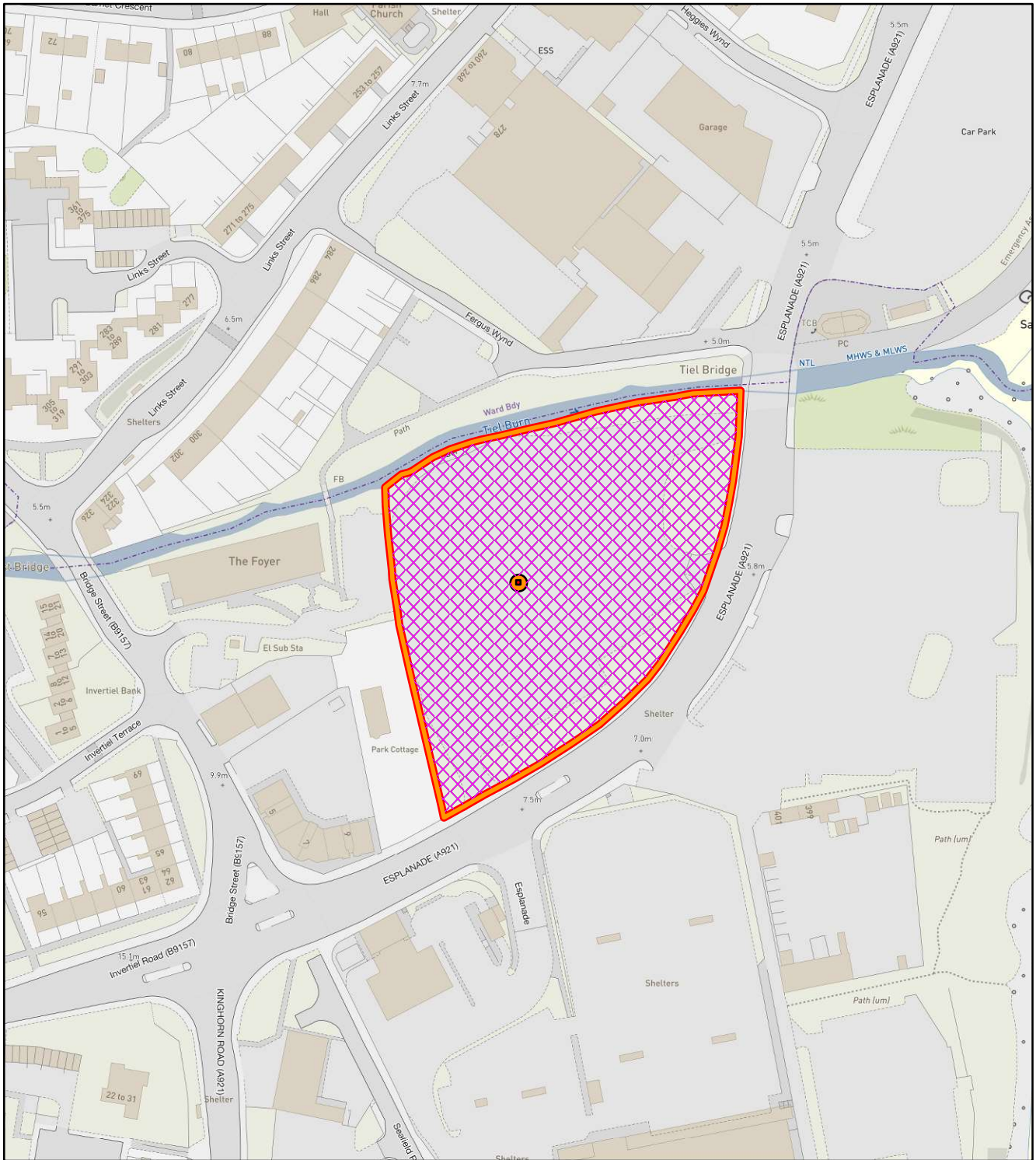
Report prepared by Daniel Farmer, Graduate Planner

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

Date Printed 09/08/2021

21/01426/FULL

Lidl GB Ltd Esplanade Kirkcaldy



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 9

APPLICATION FOR FULL PLANNING PERMISSION REF: 20/03008/FULL

SITE ADDRESS: 39 ROSSLYN STREET KIRKCALDY FIFE

PROPOSAL: ALTERATIONS AND PART CHANGE OF USE OF EXISTING MIXED-USE DEVELOPMENT TO FORM TWO RETAIL UNITS (CLASS 1) AND TWO HOT FOOD TAKEAWAYS (SUI GENERIS) WITH ASSOCIATED ACCESS AND PARKING

**APPLICANT: MR GEORGE JOHN MITCHELL
1 EAGLE STREET GLASGOW SCOTLAND**

**WARD NO: W5R12
Kirkcaldy East**

CASE OFFICER: Scott McInroy

DATE 07/01/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 representations have been received which are contrary to the officer recommendation

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

1.0 Background

1.1 The application site relates to partially derelict site that currently consists of a single storey commercial building and canopies of a former petrol station forecourt, which extends to 3645sqm on Rosslyn Street, Kirkcaldy. In recent times the building has been utilised by commercial businesses including a kitchen showroom/sales and storage facility and workshop. The external yard area under the canopies has most recently been utilised as a carwash business. The site is located within the settlement boundary of Kirkcaldy, as defined in the Adopted FIFEplan (2017). The surrounding area is made up of a mixture of commercial and residential premises, with the Royal Bank of Scotland and storage yard to the west, residential to the north, open space to the south and a Veterinary Surgery to the east. The existing building on site fronts onto Rosslyn Street and Pottery Street. Access to the site is primarily taken off Rosslyn Street, however the site can also be accessed from Blyth Street.

1.2 Planning permission is sought for alterations and part change of use of existing mixed-use development to form two retail units (Class 1) and two hot food takeaways (Sui Generis) with associated access and parking. The footprint of the building is proposed to be set back from the pavement on Rosslyn Street with the existing frontage being demolished. Internally the building will be reconfigured to provide 2 retail units and 2 hot food takeaways with a storage area. Externally the walls will have a rendered finish with the roof having new insulated cladding with photovoltaic panels. The proposed new frontage onto Rosslyn Street will have four sperate entrances that will have aluminium glazed doorset/screens. The elevation onto Pottery Street will have one set of roller shutter doors removed, while the other will be replaced by a pedestrian door and new louvred screen and doors. The frontage onto the forecourt will have new aluminium glazed screens for the proposed retail unit and a Steel frame and cage to enclose external condensing units is proposed on the northern section of this elevation. The existing building and canopy on the forecourt are to be removed as this area will provide parking spaces for the proposed development.

1.3 Recent planning history:

06/01550/CFULL - Change of use from petrol filling station to car wash (in retrospect) – approved 26/07/2006

1.4 Application Process

1.4.1 The application, due to the size of the site and the overall scale of proposals, constitutes a "Local" application as defined by the Hierarchy of Developments Regulations and as such did not require to be subject of a Proposal of Application Notice. The application was advertised in as a Potential Bad Neighbour Development as the proposed hot food use is specified within Schedule 3 and also as the uses have the potential to create activity and noise between the hours of 8 pm and 8 am. A site visit was undertaken.

2.0 PLANNING ASSESSMENT

2.1 The determination of this application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The issues to be assessed against the development plan and other guidance are as follows: -

- Principle of Development
- Residential Amenity

- Road Safety
- Visual Amenity
- Land Stability/ Contamination

2.2 Principle of Development

2.2.1 The national context for new development is set out within the Scottish Planning Policy (2014). This document emphasises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place.

2.2.2 Policy 1, Part A, of the Adopted FIFEplan stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan. Policy 6 states that town centre should be the first choice for retail development, however out of centre locations that are or can be made easily accessible by a choice of transport modes can also be supported for those types of developments.

2.2.3 In this instance, the principle for Class 1 and sui generis use of this site was established through the previous Class 1 and sui generis use (petrol filling station and associated shop) on this site.

2.2.4 Objectors have raised concerns that the proposal is not in accordance with the Development Plan as the application site is not within the town centre, edge of town centre or local shopping centre areas within Kirkcaldy. However, given the net floorspace of the sales area of the proposed class 1 retail units in this development being less than 500sqm, it is considered that the sequential test is not required in this instance. As the location of the application site is on one of the main transport routes (A921) into Kirkcaldy and the small area of floorspace proposed, it is considered that the development would have no significant impact on the vitality and viability of the town centre of Kirkcaldy and is appropriate for this out of centre location. The area is a mixed-use area made up of commercial premises. In land use terms, it is considered that the alterations and part change of use of the existing mixed-use development to form two retail units (Class 1) and two hot food takeaways (Sui Generis) with associated access and parking would not alter the character of the surrounding area given the variety of surrounding land uses.

2.2.5 It is considered that the proposed development be suitable for its location in land use terms and is thus deemed to be acceptable in principle. The overall acceptability of any such development must however also satisfy other relevant Development Plan policy criteria as identified in Section 2.1 of this report.

2.3 Residential Amenity

2.3.1 PAN 1/2011 establishes the best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development.

2.3.2 With respect to the protection of residential amenity, policy 10 of the Adopted FIFEplan (2017) supports development proposals where they will not lead to a significant detrimental impact on the amenity of the surrounding area. The Council's draft Noise Guidance for New Developments (2021) and the Scottish Government's Planning Advice Note PAN 1/2011 are also relevant here.

2.3.3 The application site is to the east of Rosslyn Street and has residential properties to the rear. Units 2 and 3 are proposed for hot food takeaway use and would have extraction flues. The proposed extraction flues would be over 17m away from the nearest residential building and over 15m away from the nearest garden. Through discussions with Fife Council's Public and Environmental Protection Team (PEPT), the applicant has provided further information regarding the proposed extraction scheme, stating that the discharge from the kitchen canopy would be at high level terminating 1m above the eaves, and would be of the vertical design with a high efflux velocity to disperse any remaining pollutants as effectively as possible. Prior to discharge any smoke or grease generated would be diluted. The mixed airstream would pass through high efficacy grease filters within the canopy, followed by secondary filtration before final (tertiary) filtration via an activated carbon filter. The system would be designed and installed in accordance with BESA specification DW/172. Fife Council's Public Protection team were content with this scheme and it is considered to be acceptable to the planning authority, however, a condition is recommending that the specific ventilation specifications be agreed in writing by the Planning Authority prior to installation of the scheme. It should also be noted that Fife Council's Public Protection team can control noise and odours under their own legislative processes and through the use of appropriate enforcement measures if required and should any complaints be received.

2.3.4 Concerns have been raised by the public with regards to increased noise and disturbance. Four external condensing units serving proposed unit 1 are to be located in a steel framed enclosure to the front of unit 1 while the 4 condensing units serving units 2-4 are to be located internally within a steel caged enclosure within the plant room. The plant machinery is located 10m away from the nearest properties. The applicant has submitted a noise impact assessment with this application which concludes that levels of condenser units' noise within any existing neighbouring dwellings will comply with the NR25 and NR30 LPA acoustic criteria. Fife Council's Public Protection team have assessed this Noise Impact Assessment and concur with the assessment; therefore a condition has been attached that the cumulative noise from all plant machinery is kept to a reasonable level to not affect the residential amenity of the surrounding area. The concerns regarding noise from the shutters on the servicing area are noted. A condition has been attached to limit the delivery times to daytime hours between 7am and 8pm and not on Saturdays or Sundays unless agreed with the Planning Authority. The proposal would therefore comply with the Development Plan in this respect and would be acceptable in this instance.

2.3.5 Concerns have been raised by the public regarding noise and disturbance on the surrounding properties during the construction of this development. A condition has been added to limit the hours of construction.

2.3.6 Concerns have been raised by the public that noise levels are already excessive within the area due to people congregating in the street. Given that the application site is located on one of the main transport routes in and out of Kirkcaldy with a mix of uses with varying operating hours, including late night uses such as the Ice rink and public houses. The nearest residential properties are to the rear of the proposed development and the site fronts onto the busy A921 with no residential properties adjacent the site. In these circumstances, it is considered that the

proposal would have no further significant detrimental impact on the amenity of the surrounding area. However, given these concerns, a condition has been added limiting the opening times of the retail units 1 and 4 to between 06:00am and 22:00pm Monday to Saturday and 07:00am and 22:00pm on a Sunday. With regards the hot food takeaway units (Units 2 and 3), a condition has been added limiting the opening times from 09:00am to 11.00pm. It should also be noted that Fife Council's Public Protection team can control noise and odours under their own legislative processes and through the use of appropriate enforcement measures if required and should any complaints be received. The proposal would therefore comply with the Development Plan in this respect and would be acceptable in this instance.

2.3.6 In the context of the activity associated with the proposed retail units (Class 1) and hot food takeaway units (Sui Generis), and subject to the inclusion of the aforementioned conditions, it is considered that the proposal would not have a significant adverse impact on the amenity of neighbouring residential properties. The application therefore meets the requirements of national guidance and the Development Plan in respect to protection of residential amenity, so therefore complies with the adopted FIFEplan (2017).

2.4 Road Safety

2.4.1 Adopted FIFEplan (2017) Policy 3 and Making Fife's Places Supplementary Guidance (2018) apply in this instance.

2.4.2 Fife Council's Transportation Development Management team (TDM) has been consulted. Concerns have been raised regarding the number of deliveries to the development that would use Pottery Street and Rosslyn Street. The applicants, in their supporting statement, have advised that the majority of deliveries would be to unit 1 (35 deliveries per week) with the remaining units receiving a few additional deliveries. Initially Transportation Development Management also had concerns regarding servicing of Unit 1 on site. Amended plans have shown that Unit 1 can be serviced within the curtilage of the site and that a 17ft lorry can manoeuvre through the proposed one-way servicing route exiting onto Blyth Street. TDM have addressed the concerns of Blyth Street becoming a rat run by additional conditions being added to ensure this route is only used in a one-way direction by service vehicles. Therefore Unit 1 would be serviced via a one-way system entering from Rosslyn Street and exiting via Blyth Street, therefore reducing the impact on Rosslyn Street from servicing vehicles which in turn would address congestion concerns from turning vehicles and reduce road safety concerns arising from Delivery Vehicles. As there would be limited deliveries to Units 2, 3 & 4 from Pottery Street, which would use an existing delivery area to the site, it is considered that there would not be a significant impact on congestion or access to the surrounding premises in this area.

2.4.3 Concerns have been raised through a standard letter regarding the amount of parking provision on site. A development of this size requires 55 parking spaces whilst the proposed layout shows 54 parking spaces. In this instance TDM have no objections to the shortfall of one parking space on the site. Given the location of the application site on one of the main transport routes in and out of Kirkcaldy and the mixed use of the surrounding area, the shortfall of one parking space would not have a significant impact on and the proposal is acceptable in this regard.

2.4.4 Concerns have also been raised regarding potential congestion arising on the A921 due to stationary vehicles waiting to turn right into the site from Rosslyn Street in terms of obstructing

traffic flow at peak periods. Objectors envisage that this would displace traffic onto neighbouring streets. , TDM advise that if this issue arises a section of the existing on-street parking on Rosslyn Street could be removed to allow southbound drivers to undertake any stationary right turning vehicles.

2.4.5 Transportation Development Management have no objection to this application, subject to conditions regarding the reconstruction of the existing vehicular crossings, a new surface on the public footway, turning area, Blyth Street restriction measures, servicing arrangements, parking provision, cycle parking provision and wheel cleaning facilities. Subject to these conditions, which form part of the recommendation, the proposal is considered acceptable in terms of its impact on road safety.

2.5 Visual Amenity

2.5.1 The application site currently comprises of a vacant single storey unit with a glazed frontage on one of the most prominent transport corridors into Kirkcaldy. The associated yard is overgrown with a canopy that was associated with the previous use on site. The existing run-down building will be comprehensively renovated to present a contemporary design that aims to enhance the existing environment. The front part of the existing building is proposed to be removed to provide a wide and safer footpath for pedestrians along the frontage of the building, which will also present a glazed and lively frontage to Rosslyn Street. The existing buildings on the forecourt would be demolished to make way for the associated car parking for the proposal. The proposed external alterations include a new glazed façade onto the car park elevation. The proposed shop entrances onto Rosslyn Street are to have wide shop front windows to maximise natural light. The massing of the remainder of the building is proposed to be unchanged however all facades will be renewed with a rendered finish and the existing asbestos roof being removed, and new insulated cladding and photovoltaic panels added to the roof. Concerns have been raised through a standard letter regarding the layout and design of the proposal. Given that the site is currently vacant and derelict, the changes that are proposed would bring a significant visual benefit to this prominent site and would significantly improve the visual amenity of the area by bringing a vacant and derelict site back into use. The layout also meets relevant road safety regulations as addressed in section 2.4

2.5.2 It is considered that the proposed external alterations are compatible with the surrounding area and would offer a significant improvement to the surrounding area by bringing a prominent vacant and derelict site back into use.

2.6 Land Stability/ Contamination

2.6.1 PAN33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. Policy 10 of the Adopted FIFEplan advises development proposals will only be supported where there is no 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.

2.6.2 Fife Council's Land and Air Quality Team (LAQT) has been consulted and has advised that given the site has been subject to various phases of development a standard condition should be included in the planning permission for the developer to notify the Planning Authority if any unexpected conditions are encountered during the development work at this site.

2.7.3 The application, subject to the inclusion of the condition recommended by the LAQT, meets the provisions of national guidance and the Development Plan in regard to land stability and contamination.

CONSULTATIONS

Scottish Water	
Transportation, Planning Services	No objection subject to conditions
Environmental Health (Public Protection)	No objection subject to conditions
Asset And Facilities Management Services	
Transport Scotland	
Land And Air Quality, Protective Services	No objection subject to condition
Environmental Health (Public Protection)	No objection subject to conditions
Environmental Health (Public Protection)	No objection subject to conditions

REPRESENTATIONS

123 letters of objection have been received in relation to this application in the form of a standard objection letter. The material considerations relating to these concerns have been addressed under sections 2.2 (Principle of Development, 2.3 (Residential Amenity), 2.4 (Road Safety) and 2.5 (Visual Amenity) of this report of handling.

Concerns regarding parking on the footpath, cycle way and double yellow lines outwith the application site are not a material consideration with regards this application.

1 supporting comment has also been received

CONCLUSIONS

The proposal subject to conditions is considered acceptable in meeting the terms of the Development Plan and National Guidance. The proposal is considered to be compatible with its surrounds in terms of land use; would not cause any significant detrimental impacts on the amenity of the surrounding area or road safety and is considered acceptable in terms of its visual impact on the surrounding area.

RECOMMENDATION

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

1. The cumulative noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 30 during day-time and NR 25 during night-time hours in all

habitable rooms, when measured within any noise sensitive property, with windows open for ventilation.

For the avoidance of doubt, day-time shall be 0700-2300hours and night-time shall be 2300-0700hours.

Reason: In the interests of residential amenity; to ensure adjacent residential dwellings are not subjected to adverse noise from plant equipment.

2. BEFORE THE PREMISES BECOMES OPERATIONAL, details of the installation and/or erection of any extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours, control noise emissions and servicing regime shall be submitted by the operator for the prior written approval of this Planning Authority. Thereafter, the approved system must be operated at all times when the restaurant is in use and maintained in accordance with the manufacturer's instructions unless otherwise agreed in writing with this Planning Authority.

Reason: In the interests of residential amenity; to prevent odour associated with cooking affecting the residential property located adjacent the application site.

3. The hours of operation of Units 1 and 4 of the development hereby approved shall be restricted to between 06:00 and 22:00 Monday to Saturday and 07:00 and 22:00 on a Sunday.

Reason: In order to protect the amenity of adjoining and nearby residents.

4. The hours of operation of Units 2 and 3 of the development hereby approved shall be restricted to between 09:00 and 23:00 Monday to Sunday.

Reason: In order to protect the amenity of adjoining and nearby residents.

5 Commercial delivery loading and unloading operations at the development shall not take place outwith: 0700 - 2000 hours; with no commercial delivery loading and unloading operations taking place on Saturdays and Sundays unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of residential amenity; to ensure delivery of goods does not take place at unreasonable hours.

6 To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

08.00- and 18.00-hours Mondays to Fridays

08.00 and 13.00hours Saturdays

With no working Sundays or Public Holidays

Reason: In the interests of residential amenity; to ensure works do not take place at unreasonable hours.

7. Prior to the occupation of the first unit, the reconstruction of the existing vehicular crossings of the Rosslyn Street footway shall be carried out in accordance with the current Fife Council Transportation Development Guidelines and shall include the provision of measures to intercept surface water run-off, prior to it reaching the public rod boundary (rear of the cycleway/footway).

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

8. Prior to the occupation of the first unit, a new surface course shall be provided on the public footway and its ancillary vehicular crossings along the full Pottery Street frontage of the application site, 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.

9. Prior to the occupation of the first unit, 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, as shown on Drawing No 03B. The turning area shall be formed outwith the parking areas and shall be retained through the lifetime of the development.

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

10. Within 6 weeks of planning consent being granted and prior to any works commencing on site, revised plans shall be submitted for approval by Fife Council as Planning Authority detailing the physical measures that will be installed (such as gates and lockable bollards) to ensure that only service vehicles can use the one-way service access onto Blyth Street. Once approved, these additional measures shall be implemented prior to the occupation of the first unit and be maintained for the lifetime of the development.

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

11. Prior to the occupation of Unit 1, the servicing arrangement including the one-way route for servicing vehicles shown on Drawing No 03B and the plan approved under the requirements of Condition 10 shall be provided and fully operational and thereafter shall be retained for the lifetime of the development.

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

12. Prior to the occupation of the first unit, there shall be provided within the curtilage of the site 54 parking spaces for vehicles in accordance with current Fife Council Transportation Development Guidelines and as per the layout shown on Drawing No 03B. The parking spaces shall be retained for the lifetime of the development.

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

13. Prior to the occupation of the first unit, there shall be provided within the curtilage of the site 3 safe, covered and secure cycle parking spaces in accordance with current Fife Council

Transportation Development Guidelines. The cycle parking spaces shall be retained for the lifetime of the development.

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

14. Prior to the commencement of any construction operations on site, adequate wheel cleaning facilities approved by Fife Council as Planning Authority shall be provided and maintained in an operational manner throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles on to the public roads.

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

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

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

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

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Policy and Guidance
Scottish Planning Policy (SPP) (2014)
PAN 1/2011 Planning and Noise

Development Plan
Adopted FIFEplan (2017)

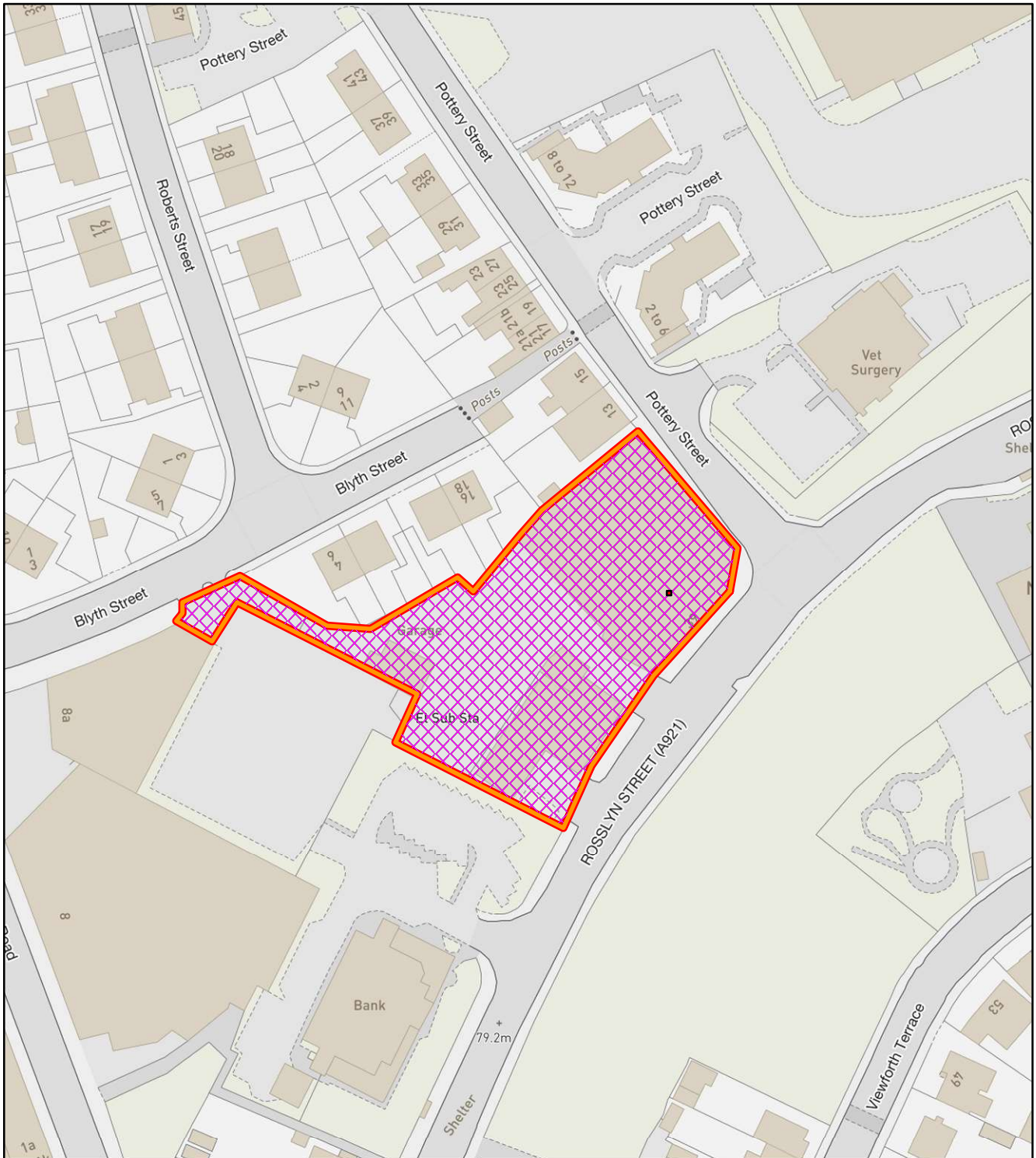
Other Guidance
FC Making Fife's Places Supplementary Guidance (2018)
FC Noise Guidance for New Developments (2021)

Report prepared by Scott McInroy, Chartered Planner
Report reviewed and Agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 02/08/2021

20/03008/FULL

39 Rosslyn Street Kirkcaldy



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Legend	
 Application Boundary	
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 Economy, Planning & Employability Services	

ITEM NO: 10

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/00872/FULL

SITE ADDRESS: THE CROSS TANHOUSE BRAE CULROSS

PROPOSAL : CHANGE OF USE FROM CAFE (CLASS 3) TO DWELLING (CLASS 9)

**APPLICANT: MRS VALERIE BARBOUR
11 MYVOT AVENUE CONDORRAT CUMBERNAULD**

**WARD NO: W5R01
West Fife And Coastal Villages**

CASE OFFICER: Martin Mackay

DATE 26/03/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 representations have been received which are contrary to the officer recommendation.

SUMMARY RECOMMENDATION

The application is recommended for:

Unconditional 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. Under Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority

should pay special attention to the desirability of preserving or enhancing the character or appearance of the relevant designated area.

BACKGROUND

1.1 The application property relates to the ground floor of a two-storey building that is currently in use as a café. The property is Category C Listed and located within the Culross Conservation Area. The building is finished in white render with a traditional slated pitched roof with dormer windows and located within a primarily residential area. The premises formerly operated as Macdonald and Reids Butchers shop and the front of 2 principal rooms contains Art Nouveau tiling from the butchers' shop. There is an area of shared garden to the south of the site. To the front of the site is the Mercat Cross a Category A listed structure.

1.2 Planning permission is sought for a change of use from a café (Class 3) to a one-bedroom flatted dwelling (Sui Generis). No external alterations are proposed to the property

1.3 A Listed Building Consent application 21/00873/LBC has been submitted in conjunction with this listed building consent application.

1.4 There is one other previous planning applications associated with the site included on the Council's electronic records

17/00686/FULL - Change of use from retail shop (class 1) to cafe (class 3) and art gallery (Class 1) - Approved - 07.06.2017

1.5 A physical site visit has not been undertaken for this planning application. All necessary information has been collated digitally to allow the full consideration and assessment of the proposal. A risk assessment has been carried out and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal.

2.0 ASSESSMENT

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

- Principle of Development
- Residential Amenity
- Transportation
- Character of the Conservation Area
- Loss of Community Facility

2.2 Principle of Development

2.2.1 The national context for new development is set out within the Scottish Planning Policy (2014). This document emphasises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place.

2.2.2 Policy 1, Part A, of the Adopted FIFEplan stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the

policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan. Policy 1 Part B of the adopted FIFEplan requires town centres to be the first choice for uses which attract a significant number of people, including retail, leisure, entertainment, recreation, cultural and community facilities.

2.2.3 In this instance, the application is for the change of use of from a cafe to a flatted dwelling. The site is within a residential area and the loss of this café use would restore the property to a use that would be in keeping with the predominant residential use of the area. Accordingly, the proposed residential use is acceptable in general land use terms, subject to the proposal satisfying other relevant Development Plan policy criteria as set out below.

2.3 Residential Amenity

2.3.1 Policies 1 and 10 advise 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. Policy 10 also states that proposals will not adversely impact on residential amenity or negatively impact on adjacent uses and should have no detrimental impact on amenity in relation to the operation of existing or proposed businesses and commercial operations.

2.3.2 The change of use as proposed would not include any external alterations. The property was originally used as a retail butchers and more recently as a café. As a result of the works there are no new windows or doors proposed and the main living area window would look on to the public road (facing the Mercat Cross). Given the previous use of the café and taking into account the existing layout of the property, the proposed use would result in a lesser impact on privacy than the existing cafe. As such the proposal would result in a net decrease in privacy impacts and therefore the proposal would be acceptable in this instance.

2.3.3 Fife Council's Environmental Health Public Protection team (PP Team) were consulted on the proposal and have not objected. Given the residential character of the street with no business uses adjacent it is unlikely the use of the site as dwellinghouse would prejudice any other potential future or existing uses. Therefore, in this instance the proposal is acceptable in terms of potential noise disturbance.

2.3.4 Policies 1 and 10 and Fife Council's Planning Customer Guidelines on Garden Ground advises that new flatted dwellings must be set in or have at least 50 square metres of private garden ground. The guidance also advises that the plot ratio should be in keeping with other properties in the surrounding area and that these guidelines may be relaxed when the proposal involves the conversion of an existing building to a home.

2.3.5 The proposed flat would have access to a communal garden/drying area positioned to the south of the site. However, it is recognised that this area would not be private and would not result in any provision of private amenity space. Given the nature of the site it is not possible to provide any specific private garden area. Within the Culross village there are open spaces and parks within a short walking distance of the site and as such, in this instance the proposal would be acceptable.

2.4 TRANSPORTATION

2.4.1 Policies 1 and 10 of the Adopted FIFEplan Local Development Plan (2017) and Fife Council Transportation Development Guidelines apply with regard to this proposal.

2.4.2 Culross Community Council, along with two local residents have objected to the proposal on the grounds of increased parking demand.

2.4.3 Fife Council's Transportation Development Management (TDM) team were consulted on this application and have not objected. TDM noted that there was no off-street parking available for the site and advised that although there would be a potential increase in demand outwith daytime hours as a result of the loss of the café, there would be an overall reduction in parking demand. Given the change of use would reduce a commercial use to a one-bedroom flat, it is not anticipated there would be a worsening of the existing parking situation.

2.4.3 It is therefore concluded that the proposal would comply with the Fife Council Transportation Development Guidelines and relevant development plan policies.

2.5 IMPACT ON THE CHARACTER OF THE CONSERVATION AREA

2.5.1 This submission proposes no external alterations other than the removal of a sign related to the existing use as a café. This is a non-original sign which has been added in recent times and its removal is therefore acceptable. Therefore, the proposed works would have a neutral impact on the Conservation Area overall.

2.6 LOSS OF COMMUNITY FACILITY

2.6.1 Policies 1 and 3 of the Adopted FIFEplan Local Development Plan (2017) apply in this regard. Policy 3 states that development which would result in the loss of viable and valuable cultural, tourism or community resources should be resisted.

2.6.2 Culross Community Council along with local residents have raised concerns in respect of the loss of the business as a café (formerly retail) and the loss of a community facility.

2.6.3 The applicant has provided supporting information, showing that the property has been in their ownership since 2016. Following a change of use to a café in 2017 it is advised that there have been 5 tenants in five years, and it is suggested that its location, away from the main village centre is contributing to the lack of footfall. This lack of footfall has impacted on the viability of the café and this has been further impacted by the Coronavirus pandemic. From the supporting statement provided it is recognised that the use of the property as a café tends to be seasonal and that given the number of occupiers in a short period of time no objection is raised to its conversion to a flatted dwelling.

2.6.4 The concerns in respect of the change to a residential use further raised objections on the potential for short-term letting of the flat. It is not reasonable for the Local Authority to control the tenure of the unit and therefore provided it remains as flatted dwelling and occupied as such then the use would be acceptable in this instance.

CONSULTATIONS

Scottish Water	No Objection
Transportation, Planning Services	No Objection
Environmental Health (Public Protection)	No Objection

REPRESENTATIONS

Six letters of objection have been received, including one from the Community Council, requesting to be a statutory consultee, however this request was received after the 14-day expiry and as such the comments are to be considered as a standard objection.

Objections received in respect of the ventilation to the proposed kitchen and shower area, along with the lighting to the bedroom/sleeping area due its below street level position are not material to planning. These are a matter for Building Standards to address and have therefore not been considered.

Position of the bedroom and lack of suitable windows - This is not a material planning consideration and has not been assessed

The communal garden being a drying green and garden ground provision - This has been discussed in paragraph 2.3.5

Use of the property as a short term letting - This has been discussed in paragraph 2.5.3

Impact on parking - This has been discussed in paragraph 2.4.2

Viability of the cafe and loss of a community facility and local business - This has been discussed in paragraph 2.5.3

CONCLUSIONS

The proposal is compatible with its surrounds in terms of design, scale and finishing materials and would not result in any adverse impact on the Conservation Area and would preserve the character and appearance of this statutorily listed building and ensure its ongoing preservation. The proposal is therefore considered to be acceptable in meeting the terms of the Development Plan and relevant Fife Council Planning Customer Guidelines. Approval is therefore recommended.

RECOMMENDATION

It is accordingly recommended that the application be approved unconditionally

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

Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Scottish Planning Policy (2014) (Valuing the Historic Environment)

Historic Environment Scotland Policy Statement (2019)

Development Plan
FIFEplan Local Development Plan (2017)

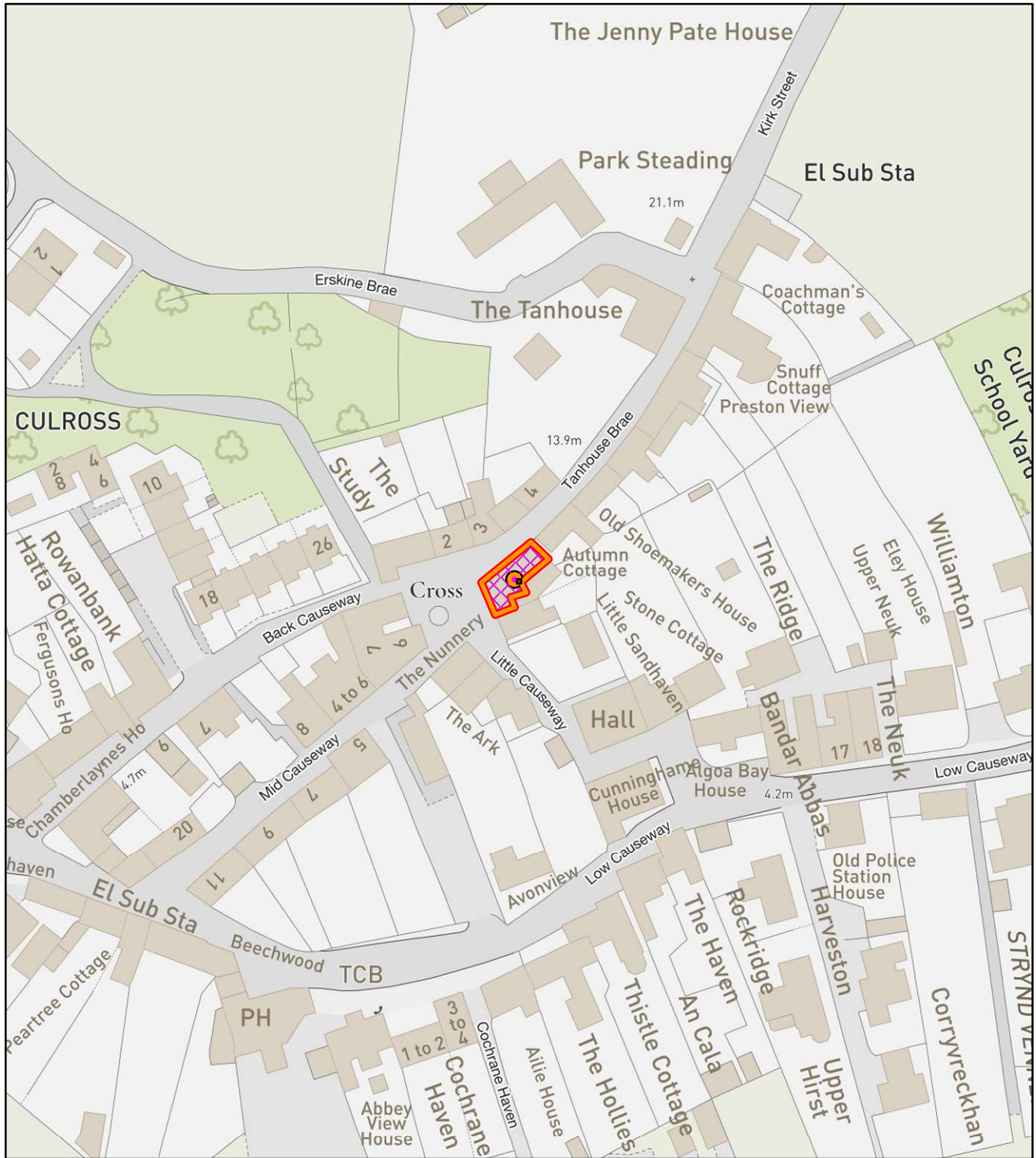
Other Guidance
Making Fife's Places Supplementary Guidance (2018)
Culross Conservation Area Appraisal and Conservation Area Management Plan 2009

Report prepared by Martin Mackay, Chartered Planner
Report Reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 12/08/2021

21/00872/FULL

The Cross Tanhouse Brae Culcross



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 11

APPLICATION FOR LISTED BUILDING CONSENT REF: 21/00873/LBC

SITE ADDRESS: THE CROSS TANHOUSE BRAE CULROSS

PROPOSAL : LISTED BUILDING CONSENT FOR INTERNAL ALTERATIONS

**APPLICANT: MRS VALERIE BARBOUR
11 MYVOT AVENUE CONDORRAT CUMBERNAULD**

**WARD NO: W5R01
West Fife And Coastal Villages**

CASE OFFICER: Martin Mackay

DATE 26/03/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

To allow the application to be determined alongside the corresponding full application.

SUMMARY RECOMMENDATION

The application is recommended for:

Unconditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority should have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.

BACKGROUND

1.1 The application property relates to the ground floor of a two-storey building that is currently in use as a café. The property is Category C Listed and located within the Culross Conservation Area. The building is finished in white render with a traditional slated pitched roof with dormer windows and is located within a primarily residential area. The premises formerly operated as Macdonald and Reids Butchers shop and the front of 2 principal rooms contains Art Nouveau tiling from the butchers' shop. There is an area of shared garden to the south of the site. To the front of the site is the Mercat Cross, a Category A listed structure.

1.2 Listed building consent is sought for internal alterations to this Category C Listed Building. The works would include the removal of modern partition walls and formation of new partitions to accommodate a kitchen and shower room. Externally further works would include the removal of a non-original timber sign.

1.3 A full planning application 21/00872/FULL has been submitted in conjunction with this listed building consent application.

1.4 There is one other previous planning applications associated with the site included on the Council's electronic records

17/00686/FULL - Change of use from retail shop (class 1) to cafe (class 3) and art gallery (Class 1) - Approved - 07.06.2017

1.5 A physical site visit has not been undertaken for this planning application. All necessary information has been collated digitally to allow the full consideration and assessment of the proposal. A risk assessment has been carried out and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal.

2.0 Assessment

2.1 This application will be assessed against the following:

-Design and Visual Impact on the Listed Building and Conservation Area

2.2 Design and Visual Impact on the Listed Building and Conservation Area

2.2.1 Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Scottish Planning Policy (2014) (Valuing the Historic Environment), Historic Environment Scotland - Policy Statement (2019), Policies 1, 10 and 14 of the Adopted FIFEplan Local Development Plan (2017), Fife Council's Windows in Listed Buildings and Conservation Areas and Culross Outstanding Conservation Area Appraisal and Conservation Area Management Plan apply in this respect. Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 makes particular reference to require the Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

2.2.2 Internally the proposed alterations include the reconfiguration of the property to enable the property to be used as a flatted dwelling. The area most heavily impacted by these changes has been heavily altered since its original construction and there are no surviving original features. It is further noted that the internal walls to be removed are modern additions with no historic value. As such there is no objection to this. In addition, the replacement partition walls would have no

impact on any historic features and therefore would be acceptable. In terms of the main front room of the property the wall tiles and marble window shelf have been retained from the historic use of the property as butcher shop. The proposal includes wood panelling to the lower half of these tiles, to enable the concealment of pipework and other necessary services. This would be fully reversible and would not result in any detrimental impact on historic fabric and therefore no objection is raised. A comment from a local resident has been received querying the impact on the tiles however, as highlighted above the preservation of these tiles has been fully considered as part of the submission.

2.2.3 Due to the nature of this proposal, Fife Council's Built Heritage Team were consulted and have noted that the internal works as proposed affect modern additions and raised no objection to the application. The response further went onto require further details of any proposed repairs. Any repairs that are minor in nature and would align with the ongoing preservation of the building and as such would not require prior approval from the Planning Authority.

2.2.4 This submission proposes no external alterations other than the removal of a sign related to the existing use as a café. This is a non-original sign which has been added in recent times and its removal is therefore acceptable. As such, the proposed works would also have a neutral impact on the Conservation Area.

2.2.5 The proposal would not have any detrimental impact to the character and appearance of this Category C Listed Building and by bringing the ground floor of the building into a viable long-term use would contribute to its ongoing preservation. The proposal therefore meets the expectations of relevant policy and associated guidance.

CONSULTATIONS

Built Heritage, Planning Services

No objection

REPRESENTATIONS

One letter objecting to the proposal was received from a local resident raising the following points:

The tiles in the living area form part of the listing - This has been addressed in paragraph 2.2.3

No windows to the kitchen or the shower room/lack of ventilation - This is not relevant in respect of a Listed Building Consent application and has not been considered

The sleeping area lacks windows and is below ground level with no damp proofing - This is not relevant in respect of a Listed Building Consent application and has not been considered

The communal garden area is a drying green - This is not relevant in respect of a Listed Building Consent application and has not been considered

The property is not conducive to being a permanent residence - This is not relevant in respect of a Listed Building Consent application and has not been considered

CONCLUSIONS

The proposal is compatible with its surrounds in terms of design, scale and finishing materials and would not result in any adverse impact on the Conservation Area and would preserve the character and appearance of this statutorily listed building and ensure its ongoing preservation. The proposal is therefore considered to be acceptable in meeting the terms of the Development Plan and relevant Fife Council Planning Customer Guidelines. Approval is therefore recommended.

RECOMMENDATION

It is accordingly recommended that the application be approved unconditionally

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

Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Scottish Planning Policy (2014) (Valuing the Historic Environment)

Historic Environment Scotland Policy Statement (2019)

Development Plan

FIFEplan Local Development Plan (2017)

Other Guidance

Making Fife's Places Supplementary Guidance (2018)

Culross Conservation Area Appraisal and Conservation Area Management Plan 2009

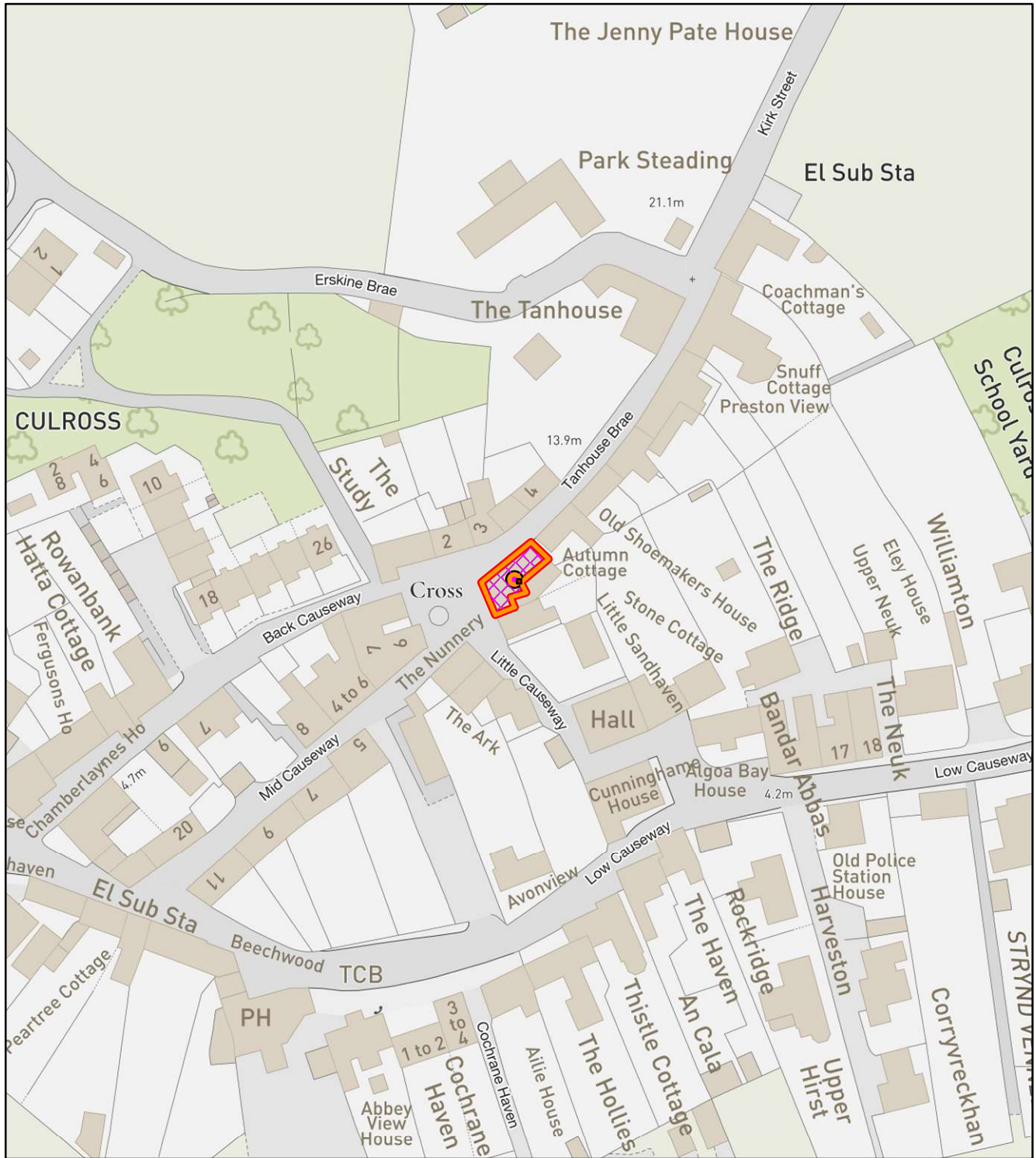
Report prepared by Martin Mackay, Chartered Planner

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

Date Printed 12/08/2021

21/00873/LBC

The Cross Tanhouse Brae Culcross



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 12

**APPLICATION FOR MODIFY/DISCHARGE OF PLANNING OBLIGATION REF:
20/01178/OBL**

**SITE ADDRESS: FLEMING BUILDING DONIBRISTLE INDUSTRIAL PARK RIDGE
WAY**

PROPOSAL : DISCHARGE OF PLANNING OBLIGATION 15/03782/PPP

**APPLICANT: MR WILLIAM MCALISTER
93 GEORGE STREET EDINBURGH EH2 3ES**

**WARD NO: NW06
Inverkeithing And Dalgety Bay**

CASE OFFICER: Kathleen Illingworth

**DATE 09/06/2020
REGISTERED:**

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The earlier application was considered by committee.

SUMMARY RECOMMENDATION

The application is recommended for:

Refusal

**ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL
CONSIDERATIONS**

1.1 Background

1.1.1 This application relates to a planning obligation associated with 15/03782/PPP - Planning permission in principle for a mixed use development comprising the erection of a Class 1 retail unit, erection of restaurant with licensed bar (Class 3), erection of a drive-thru restaurant (Class 3), erection of a business unit (Class 4) and children's indoor play area (Class 11) with associated works including access, car parking and landscaping (Section 42 application to amend Condition 4) (of planning permission, reference 13/02953/PPP). The application was approved at committee, subject to conditions and the conclusion of a legal agreement securing payment of a commuted sum of £50,000 to assist the Council with the implementation of environmental improvements to Donibristle and Hillend Industrial Estate and/ or the acquisition of land within Dalgety Bay, which the Council considers would assist in the delivery of a sustainable land strategy. The Planning Obligation was signed by both relevant parties in March/April 2016. The Planning Obligation was first agreed as part of Planning Permission in Principle, reference 13/02953/PPP, which was signed by both parties in July 2015.

1.1.2 The purpose of the planning obligation was to secure payment of a commuted sum of £50,000 to assist the Council with the implementation of environmental improvements within Donibristle and Hillend Industrial Estate and / or the acquisition of land within Dalgety Bay, which the Council considers would assist in the delivery of a sustainable land strategy. The agreement required that the payment would be made prior to the commencement of development.

1.2 Proposal

1.2.1 This application proposes to discharge the Planning Obligation. The applicant states that the obligation does not meet all the 5 tests -that the agreement is no longer relevant or necessary. They also contend that the payment of the contribution would make the development uneconomical. A Supporting Statement and Viability Appraisal was submitted alongside the application to discharge the agreement in June 2020. A further Financial Viability Appraisal has been submitted in support of the application.

1.3 Planning History

1.3.1 Planning permission in principle, reference 13/02953/PPP, for a mixed use development comprising the erection of a Class 1 retail unit, erection of restaurant with licensed bar (Class 3), erection of a drive-thru restaurant (Class 3), erection of a business unit (Class 4) and children's indoor play area (Class 11) with associated works including access, car parking and landscaping. Approved at committee December 2014 subject to conditions and the conclusion of a legal agreement.

1.3.2 Planning permission in principle, reference 15/03782/PPP, for a mixed use development comprising the erection of a Class 1 retail unit, erection of restaurant with licensed bar (Class 3), erection of a drive-thru restaurant (Class 3), erection of a business unit (Class 4) and children's indoor play area (Class 11) with associated works including access, car parking and landscaping (Section 42 application to amend Condition 4 (to allow for the loss of a further 2 no trees)) (of planning permission in principle application, reference 13/02953/PPP). Approved at committee March 2016.

1.3.3 Planning application, reference 16/02388/ARC - Application for Approval of Matters Specified in Conditions 1, 2, 3 and 8 of Planning Permission in Principle 15/03782/PPP, approved using officer delegated powers and subject to conditions December 2016.

1.3.4 Planning application, reference 16/02676/ARC for Approval of Matters Specified in Conditions 2A, 2B and 2C of Planning Permission in Principle -15/03782/PPP, approved using officer delegated powers, and subject to conditions in January 2017.

1.3.5 Planning application, reference 17/02837/FULL, for a mixed use development comprising: the erection of a restaurant with licensed bar (class 3); erection of a unit for class 6 use (with ancillary trade counter); erection of a commercial unit for class 3 and hot food takeaway use; and associated works including access, car parking and landscaping. Approved using officer delegated powers in March 2018.

1.3.6 Planning application, reference 19/00224/FULL, for the erection of café (Class 3) with ancillary drive thru (sui generis) as well as associated works including outdoor seating area, parking, access, landscaping and drainage. Approved using officer delegated powers in July 2019.

1.3.7 Planning application, reference 20/01040/FULL for planning permission in principle for a mixed use development comprising the erection of a Class 1 retail unit, erection of restaurant with licensed bar (Class 3), erection of a drive-thru restaurant (Class 3), erection of a business unit (Class 4) and children's indoor play area (Class 11) with associated works including access, car parking and landscaping (Section 42 application to vary condition 10 (relating to car parking) of application 15/03782/PPP), approved using officer delegated powers in August 2020.

1.3.8 Planning application, reference 21/00228/FULL, for the erection of cafe (Class 3) with ancillary drive thru (Sui generis) and gymnasium (Class 11) with associated access, parking, outdoor seating area and landscaping. Approved using officer delegated powers in August 2021.

2.0 Assessment

2.1 Circular 3/2012: Planning Obligations and Good Neighbour Agreements requires that planning obligations meet all of the five tests as set out in paragraphs 14-25 of the circular:

- 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
- be reasonable in all other respects

2.2 The original planning obligation which this application seeks to discharge is considered to have been necessary, served a planning purpose, was related to the proposed development and was reasonable at the time it was agreed as the development was required to make payment of a commuted sum of £50,000 to offset the loss of employment land as per the terms of the Development Plan and Supplementary Guidance at the time the planning permission was granted.

2.3 This application seeks the discharge of the Planning Obligation. This type of application also does not revisit the merits of the development as proposed but only looks at whether there is a need for a Planning Obligation and whether that Planning Obligation is still appropriate in terms of Circular 3/2012. The main points of assessment for this application are as follows:

- Whether the Planning Obligation meets all the Tests set out in Circular 3/2012
- Whether payment of the contribution towards environmental improvements makes the development unviable

2.4 Whether the Planning Obligation meets the Tests set out in Circular 3/2012

2.4.1 The applicant contends that the obligation is no longer relevant or necessary. In the Supporting Statement the agent refers to The Fife Employment Land Strategy (November 2012) and the Fife Employment Land Audit 2018 and demonstrates that since there is no longer a deficiency in the available employment land supply for Dalgety Bay that the £50,000 contribution is no longer necessary or relevant (reasonable).

2.4.2 Fife Council, Economic Development Team (EDT), in their consultation response to 20/01178/OBL give the background to the original requirement for the obligation. They advise that the original planning application (13/02953/PPP) was significantly contrary to the development plan. The commuted sum was eventually negotiated to offset the loss of the safeguarded employment area. Economic Development Team address the argument made by the applicant that the Dalgety Bay settlement is now highlighted green in the 2018 employment land audit. They (EDT) note that safeguarded employment areas are not audited as part of the employment land audit and their change of use does not alter the red/ amber / green status of settlements within the audit. EDT continue that the term employment land is used to cover both safeguarded employment areas and designated employment land. It is also important to highlight for this application that the commuted sum payment was negotiated to offset the loss of a safeguarded employment area which was home to York EMC, who operated their engineering business from the premises as opposed to a designated employment land site which would have been counted in the employment land audit.

2.4.3 Section 2.1 of this report sets out the tests that a Planning Obligation must meet to be compliant with Circular 3/2012. If any of these tests fail then it could be argued that the Planning Obligation should be discharged as being non-compliant with the Circular depending on the material weight given to the Circular. These will be considered in turn.

2.4.4 The need for the contribution is referred to in section 2.4.2 above. The Development was significantly contrary to the development plan as it introduced retail, food and sui generis uses in an area designated for employment use in the development plan. The commuted sum was negotiated to offset the loss of the safeguarded employment area through securing improvements to the balance of the employment land area, making it more attractive for new employment uses and more likely to retain existing businesses. The planning obligation is therefore necessary to make the proposed development acceptable in planning terms.

2.4.5 The financial contribution would serve a planning purpose. The contributions would be used to assist the Council with the implementation of environmental improvements to Donibristle and Hillend Industrial Estate and/ or the acquisition of land within Dalgety Bay, which the Council considers would assist in the delivery of a sustainable employment land strategy. The second test is therefore met.

2.4.6 The requirement for the contributions is established in sections 2.4.2 above and does demonstrate that the need for the contributions relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area. The third test has therefore been met.

2.4.7 The level of contribution required was discussed with the developer at the time the S75 was negotiated. The contribution levels are considered to be fair and proportionate to the development. The fourth test has therefore been met.

2.4.8 The need for a contribution towards infrastructure is set out within the Adopted FIFEplan (2017) and the Planning Obligations Draft Framework Supplementary Guidance (2017) and therefore has been established through policy. The contribution is therefore considered reasonable in all other respects. The fifth test has therefore been met.

2.4.9 The Planning Obligation therefore meet all the tests within Circular 3/2012.

2.5 Whether payment of the contribution towards environmental improvements makes the development unviable

2.5.1 In instances where developers claim that payment of financial contributions will result in the development becoming unviable the process is for the developer to make their case. This information is then passed to the District Valuer (DV) who will make an assessment on financial viability – based on the information submitted. The information submitted is economically sensitive and is not shared in a public forum. On this basis the detailed response, from the DV, is not publicly accessible. Only the main conclusions are shared in this Report of Handling.

2.5.2 The Financial Viability Appraisal advises that the mixed use development has, in the main, been delivered - the completion of a terrace of six commercial units let to range of occupiers including Screwfix, Bathroom Centre Fife, Specsavers, Subway, Domino's and Greggs together with a new estate road and the formation of two serviced development plots with associated services and landscaping. The first of these serviced plots now accommodates a new ALDI supermarket and the second of these has been sold for the delivery of a new Costa Coffee operation. Notwithstanding that the development has been delivered and is mainly occupied (apart from the vacant site with planning permission for the drive thru) the developer contends that the financial contribution should not be paid because the consented scheme was ultimately not financially viable, that the developer has incurred a significant loss in terms of site assembly, demolition of the previous buildings and structures on site and progressing the subsequent development. Fife Council, Economic Development Team, in their consultation response to 20/01178/OBL, comment that development viability was discussed with the applicant prior to the original planning application being granted.

2.5.3 The District Valuer (DV) was appointed to assess the Financial Viability Appraisal. The DV notes that the development on site does reflect that originally approved indicating that the approved development was the optimum development for the site. The DV does also refer to COVID-19 in their report – as a background to the current economic climate but considers that this environment does not create any 'material valuation uncertainty' – in relation to the current report from them. The DV has carried out their own residual appraisal and does not agree with the conclusions in the submitted Financial Viability Appraisal. The final report from the DV, concludes that the requirement for the developer to make a financial contribution of £50,000 will not make the development unviable. The development is considered viable, albeit with a lower profit/ return than the applicants had hoped for.

Business And Employability

The payment was to compensate the loss of a safeguarded employment area (as opposed to employment land) that was not applicable in the employment land audit and as such the contribution is fair.

REPRESENTATIONS

None

CONCLUSIONS

The contribution towards infrastructure is required since it has been demonstrated that this requirement does accord with FIFEplan Policies 1 and 4 and Planning Obligations Framework Supplementary Guidance (2017). The District Valuer has been instructed to make an assessment and concludes that the payment of the contribution will not make the, mainly completed, development unviable. On that basis and given that the Developer had already agreed these figures a contribution of £50,000.00 is required. The Planning Obligations meet all the tests within Circular 3/2012. and the discharge is not considered acceptable.

RECOMMENDATION

The application be refused for the following reason(s)

1. The justification submitted by the applicant has failed to provide sufficient evidence to set aside the requirement to provide the financial contribution towards infrastructure. As such, the Planning Obligation is required for the development to be in compliance with Scottish Planning Policy (2014), Adopted FIFEplan (2017) and Planning Obligations Draft Framework Supplementary Guidance (2017).

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Guidance
Scottish Planning Policy (2014)

Development Plan
Adopted FIFEplan (2017)

Other Guidance/Legislation

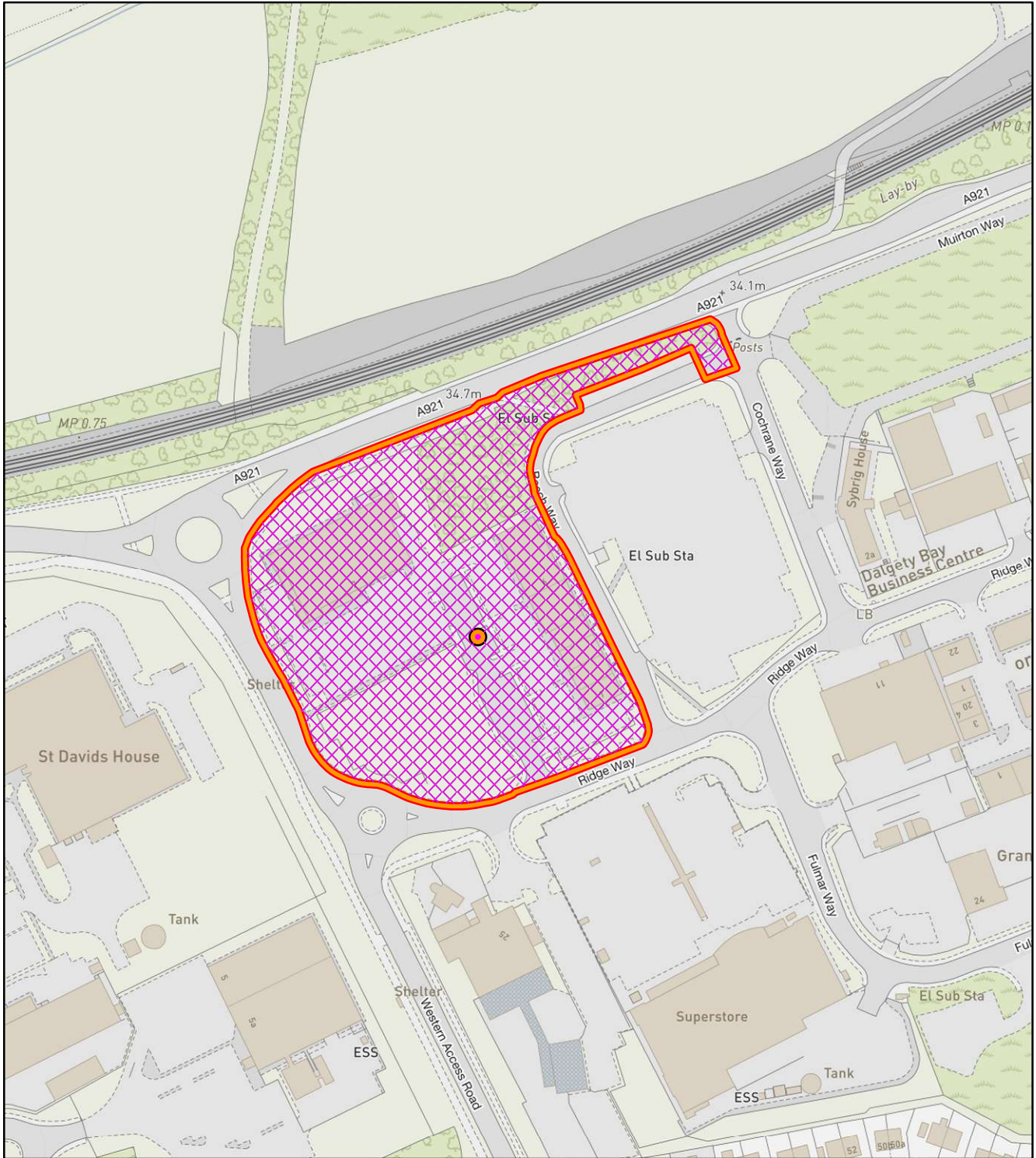
Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020)
Fife Council Planning Obligations Draft Framework Supplementary Guidance (2017)

Report prepared by Kathleen Illingworth, Case Officer and Chartered Planner
Report reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 10/08/2021

20/01178/OBL

Fleming Building, Donibristle Ind Pk Ridge Way Hillend Ind Pk Dunfermline



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Legend			
 Application Boundary			

ITEM NO: 13

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/01007/FULL

SITE ADDRESS: GREENSIDE HOTEL 1 HIGH STREET LESLIE

PROPOSAL : CHANGE OF USE FROM HOTEL (CLASS 7) TO MIXED USE (SUI GENERIS) AS RESIDENTIAL CARE INSTITUTION AND DAY CARE/COMMUNITY SERVICE CENTRE

**APPLICANT: REV RYAN ROBERTSON
C/O GRAHAM & SIBBALD 233 ST VINCENT STREET
GLASGOW**

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

CASE OFFICER: Brian Forsyth

DATE 30/04/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The application has attracted six or more separate individual representations which are contrary to the officer's recommendation.

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. Under Section 64(1) of the Planning (Listed Buildings and

Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the relevant designated area.

1.0 BACKGROUND

1.1 This 0.17 hectare application site comprises the disused C-listed Greenside Hotel and its grounds, abutting the north side of High Street at its junction with Greenside, within both the eastern edge of the settlement of Leslie in terms of the adopted FIFEplan Fife Local Development Plan (2017) and the Leslie Conservation Area. The hotel is located to the west of the site, its grounds to the east incorporating parking accessed off High Street. Housing adjoins and runs away from the site along High Street and Greenside, to the south-west and north-east respectively. There is also housing across High Street to the south and below to the north off Monk's Walk. Across Greenside to the east is the village green, The Green. An area of agricultural land adjoins to the west.

1.2 Full planning permission is sought for change of use from hotel (Class 7) to mixed use (Sui Generis) as a residential care institution and day care/community service centre. No internal or external alterations or other development is proposed and none considered necessary by the applicant.

1.3 The agent clarifies that the proposal is for a hub providing residential and non-residential services for the local community, operated by the applicant, New Hope Community House Fife (NHCHF), functioning primarily as a hostel utilising the 15 former hotel rooms as safe places to stay for individuals affected by homelessness, substance abuse, and/or mental health issues. The focus would be on housing these individuals while also providing counselling and other services targeted to help them re-establish within the community. It is stated that NHCHF intends to encourage residents within its care to enrol in the many programmes it would offer, for example: life skills (e.g. healthy cooking), financial management and confidence building, to securing and keeping a long-term tenancy. NHCHF's long-term goals are described as building a portfolio of HMOs where residents who have enrolled in programmes, having engaged well with the service, would be housed, encouraging independence and the security of continued support if required. Residents of the proposed facility would also have the opportunity to undertake vocational qualifications and/or be supported in finding work and voluntary opportunities. The premises would also provide a number of in-house services to the more at-risk and vulnerable of its residents, including holistic care providing residents with the opportunity to participate in day trips and team building activities, a residential addiction caseworker providing a therapeutic approach and high standards of care towards those with substance misuse issues, and a chaplain to provide spiritual and pastoral care for residents. It is stated that NHCHF would have a zero-tolerance approach to substance misuse on the premises.

1.4 In addition to services for residents, it is stated that the function suite and bar/restaurant space would also provide a community hub and network for local residents from Leslie, Glenrothes and the wider Fife area. New Hope Community Church would provide a food bank and provisions for those in need, free of charge, in cooperation with other local organisations. A community drop in would provide community meals. Family programmes would also be offered, encouraging parents and children within the community to develop positive relationships with one another. New Hope Community Church would also offer a drop-in service to offer parish nursing. This part of the premises that would operate as a community hub would benefit from a separate entrance and exit, meaning visitors could come in and interact with the services offered

by NHCHF without entering the areas of the building that would be used as a residential institution.

1.5 The agent advises that the use will create six full-time and four part-time jobs, with room to grow the staff in the future.

1.6 No works are proposed to the exterior of the building or within the grounds and internal changes are of a very minor nature.

1.7 Full planning permission (07/02695/CFULL) for erection of single-storey extension to the front and rear of the hotel and a two-storey side extension was approved with conditions on 15th July 2008. An accompanying listed building consent (07/02830/CLBC) for the erection of a single-storey extension to the front and rear of hotel, a two-storey side extension and internal alterations was also approved on 15th July 2008.

1.8 A physical site visit has not been undertaken for this planning application. All necessary information has been collated digitally to allow the full consideration and assessment of the proposal. A risk assessment has been carried out and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal.

2.0 ASSESSMENT

2.1 The issues to be assessed against the development plan and other guidance are as follows:

- Principle of Development
- Road Safety/Transportation
- Residential Amenity
- Impact on the Character of the Conservation Area
- Fear of Crime/Anti-Social Behaviour

2.2 Principle of Development

2.2.1 Scottish Planning Policy (2014) promotes the use of the plan-led system to provide a practical framework for decision-making on planning applications, reinforcing the provisions of Section 25 of the Act.

2.2.2 Part A of Policy 1: Development Principles of FIFEplan supports the principle of development 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 FIFEplan. The site lies within the defined settlement boundary for Leslie in terms of FIFEplan.

2.2.3 Part B of Policy 1 and Policy 3: Infrastructure and Services collectively state that development proposals must address their development impact by avoiding the loss of viable and valuable cultural, tourism and community resources. Supporting text to Policy 3 adds that the Council supports the continued use of community facilities as important focal points for local activity and which serve a valuable employment, tourism and/or local community purpose; such uses include hotels, public houses, restaurant and leisure facilities; any proposed loss of community facilities is to be resisted and may only be deemed acceptable by the Council if it is accompanied by a statement that demonstrates, through evidence of marketing for a reasonable time period (at least 18 months) and at a fair market value for the current use, that: the existing business is not viable; the existing building cannot be reused for its existing purpose; equivalent

alternative facilities exist in the local community; and the site cannot be redeveloped for a local community or tourism purpose.

2.2.4 The agent for the application, a firm of chartered surveyors, has submitted statements explaining that the firm was appointed to sell the heritable interest in the Greenside Hotel in April 2018 and that, upon their appointment, a set of sale particulars was prepared and distributed to its buyers' database, both by email and by post. Also, it is explained that a series of adverts were placed in the Scottish Licensed Trade News throughout 2018 and 2019. Evidence of this is provided in submitted screenshots from online marketing platforms, the copy particulars and brochure giving evidence of the scale of the marketing campaign that was undertaken. It is advised that throughout this campaign, little or no interest was seen from purchasers looking to acquire the hotel as a going concern, the viewings generated since January 2020 all from builders or property developers looking to change the property to residential use. It is explained that, in this time the offer to use the hotel as a residential institution, subject of this planning application, has been the only offer of any kind. The agent understands from the current business owner that the property had been marketed for many years prior by a different company with no interest.

2.2.5 The agent adds that while the past 12-15 months of trading and marketing of the property have been made more difficult by the Covid-19 pandemic, there is sufficient evidence that the business was not viable and unable to attract any bids for a number of years prior to this, the current situation being indicative of a longer-term difficulty in attracting a willing buyer. The surveyors' stated opinion is that it is improbable that an operator will be found for the hotel.

2.2.6 The above submitted evidence of marketing, being for a period considerably in excess of the minimum 18 months, is indicative of the current business not being viable, meaning that the existing building is unable to be reused for its existing purpose. Equivalent alternative facilities do exist in the local community, a search of alternative overnight tourist accommodation within one mile the Greenside Hotel identifying the following:

- Firbank Lodge - Guest House - 44 High Street, Leslie
- Station Hotel - Hotel - 277 High Street, Leslie
- Holiday Inn Express Glenrothes - Hotel and bar/breakfast lounge - Leslie Mains, Leslie
- Best Western Balgeddie House - Hotel, bar/restaurant, conference suites - Balgeddie Way, Glenrothes

It may also be considered that the proposal replaces a hotel, one form of community facility, with another form of community facility, the proposed use including for a food bank, community meals drop-in, family programmes and parish nursing, in addition to the residential function of providing accommodation for individuals from within the community affected by homelessness.

2.2.7 It is considered that the principle of the development in the location proposed in terms of general land use policies is acceptable and complies with the relevant Local Development Plan policies noted above. The assessment of the overall acceptability of the proposal in relation to specific detailed matters is considered further below.

2.3 Road Safety/Transportation

2.3.1 Part B of Policy 1: Development Principles of FIFEplan states that development proposals must address their development impact by complying with relevant criteria and supporting policies, including mitigating against the loss in infrastructure capacity caused by the

development by providing additional capacity or otherwise improving existing infrastructure and complying with Policy 3: Infrastructure and Services. Policy 3 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 the 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, amongst other things, local transport and safe access routes which link with existing networks, including for walking and cycling, utilising the guidance in Making Fife's Places Supplementary Guidance (2018). Development proposals require to demonstrate how they will impact on road safety.

2.3.2 The Council's Transportation Development Management team (TDMT) states that it is likely that the overall car parking demand will be less than would have existed for the hotel, the envisaged demographic having a lower rate of car usage compared to hotel guests. The day care / community hub element of the development is proposed to utilise the existing function room and bar, and it is not envisaged that this element of the development will necessitate a greater parking requirement than the previous use. It is proposed that the existing off-street parking shall be utilised for the proposed development; TDMT, therefore, has no objection to the application, subject to a standard condition requiring the existing off-street parking to be retained throughout the lifetime of the development.

2.3.3 It is considered that operation of the proposed development would give rise to similar impacts in road safety/transportation terms to those arising from a continued use of the premises as a hotel. As such, taking into account the views of TDMT and subject to its recommended condition, it is considered that the proposal would not lead to a significant detrimental impact in terms of road safety and transportation, according with the above provisions of policy and guidance in relation to same.

2.4 Residential Amenity

2.4.1 Part B of Policy 1: Development Principles of FIFEplan states that development proposals must address their development impact by complying with relevant criteria and supporting policies, including protecting the amenity of the local community and complying with Policy 10: Amenity. Policy 10 states that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses; development proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to, amongst other things, noise and other nuisances. The Council's Noise Guidance for New Developments (2021) and the Scottish Government's Planning Advice Note PAN 1/2011 are also relevant here.

2.4.2 The Council's Environmental Health (Public Protection) (EHPP) team has no objection in terms of noise or otherwise.

2.4.3 It is considered that operation of the proposed development would give rise to similar impacts in terms of noise and other nuisance to those arising from a continued use of the premises as a hotel. As such, and taking into account the views of EHPP, it is considered that the proposal would not lead to a significant detrimental impact on amenity in relation to noise and other nuisances, according with the above provisions of policy and guidance in relation to same.

2.5 Impact on the Character of the Conservation Area

2.5.1 The proposal does not involve any external alterations to the existing building, therefore there is no impact on the Conservation Area.

2.6 Fear of Crime/Anti-Social Behaviour

2.6.1 Objections from neighbours and local residents have raised concerns regarding the fear of crime and anti-social behaviour arising and potentially increasing as a consequence of the proposed use. Particular concerns have been expressed in relation to the safety of children, the elderly and vulnerable. An additional concern raised relates to the context of the proximity of the proposed premises and other social housing nearby; with allegations that the occupants of the scatter flats being involved with drugs and police having to attend.

2.6.2 Fear of crime/anti-social behaviour is a matter that is more properly for other agencies such as the Care Inspectorate and/or Police Scotland to consider and do not constitute reasonable grounds for refusing planning permission.

CONSULTATIONS

Community Council	Objects.
Transportation And Environmental Services - Operations Team	No response.
Transportation, Planning Services	No objection subject to standard type condition.
Environmental Health (Public Protection)	No objection.

REPRESENTATIONS

36 objections have been received, including one from Leslie Community Council as a Statutory Consultee, and one letter inviting consideration of certain matters but not raising objections.

The matters raised in objections are summarised as follows:

- Loss of hotel as a community use and consequent economic impacts: paras 2.2.4-2.2.6
- There is no need for this service here; it would be better for residents/users and the local community if it were located elsewhere.

Officer Response: This is not a material planning consideration. The application must be considered on its merits, regardless of the existence or not of better locations.

- The proposed use is not viable.

Officer Response: This is not a material planning consideration.

- Fear of crime/anti-social behaviour

Officer response: Fear of Crime/Anti-Social Behaviour is dealt with in the main body of the report: para:2.6.1

- The facility here would not give residents/users the best chance of rehabilitation, being near to public houses and the scatter flats, occupants of the latter being involved with drugs, etc.

Officer response: The suitability of the premises for particular residents/users is for the relevant bodies involved in their care and for the residents/users themselves and not a material planning consideration.

- Other organisations are already providing or planning on providing the services proposed, including by organisations rooted in the local community; suggest application is put on hold meantime.

Officer response: Neither the 'provenance' of service providers nor the loss of business/increased competition in the provision of services is a material planning consideration. Neither are these justifications for delaying a decision.

- Impact in terms of noise and residential amenity

Officer response: This is dealt with in the main body of the report: Paras 2.4.2 & 2.4.3

- Inadequacy of parking.

Officer response; This is dealt with in the main body of the report: paras 2.3.2-2.3.3

- Development would adversely impact on this historic building, a listed building, and on the conservation area, the site being a prominent entry point to the village.

Officer response: No works are proposed to the exterior of the building or to the rest of the site and, as such, it is not considered that there would be any impact on built heritage interests or the visual amenity of the area generally.

- Applicant's background, including credentials, skills and experience.

Officer response: This is not a material planning consideration. The suitability of the operator is a matter for the relevant care bodies.

- Impact on property values.

Officer response: This is not a material planning consideration.

CONCLUSIONS

The development is acceptable in terms of the relevant provisions of the development plan and guidance, being those in relation to the principle of development, road safety/transportation, residential amenity, impact on conservation area, and fear of crime/anti-social behaviour. Overall, it is considered that the development accords with the development plan, with no relevant 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. The existing off-street parking associated with the building shall remain in place for the lifetime of the development.

Reason: To ensure the provision of adequate off-street parking.

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

FIFEplan Fife Local Development Plan (2017)
Fife Council Making Fife's Place's Supplementary Guidance (2018)

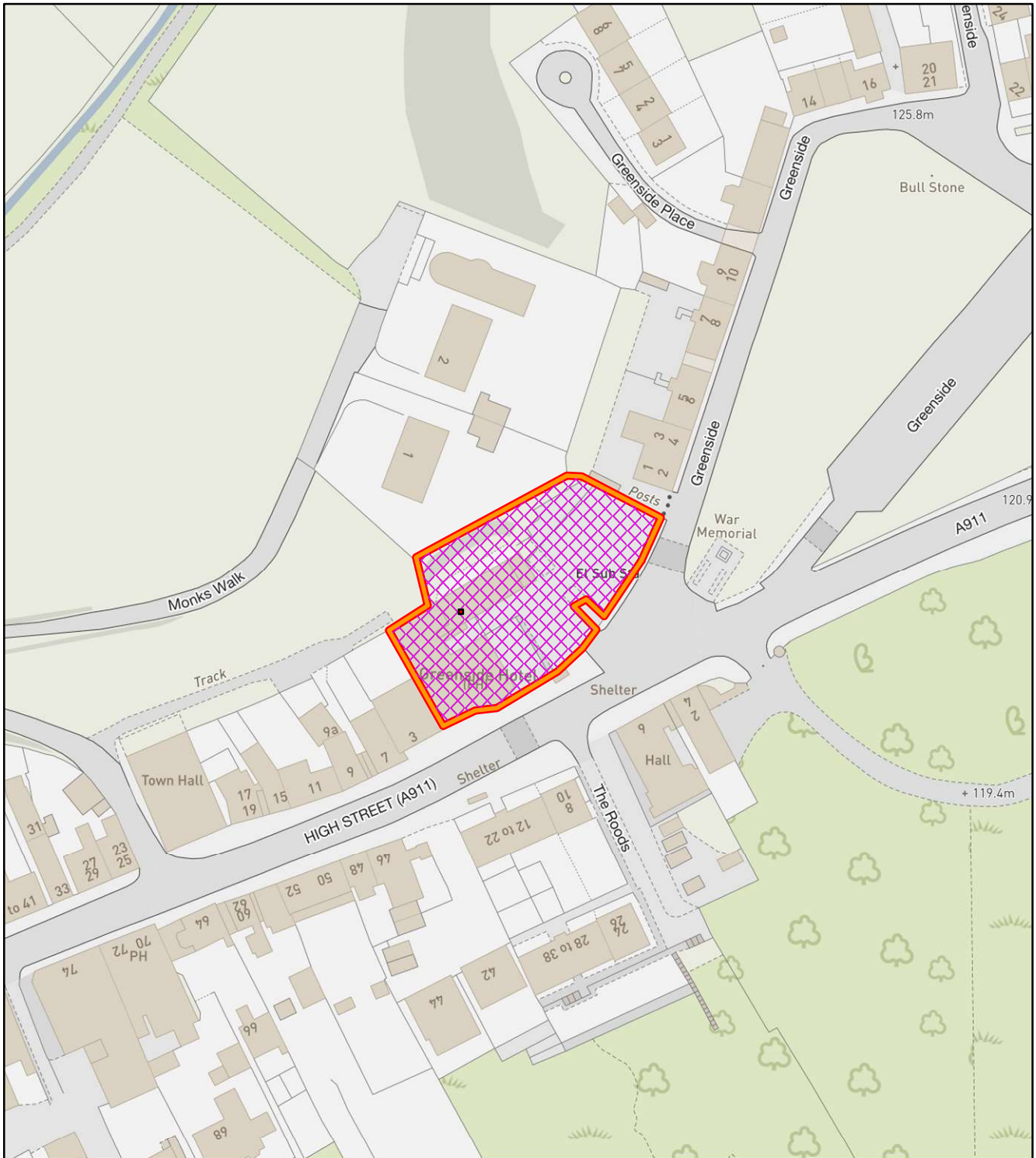
Other

Fife Council Noise Guidance for New Developments (2021)
Planning Advice Note PAN 1/2011 Planning and Noise (2011)

Report prepared by Brian Forsyth, Chartered Planner.
Report reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 11/08/2021

Greenside Hotel 1 High Street Leslie



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Legend		
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