**West and Central Planning Committee**

This meeting will be held remotely.

Wednesday, 18th January, 2023 - 2.00 p.m.

AGENDA

Page Nos.

**1. APOLOGIES FOR ABSENCE**

**2. DECLARATIONS OF INTEREST**

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

**3.** **MINUTE** – Minute of the meeting of West and Central Planning Committee of 14th December, 2022. 3 - 4

**4.** **22/02270/FULL - MILESMARK ROADS DEPOT, CARNOCK ROAD, DUNFERMLINE** 5 - 37

Residential development of 69 dwellinghouses (Class 9) with associated infrastructure and landscaping.

**5.** **22/01895/OBL - FORMER TULLIS RUSSELL MILL, GLENROTHES** 38 - 45

Modification of planning obligation 18/01756/EIA.

**6. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS**

List of applications dealt with under delegated powers for the period 28th November to 25th December, 2022.

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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Head of Legal and Democratic Services
Finance and Corporate Services

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11 January, 2023

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

**14th December, 2022** **2.00 p.m. – 2.40 p.m.**

**PRESENT:** Councillors David Barratt (Convener), David Alexander, Lesley Backhouse, John Beare, James Calder, Dave Dempsey, Derek Glen, James Leslie, Lea Mclelland, Derek Noble, Gordon Pryde and Sam Steele.

**ATTENDING:** Mary Stewart, Service Manager Planning Services; Mary McLean, Team Manager – Legal Services, Christopher Glendinning, Solicitor and Emma Whyte, Committee Officer, Legal and Democratic Services.

**APOLOGIES FOR ABSENCE:** Councillors Colin Davidson, Julie MacDougall and Andrew Verrecchia.

**58. DECLARATIONS OF INTEREST**

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

**59. MINUTE**

The Committee considered the minute of the West and Central Planning Committee of 16th November, 2022.

**Decision**

The Committee agreed to approve the minute.

**60. 22/01074/FULL - BENARTY COMMUNITY CENTRE, HILL ROAD, BALLINGRY**

The Committee considered a report by the Head of Planning Services relating to an application for the erection of 6 units (3 x Class 1, 2 x Class 2 and 1 x hot food takeaway (Sui Generis) and associated works.

**Decision**

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

**61. 21/02186/FULL - KITTY MCGINTY'S AULD POST HOTEL 1 HUNTER STREET**

The Committee considered a report by the Head of Planning Services relating to an application for change of use from nightclub (Class 11) to form 19 flatted dwellings, including erection of a 3-storey extension, installation of replacement windows and doors and partial demolition of a Listed Building.

**Decision/**

**Decision**

The Committee agreed:-

(1) to approve the application subject to the nine conditions and for the reasons detailed in the report and following the conclusion of an agreement to secure the necessary planning obligations, namely a contribution of £17,100 towards affordable housing; and

(2) that authority was delegated to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to negotiate and conclude the legal agreement necessary to secure the planning obligation.

## 62. 21/02187/LBC - KITTY MCGINTY'S AULD POST HOTEL, 1 HUNTER STREET

The Committee considered a report by the Head of Planning Services relating to an application for Listed Building Consent for external and internal alterations, part demolition and extension with associated works.

**Decision**

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

## 63. 22/02907/FULL - LAND TO WEST OF LOW ROAD THORNTON

The Committee considered a report by the Head of Planning Services relating to an application for the erection of a boundary fence (retrospective).

**Decision**

The Committee agreed to approve the application unconditionally.

## 64. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS

**Decision**

The Committee noted the lists of applications dealt with under delegated powers for the period 31st October to 27th November, 2022.

**ITEM NO: 4**

**APPLICATION FOR FULL PLANNING PERMISSION REF: 22/02270/FULL**

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|---|---|
| **SITE ADDRESS:** | **MILESMARK ROADS DEPOT CARNOCK ROAD DUNFERMLINE** |
| **PROPOSAL :** | **RESIDENTIAL DEVELOPMENT OF 65 DWELLINGHOUSES CLASS 9) AND 4 FLATTED DWELLINGS WITH ASSOCIATED INFRASTRUCTURE AND LANDSCAPING** |
| **APPLICANT:** | **ALLANWATER DEVELOPMENTS LTD 24B KENILWORTH ROAD BRIDGE OF ALLAN FK9 4DU** |
| **WARD NO:** | W5R02 Dunfermline North |
| **CASE OFFICER:** | Scott Simpson |
| **DATE REGISTERED:** | 13/07/2022 |

## REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

This application relates to a Major development.

## SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

## ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

The Scottish Government laid the latest National Planning Framework 4 (NPF4) before Parliament on Tuesday 8 November 2022. With the publication of NPF4 this is now a material consideration in the assessment of planning applications. NPF4, once adopted, will form part of the statutory Development Plan, and provides the national planning policy context and agenda for the assessment of all planning applications. NPF4 has six overarching spatial principles to deliver sustainable places, liveable places, and productive places.

The policy context of NPF4 is set at a high level to provide directive but indicative policy context to be taken forward in further detail at a later date. The Adopted FIFEplan (2017) and associated Supplementary Guidance provides the most up to date expression of planning policy for Fife and continues to be part of the Development Plan until it is replaced. When NPF4 is adopted, the SESplan and TAYplan Strategic Development Plans and any supplementary guidance issued in connection with them cease to have effect and will not form part of the Development Plan.

In this context, Fife Council Planning Services considers that while the finalised NPF4 is a material consideration, the detailed policy context in relation to the assessment and determination of planning applications at the present time should still be assessed against the adopted FIFEplan Local Development Plan 2017.

Having assessed the current application against the policy provisions of the finalised NPF4 and the Adopted FIFEplan (2017) there are no policy conflicts which would prevent the determination of the application when assessed against the policy provisions of FIFEplan.

1.0 BACKGROUND

1.1 Site Description

1.1.1 The application site is located within the Dunfermline Settlement Boundary as designated within the Adopted FIFEplan (2017) and lies between Carnock Road and a former railway line to the south with the site area measuring approximately 2.78 hectares. To the north, east and west of the site are single storey and one and half/two storey modern style dwellings. Access to the site is taken from Carnock Road to the north and there is a row of trees located at the rear of the site and on the north and north-east boundaries. The site is bound by a stone wall and an approximately 2.5 metre high wire fence on the north and west boundary, whilst an approximately 2.5 metre high timber fence runs along the north boundary on the eastern side of the existing access The site is zoned within the FIFEplan as a Safeguarded Employment Area. The land is also potentially contaminated due the former uses of the site as a Council Depot and the site is within a Coal Mining High Risk Area. A Core Path (Path Code: P597/01) and Cycle Network Route (Route Name: 764 and West Fife Way) run adjacent to the southern boundary of the site.

1.2 Proposal

1.2.1 This application is for full planning permission for the erection of 65 dwellings (Class 9) and 4 flatted dwellings with associated infrastructure and landscaping. The proposal would include a mixture of two storey terraced, semi-detached and detached dwellinghouses and one block of two storey semi-detached cottage flats (26 x 3 bedroom, 6 x 2 bedroom, 31 x 4 bedroom and 6 x 5 bedroom properties). The site would include a mixture of property styles, including 14 different house-types incorporating a mixture of modern finishing materials including terracotta and slate grey coloured concrete roof tiles, dry dash finishes (Powerwall buff with golden spar chip and Powerwall white with white chip), white coloured UPVC windows and doors, black coloured

rainwater good and cast stone basecourses. The proposed driveways would have a mono-block paving finish (Edenhall Thistle Stone - Buff Split face and Marshalls Monoblock - Brindle).

1.2.2 The boundary treatments to the north boundary gardens and front facing gardens within the site would include a row of hedges which would grow to be retained at approximately 60 cm high, whilst the existing retaining wall on the western boundary would be retained and repaired where necessary. Rear garden ground areas would be divided by approximately 0.9 metre high fences. The vehicular access into the site would include a stone boundary wall on either side of the access which would incorporate an art feature, however, no details relating to this have been submitted. A retaining wall would be erected at the north-east corner of the site which faces onto 217 to 231 Carnock Road and this would measure between approximately one metre and 3.2 metres high as the wall runs along this boundary. The retaining wall would have a wet-cast block concrete finish which would have a stone appearance and planting would be utilised on this wall. An approximately 1.2 metre high fence would be located atop this retaining wall along the boundaries of the rear garden ground areas.

1.2.3 A single vehicular access is proposed into the site from Carnock Road to the north and footpaths and cycle links are proposed to Targate Road to the west, Carnock Road to the north, the adjacent development to the east and the existing public cycle path to the south on the track bed of the former railway line. Parking throughout the development would include a range of parking types including off-street side parking, front parking and parking courts. The existing pavement along Carnock Road would be widened to provide a 3-metre-wide cycle/pedestrian footpath.

1.2.4 A network of green infrastructure is proposed throughout the site including the creation of a large new public open space area (1900 square metres) on the northern part of the site adjacent to Carnock Road, whilst two other areas of open space are proposed on the western (1084 square metres) and eastern (553 square metres) part of the site. A range of species rich native trees (61 in total), new wildflower grassland, grassed areas, shrubs, and hedgerows are proposed throughout the site. The existing row of trees to the north, north-west and trees within the site would be removed to make way for the proposal. Several trees adjacent to the southern boundary would also be removed.

1.2.5 An underground SUDs storage system would be located under the proposed open space areas within the northern and western part of the site, and these would include underground storage cells with a capacity of 144, 475 and 110 cubic metres each. All driveways and parking courts would be formed in permeable paving and filter trenches and swales would be located throughout the site. The surface water would be discharged to the existing surface water sewer on Carnock Road.

1.3 Planning History

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

Application Site

- Full planning permission (20/02252/FULL) for residential development of 69 new houses with associated infrastructure and landscaping was withdrawn on 22nd March 2022. This application was withdrawn as it transpired that the PAN process had not been carried out correctly. The newspaper advert for the pre-application consultation did not include a deadline for comments to be made on the pre-app consultation which was required by regulation 7 (2A) (d) of The Town

and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. This current application is a re-submission of this previous proposal.
- Proposal of Application Notice (22/00972/PAN) for a Major Residential Development was agreed on 25th March 2022.
- Proposal of Application Notice (19/00787/PAN) for a Major Residential Development was agreed on 14th March 2019. - Proposal of Application Notice (16/02555/PAN) for a Major Residential Development was agreed on 23rd August 2016.

Site adjacent to the eastern boundary and to the south of Rumblingwell

- Full planning permission (17/02461/FULL) for erection of 27 dwellinghouses, with associated access, parking, landscaping and installation of SUDS was approved with conditions and subject to a section 75 agreement on 19th June 2018. Full planning permission (19/01148/FULL) for substitution of housetype on plots 1-14 and re-location of access road which were approved under application reference 17/02461/FULL was approved with conditions and subject to a section 75 agreement on 11th October 2019. These consents have been implemented.
- Planning permission in principle (17/00555/PPP) for the erection of 24 flats and plot layout for 14 residential plots with associated access road, car parking, open amenity space, play area and boundary treatments (renewal of 14/00199/PPP) was withdrawn on 4th February 2019.
- Planning permission in principle (14/00199/PPP) for the erection of 24 flats and plot layout for 14 residential plots with associated access road, car parking, open amenity space, play area and boundary treatments (renewal of 11/00849/PPP) was approved with conditions on 04 April 2014.

Site adjacent to the western boundary and to the west of Targate Road

- Full planning permission (15/00509/FULL) for erection of 35 dwellinghouses (18 private and 17 affordable) with associated infrastructure, landscaping and parking was approved with conditions on 13th February 2015. This consent has been implemented.
- Full planning permission (12/00693/FULL) for erection of 43 dwellinghouses; 60 bed care home (Class 8); retail building (Class 1); access road, car parking; landscaping; and associated infrastructure was approved with conditions and subject to a section 75 agreement on 30th October 2013.

1.4 Application Procedure

1.4.1 The proposed development comprises development on a site area greater than 2 hectares and is for more than 50 dwellings, therefore, this application is classified as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The applicant has carried out the required pre-application consultation (ref: 22/00972/PAN) and a Pre-Application Consultation Report outlining comments made by the public has been submitted as part of this application. The manner of the consultation exercise, including the notification and media advertisement process, complied with the relevant legislation. This included two public consultation events held on 25th to 29th April 2022 and 24th May 2022 in the Baldridgeburn Community Centre. These public events were advertised in the Dunfermline Press on the 31st March 2022, 14th April 2022 and 12th May 2022.

1.4.2 Physical site visits were undertaken for this planning application on 2nd March 2021 and 20th December 2022.

1.4.3 This application was advertised in The Courier newspaper on 15th September 2022. Neighbour notification letters were also sent out to all neighbours within 20 metres of the application site boundary on 19th July 2022.

1.4.4 Fife Council currently own the Milesmark Depot Site and are in the process of selling the land to the applicant. Circular 3/2009: Notification of Planning Applications advises that in certain circumstances where an authority has a financial interest in the development, notification to Scottish Ministers must be made prior to the grant of planning permission. As this proposed development is not significantly contrary to the Local Development Plan, in that an approval would not undermine the land use strategy of the plan, there is no requirement for notification of the application to Scottish Ministers.

2.0 ASSESSMENT

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

- Principle of Development/Loss of Employment Land
- Visual Impact
- Amenity Impact including noise, daylight/sunlight and privacy levels
- Garden Ground
- Waste Management
- Road Safety
- Core Paths
- Contaminated Land/Land Stability
- Air Quality
- Water/Drainage/Flood Risk
- Natural Heritage including impact on Trees, Protected Species and Wildlife Habitats
- Low Carbon
- Infrastructure and Planning Obligations
  - Strategic Transport Interventions
  - Affordable Housing
  - Education
  - Green Infrastructure and Open Space
  - Public Art
  - Commuted Sum for Loss of Employment Land

2.2 Principle of Development/Loss of Employment Land

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

2.2.2 Policy 1, Part A, of the Adopted FIFEplan (2017) stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan. Policy 1, Part B of the FIFEplan advises that Development proposals must address their development impact by complying with the following relevant criteria and supporting policies, including where relevant to protect Fife's existing and allocated employment land as per Policy 5. Policy 5 states that all existing employment areas, and those allocated in this Plan, identified on the Proposals Map, will be safeguarded for continued industrial and business use.

2.2.3 Policy 5 states that a change of use from employment land will only be supported where it is demonstrated that the existing building or site cannot be reused or redeveloped for employment uses, based on prevailing market conditions which will be determined at the date of the application, and it will not create a shortfall in the 7-year supply of employment land in settlements with a population of 5,000 or more.

2.2.4 A statement dated 28th March 2019 has been submitted by a chartered surveyor which states that the site was marketed on 23rd June 2015 as an industrial opportunity, however, by January 2016 no significant enquiries had been received. The statement advises that the scope of the marketing campaign was then widened, and this included that the site was available for industrial use, however, the site may also be suitable for alternative uses. A formal offer for this property was then made on 7th July 2016 for a residential use and the statement further advises that during that entire intervening period there were no meaningful enquiries relating to the site for an industrial use, whilst advertising boards have remained on site and up until the present day no notes of interest or indeed enquiries have been expressed for the site for an ongoing industrial use.

2.2.5 Fife Council's Economic Development team (ED) have advised that they agree with the report that there is no interest for the entire 7.12 acres site for employment use in its existing form, however, it is their experience that finding employment occupiers for larger bespoke and ageing industrial premises can take a considerable length of time. ED also consider that no evidence has been submitted to demonstrate that the possibility of clearing the site of the redundant buildings and marketing individual plots has been considered and that there may be demand for serviced employment land plots in this location ranging upwards from ½ acre to 2 acres. ED also advise that a commuted sum to compensate for the loss of this employment land should be sought if the application were to be approved.

2.2.6 The proposal would not create a shortfall in the seven year-supply of employment land as it is an existing employment site, and the supply of employment land is based on future proposed employment sites which are allocated within FIFEplan for development of employment uses. It must, however, be demonstrated that the existing building or site cannot be reused or redeveloped for employment uses, based on prevailing market conditions as per Policy 5 of FIFEplan. The submitted marketing information and evidence demonstrates that there is no demand for this site as an employment use. It is noted that ED advise that there may be demand for smaller parts of the site, however, in this instance the loss of the overall employment site would be acceptable as it has been sufficiently demonstrated that the overall site cannot be re-used or re-developed for an employment use. The proposal would also enable the site to be re-developed and would provide a residential use which would be more compatible with the existing surrounding residential uses, whilst, potentially bringing about a positive visual and biodiversity enhancement to the site. The matter relating to any potential contribution to offset the loss of the employment land is fully assessed under the Infrastructure and Planning Obligations section of this report of handling. The proposal would, therefore, be acceptable in principle and would comply with the Development Plan in this respect. The overall acceptability of such a development must, however also meet other policy criteria and these issues are considered in detail below.

2.3 Visual Impact/Design, Scale and Finishes

2.3.1 The Scottish Planning Policy (2014) (SPP) (Placemaking) advises that planning should take every opportunity to create high quality places by taking a design-led approach and

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

2.3.2 Policies 1 and 10 of the Adopted FIFEplan advise that development will only be supported if it does not have a significant detrimental visual impact on the surrounding area.

2.3.3 Policy 14 of FIFEplan and Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regards to design and a design-led approach to development proposals through placing the focus on achieving high quality design is encouraged. These documents also illustrate how development proposals can be evaluated to ensure compliance with the six qualities of successful places.

2.3.4 The agent has submitted a Design and Access Statement (DAS) which includes contextual drawings and visualisations which demonstrate how the proposed development would sit on the site in relation to the surrounding area and adjacent buildings. The DAS demonstrates a clear understanding of the site and its historical context including the adjacent urban and townscape setting. The design philosophy has been clearly articulated which provides an understanding of the architectural form and history of the surrounding area. In this regard, the design statement explains the history of the site and the surrounding area in terms of the built and natural environment and advises that the proposal demonstrates a well-informed, integrated and creative solution for the site. The DAS advises that the proposal creates a positive frontage on to Carnock Road, improves connectivity and enhances pedestrian and cycle links through the site and creates, distinctive streets, nodes and open spaces which provide a safe and attractive environment in which to live. The DAS explains how the site is divided into several character areas, with design principles for each area expressed alongside 3D visualisations of each area including the Neighbourhood Entrance area, Carnock Road Edge area, Green Courtyard areas and the Carnock Road Open Space Area.

2.3.5 Four letters of objection have been received and these consider that there is a lack of information regarding the retaining wall and the visual impact of the wall. Full details relating to the retaining wall including heights, finishing materials and a 3D visualisation drawing have been submitted. The matter relating to the visual impact of the wall is fully assessed below.

2.3.6 The application would result in a proposed scheme that would integrate well with and would respect the character and appearance of the existing and proposed neighbouring residential developments. The proposal details active street frontages and ensures appropriate levels of natural surveillance. In terms of the design and materials of the proposed houses, the house types are attractively designed with varied detailing which would utilise materials such as terracotta and slate grey coloured concrete roof tiles, dry dash finishes, white coloured UPVC windows and doors, black coloured rainwater good and cast stone basecourses that would be appropriate within the context of the surrounding area. The heights of the proposed buildings would be appropriate at this location and the agent has submitted sections and visualisations which demonstrate that the building heights would sit comfortably within the site and would relate well to the neighbouring two storey properties. These sections and visualisations also demonstrate that the proposal utilises the topography of the site to ensure that the building heights are varied along streets. This variation to the materials and heights of the proposed

dwellings, throughout the overall site, would ensure that the development provides a visually interesting and distinctive place. The proposal would also be in keeping with the scale, massing and layout of the existing built form adjacent to this location and would be an appropriate form of development which would sit comfortably within the site and would respect and enhance the visual amenity of the surrounding area. The proposal would also represent a significant visual improvement to the existing large council depot which formerly occupied the site. A mix of off-street parking and parking courts combined with varied building lines and house types create elements of interest within the development. The proposed density of the development would also be acceptable when taken within the context of the surrounding area and is similar to the recently approved developments to the east and west. There are a number of public facing blank gable ends within the development and these would be improved through the introduction of differing materials or windows to help break up these elevations which would also help ensure that the development would be visually interesting. There are also blank elevations on plots 64 and 66 where windows have been re-located to gable ends to address privacy issues (see section 2.4.5 below for further details). A condition is, therefore, recommended requiring that full details of all required plot and gable enhancements for the residential units within plots 10, 47, 48, 49, 60, 64 and 66 be submitted for approval by this Planning Authority.

2.3.7 The proposed hard and soft landscaping would be of high quality and the large areas of open space which are proposed within the site would soften the visual impact of the development and would make the development a welcoming place in terms of open green spaces and the density of the proposal, whilst, the proposed green areas and the incidental areas of open space, street trees, hedgerows and planting throughout the proposed residential area would provide a significant positive contribution to the distinctiveness and character of the place which would be welcoming to any visitors to the site. The proposed open space and parking areas within the site are also overlooked by surrounding buildings and the development would include active frontages and dual frontages on corner plots providing informal surveillance and a sense of safety throughout the site. The proposed hard and soft landscaping is also considered to be of high quality and would provide a significant visual enhancement to the site. Conditions are recommended relating to landscaping and requiring an updated landscaping plan to be submitted for approval by Fife Council as Planning Authority. It is considered that the submitted landscaping plan is mostly acceptable, however, this condition would allow for further negotiation regarding the landscaped areas and boundary treatments including the retaining wall which is proposed at the north-east corner of the site. A 3D visualisation drawing has been submitted to demonstrate the visual impact of this retaining wall when viewed from Carnock Road and this would include hedge planting and ivy along the top of the wall. There is currently an existing dense group of Category C trees which measure between approximately 14 to 17 metres high along this boundary and these would be removed and replaced with the housing development and retaining wall and fencing. It is considered that this retaining wall and fence would be visually acceptable and would have no significant detrimental visual impact on the site or the surrounding area. The visual impact of this would also be softened through the introduction of hedging along the base of the wall which could grow to approximately 5 metres high, whilst potted ivy would be planted along the top and this is demonstrated within the submitted 3D visualisations. A condition is also recommended requiring that the fence along this retaining wall be no higher than 1.2 metres as demonstrated on the submitted drawings.

2.3.8 The proposed boundary treatments which include timber fences, walls and hedges would be visually acceptable and in keeping with the surrounding area. The proposal also utilises hedgerows and trees along the northern boundary and around open space areas which would help break up and soften the impact of the development. The proposal includes multiple points of vehicular and pedestrian/cycle accesses to the south, east and north which would integrate

the development into the existing urban structure and movement routes and the street widths vary throughout the site, whilst there are distinctive movement junctions and edges formed by green spaces and overlooked by active building frontages which would ensure that the development is easy to move around and safe and pleasant to be in. The matters relating to connectivity and access into the site are also further assessed under section 2.7 (Road Safety) of this report of handling.

2.3.9 In conclusion, the proposal would provide an attractive, welcoming, high-quality development through a varied layout and mix of property types and the height, massing, roofline and other detailing is considered to respect the character and appearance of the surrounding built environment. The proposal overall would, therefore, result in a development which would provide a significant positive visual contribution to this vacant former Council Depot site, and which would comply with the six qualities of a successful place as set out in SPP and Making Fife's Places Supplementary Guidance. The proposal overall would, therefore, comply with the Development Plan in this respect and would be visually acceptable.

2.4 Amenity Impact including noise, daylight/sunlight and privacy levels

2.4.1 Policies 1 and 10 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. These matters are assessed in more detail below.

2.4.2 The objections state that the proposal would result in a detrimental noise impact from construction. Any construction disturbance caused as a result of the proposal would be temporary in nature and any developer should also work to the best practice contained in British Standard 5228: Part 1: 2009 "Noise and Vibration Control on Construction and Open Sites" and BRE Publication BR456 - February 2003 "Control of Dust from Construction and Demolition Activities". This is in order to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration in relation to construction works. It should also be noted that Fife Council's Environmental Health Public Protection team (PPT) can also deal with any complaints should they arise, and they can control noise and the operating hours of a construction site by serving a notice under the Control of Pollution Act 1974. A condition requiring the submission of a scheme of works to mitigate any potential effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration resulting from the construction of the proposed development is, however, also considered to be appropriate and a condition is recommended regarding this matter. The proposal would, therefore, be acceptable subject to this condition.

2.4.3 Noise

2.4.3.1 PAN (Planning Advice Note) 1/2011 Planning and Noise provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. It also advises that Environmental Health Officers should be involved at an early stage in development proposals which are likely to have significant adverse noise impacts or be affected by existing noisy developments.

2.4.3.2 Fife Council's Policy for Development and Noise (2021) sets out how noise impact should be considered through the planning process. It advises that the noise impact arising from development should be considered and mitigated and residential development should not unacceptably affect existing businesses or be built in locations which would be affected by excess or inappropriate noise levels. The guidance further advises that to achieve wider

outcomes of the Local Outcome Improvement Plan and the FIFEplan, it is recognised that the physical separation of noise and noise sensitive development will not be possible in all circumstances, and it may be appropriate to make provision for development in certain exceptional circumstances in order to achieve wider strategic objectives. For the purposes of this guidance, exceptional circumstances are proposals which aim to secure appropriate redevelopment of brownfield sites, which promote higher levels of density near transport hubs, and which secures higher density development in town centres and larger urban settlements. The guidance also states that it is more likely that there will be an acceptance of exceptional circumstances in relation to impacts arising from road and transport noise. If the development is an exceptional circumstance, the following sequential approach shall be followed in order of preference, considering the feasibility of their implementation, and having regard to the wider amenity, low carbon and urban design requirements of the development.

(i) Setting back of dwellings from noise sources, where this can be achieved in accord with urban design principles and Masterplan;

(ii) Orientation of dwellings to avoid noise impacts on sensitive elevations and/or habitable rooms, where this can be achieved in accord with urban design principles and Masterplans;

(iii) Installation of acoustic barriers, where this would have no unacceptable detrimental impact;

(iv) Use of acoustic insulation/ closed window approach in new dwellings and allowance for the upper limit of 55dB in gardens.

2.4.3.3 The proposal would be a wholly compatible use with the adjacent residential uses and would represent an improvement to the surrounding area when compared to the noise impact of the existing industrial use. The proposal would, therefore, have no significant impact on the surrounding area in terms of noise and would also result in an overall improvement to the surrounding area in terms of noise impact.

2.4.3.4 An acoustic report was submitted in support of this application as the A907 distributor road to the north could have a potential detrimental impact on the amenity levels of the proposed dwellinghouses. The noise report advises that all garden ground areas within the development would comply with the required external noise levels, however, the internal rooms of plots 1 to 10 and 67 to 69 would breach the required internal sound levels with windows open. The report advises that the required internal noise levels can, however, be achieved through the installation of mitigation measures. The proposed mitigation measures include the installation of a higher specification of glazing and acoustic trickle vents, whilst a closed window solution is recommended to achieve the required internal noise standards within these plots. PPT advise that they agree with the findings of the noise report, however, a condition relating to internal sound levels should be added to any recommendation for approval.

2.4.3.5 The proposed implementation of a closed window solution for plots 1 to 10 and 67 to 69 would be acceptable if the proposal meets the 'exceptional circumstance' criteria as contained within Fife Council's Policy for Development and Noise. The proposal would meet the 'exceptional circumstance' criteria as it would secure the re-development of a brownfield site within a residential area. The 'closed window' solution is also acceptable as the site layout would retain the strong street frontage which runs along this road and the proposal would be in keeping with the pattern of development within the area. A condition relating to this matter and requiring that the recommended mitigation measures are carried out in full before the development is occupied is recommended. All other properties within the site would comply with

the recommended external and internal sound levels with windows open. There would, therefore, be no significant noise impact on the proposed dwellings as a result of the road to the north subject to the recommended conditions relating to mitigation measures and sound levels. The proposal subject to conditions would therefore comply with the Development Plan in this respect and would be acceptable in terms of noise impact.

2.4.4 Daylight/Sunlight

2.4.4.1 Policies 1 and 10 of the FIFEplan and Fife Council's Planning Customer Guidelines on Daylight and Sunlight advise that new development should not lead to a significant loss of sunlight and daylight. This guidance further advises that a 25-degree daylight assessment should be carried out where neighbouring windows directly face a development or a 45-degree daylight assessment should be carried out when neighbouring windows are perpendicular to the proposal, however, in some cases a further assessment of daylight impact on windows may be required using the Vertical Sky Component (VSC). The Building Research Establishment's Site Layout Planning for Daylight and Sunlight Guidance (2022) advises that the reduction in the total amount of skylight can be calculated by finding the VSC at the centre of each main window. It further states that if this VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. This value of VSC typically supplies enough daylight to a standard room when combined with a window of normal dimensions, with glass area around 10% or more of the floor area. Any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.80 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.

2.4.4.2 The objections to the proposal state that proposed retaining wall could have a significant impact on lighting and could overshadow neighbouring properties. The matter relating to the impact of the proposal in terms of daylight and sunlight is fully assessed below.

2.4.4.3 The residential properties at 225 to 231 Carnock Road and 217 to 223 would have rear facing windows which would directly face plots 62, 66 and the retaining wall and these windows would fail the 25-degree daylight assessment. The VSC method assessment was, therefore, submitted by the agent and this shows that the affected windows would still receive a VSC of greater than 34%, therefore, there would be no significant loss of daylight to these affected windows and the proposal would comply with the Development Plan in this respect.

2.4.4.4 The proposed dwellings and retaining wall would be to the south of the neighbouring gardens at 225 to 231 Carnock Road and could, therefore, potentially impact on the existing sunlight levels experienced by these gardens. There is, however, currently a row of dense trees which sit atop a bund located along the rear boundary of these gardens. These trees measure between approximately 17.5 to 20.5 metres high whilst the bund measures approximately 3.5 metres high from the neighbouring garden ground level. The submitted sections and site plan demonstrate that the proposed dwellings would be set further back from the neighbouring boundary than this row of dense trees and the proposed dwellings would also be approximately 6 to 8 metres lower than the height of these existing trees. The proposed retaining wall would also measure between approximately 2 to 3.2 metres high along this boundary with an approximately 1.2 metres high fence atop it. It is considered that the introduction of this retaining wall and the proposed dwellings would have no further significant impact on the sunlight levels of these gardens when compared to the existing situation. The proposal would, therefore, have no further significant detrimental impact on these neighbouring properties in terms of loss of sunlight and would be acceptable in this instance.

2.4.4.5 The proposed dwellings would also have no significant impact on the daylight/sunlight levels for other neighbouring residential properties due to the distances involved and the orientation of the proposed dwellinghouses in relation to neighbouring properties, with the sun rising in the east, setting in the west and at its highest point when due south. The proposed dwellings within the application site have also been designed to ensure that no properties would significantly overshadow or block daylight/ sunlight to any other adjacent proposed properties within the site itself. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.4.5 Privacy Levels

2.4.5.1 Policies 1 and 10 of the FIFEplan advises that new development should not lead to the loss of privacy. Fife Council's Minimum Distance between Window Openings 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 windows are at an angle to each other. Fife Council's Planning Customer Guidelines on Garden Ground also advises that if there is a road or pavement between the buildings then this 18 metres distance can be reduced and that lesser distances may be accepted for windows opposite each other, but which are at different heights to each other. Fife Council's Planning Customer Guidelines on Dormer Extensions advises that clear glazed windows should be set 9 metres off a mutual garden boundary where there is a potential for overlooking to the garden of the neighbouring property.

2.4.5.2 The objections advise that the proposal would result in a loss of privacy for existing neighbouring properties. They also consider that the proposed cycle path between Bankview Crescent and the new estate would result in overlooking to the neighbouring gardens. These matters are fully assessed below.

2.4.5.3 There were some rear window to window distances between the rear facing windows of 225 to 231 Carnock Road and Plots 66 and 67 which measured as less than 18 metres. These windows are, however, at an angle to each other, therefore, the agent has submitted a Minimum Distance between Windows calculation as requested by the planning officer and this showed that one second floor kitchen window within Plot 66 would breach the required minimum distance. This window has been moved to the gable end of this property to resolve this matter and all other proposed windows would comply with Fife Council's Minimum Distance between Window Openings guidance. The proposed first floor level windows of Plots 66 and 67 would overlook the rear amenity areas of 225 to 231. The rear amenity area of 225 to 231 Carnock Road is however, overlooked by several flats at 225 to 231 and 217 to 223 Carnock Road to the east, whilst the proposed windows would also be at an angle to and would be approximately 9 metres to the boundary of these neighbouring garden ground areas. Two small trees are also proposed to be planted in the rear gardens of plots 68 and 69 which would provide some screening between gardens. There would, therefore, be no further significant reduction in privacy levels for these neighbouring garden ground areas.

2.4.5.4 A hedge would be planted along the eastern boundary between the cycle/footpath and Bankview Crescent and this would be between approximately 2.5 metres to 3 metres high when planted and would be maintained at a height of between 4 to 4.5 metres. The site layout drawings have been amended to show this hedge and this would ensure that there is no significant overlooking into the rear garden ground areas of Bankview Crescent from the proposed footpath. All plot layouts within the site have also been designed to ensure that the proposed dwellings would have an acceptable level of privacy. The proposal would, therefore,

have no significant impact on the privacy levels of the surrounding area due to the distances involved between neighbouring residential properties and the proposed. The proposal would, therefore, be acceptable in this instance and would comply with the Development Plan in this respect.

2.5 Garden Ground

2.5.1 Policies 1 and 10 of FIFEplan and Fife Council's Planning Customer Guidelines on Garden Ground advise that all new detached and semi-detached dwellinghouses should be served by a minimum of 100 square metres of private useable garden space and that a building footprint of 1:3 will be required. Fife Council's Planning Customer Guidelines on Garden Ground advises that new flats must be set in or have at least 50 square metres of private garden for each flat. This does not include space for garages, parking or manoeuvring vehicles. The guidance also advises that this plot ratio may be relaxed where proposals are of outstandingly high quality, in terms of their overall design, layout and density or where the layout is in keeping with the surrounding area.

2.5.2 The minimum 100 square metres and 50 square metres requirement is not met for some of the dwellings (23 plots) within the site, with these garden ground areas measuring between 33.6 and 88 square metres. Most of these dwellings are terraced properties (10 plots) and these would have garden ground areas measuring between 42 and 71 square metres. Seven semi-detached dwellings would have garden ground areas measuring between 72 and 88 square metres with one semi-detached having a garden ground area measuring approximately 57 square metres. The proposed four cottage flats would have garden ground areas measuring approximately 33.6 square metres, whilst one detached dwellinghouse would have a garden ground area measuring approximately 84 square metres. The other 46 dwellinghouses within the site would have between approximately 97 and 207 square metres. In this instance, it is considered that a reduction in the recommended garden ground area standard would be acceptable for these 23 plots, given that the site represents the redevelopment of a vacant brownfield site which would provide a significant visual and biodiversity enhancement to the site and surrounding area. The proposed layout is also in keeping with the prevailing pattern of development at this location and the proposed garden ground areas are broadly in line with the garden ground area sizes approved on the sites to east and west in 2015 and 2017 under planning permission references 15/00509/FULL and 17/02461/FULL. It should also be noted that Fife Council's Housing Services have agreed to the garden ground areas provided for the affordable housing element of the proposal and this includes the four cottage flats. The proposed garden ground area provision would, therefore, be acceptable in this instance.

2.6 Waste Management

2.6.1 Policies 1 and 10 of the Adopted FIFEplan state that development proposals must not have a significant detrimental impact on amenity in relation to the operation of existing or proposed waste management facilities.

2.6.2 There is sufficient space within the plots of each house to store the necessary waste bins. The proposal would, therefore, provide the required waste management facilities and would have no significant detrimental impact on amenity in relation to the operation of existing or proposed waste management facilities. The proposed development would, therefore, be acceptable and would comply with Development Plan Policy in this respect.

2.7 Road Safety

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

2.7.2 A Transport Assessment (TA) has been submitted which considers the impact of the proposal on the surrounding public road network. The TA has considered the impact on the Rumblingwell/East Baldridge Drive/William Street junction. The TA has considered person trips, not car trips and covered access by all modes of transport - walking, cycling, public transport and private cars, to show how the site is being developed to encourage the use of sustainable modes of transport and can be designed in accordance with Scottish Government Designing Streets Policy. The TA has carried out a traffic impact assessment of the trips generated by the proposed residential development on the Rumblingwell/East Baldridge Drive/William Street junction. This junction is an identified STIM (strategic transportation intervention measure) within the adopted 2017 FIFEplan. The junction requires to be upgraded to accommodate the additional trips generated by FIFEplan allocations. The TA concludes that in the 2023 plus committed development scenario, the signalised junction operates within its practical capacity. The 2023 plus committed development plus the proposed development scenario shows that the signalised junction continues to operate within its practical capacity with a slight impact in queues and delays. The TA concludes that there would be no requirement to bring forward the identified STIM. Fife Council's Transportation Development Management team (TDM) advise that the proposal may require the identified STIM to be brought forward but perhaps by only a few months. They further advise that given that the former Milesmark Depot could re-open without the benefit of planning permission and the vehicle trips generated by the proposal would be no greater than those generated by the depot, then the proposal would have a negligible effect on the delivery timescale of the STIM.

2.7.3 This proposal would be served by a single point of access onto Carnock Road, and the agent was advised that the proposal would be more acceptable if it were served by two vehicular access points. The agent advised that due to the significant engineering works involved along with the significant costs associated with forming accesses from Targate Road and the adjacent Rumblingwell housing site that this would not be possible and would affect the viability of the development. TDM advise that they would accept this proposal being served by a single means of vehicular access due to the reasons provided.

2.7.4 Objections state that the construction period could impact on existing parking and access, whilst the vehicular access could cause congestion. Any construction vehicles would have to comply with the rules of the road and any impact would be temporary in nature during the construction phase of the development. The proposed impact on parking as a result of the proposal, would therefore, not be significant and would be acceptable in this instance. The further matters relating to road safety are fully assessed below.

2.7.5 TDM have no objections to the proposal subject to conditions relating to off-street parking, all works being carried out in accordance with the current Fife Council's Transportation Development Guidelines, the required visibility splays being provided at the junction of the vehicular access road and Carnock Road and at all internal junctions, details of adequate wheel

cleaning facilities being submitted and a raised table being provided at the carriageway fronting plots 53 along with a 2 metre wide footway between the driveway of plots 52 and 53. They have also requested a condition requiring the potential provision of electric vehicle charging points within the communal parking areas. Draft conditions regarding these matters are recommended and details relating to the adequate wheel cleaning facilities and the raised table have been submitted and are considered acceptable.

2.7.6 The proposal includes multiple points of pedestrian/cycle access to the north, south, east and west which would integrate the development into the surrounding area and movement routes and the street widths vary throughout the site. The proposed site would have only one point of vehicular access, however, this would be acceptable in this instance due to the specific constraints of this site, whereby, significant engineering works would be required to provide vehicular accesses onto Targate Road to the west and Rumblingwell to the east. A viability report was submitted in support of this proposal, and it is accepted that the provision of these could result in the development becoming unviable. A 3-metre-wide cycle path/pedestrian footpath would, however, be provided to Rumblingwell and Targate Road to the east and west with a connection made to the existing cycle path to the south. The information submitted has demonstrated that there would be no significant impact on the surrounding area in terms of road safety and the submitted drawings demonstrate an acceptable layout in terms of access, parking and connectivity. The proposed development would be easily accessible via a range of sustainable transport modes and there is capacity to accommodate the traffic generated by the proposal on the local road network with an acceptable amount of parking on site. The proposed development subject to conditions would, therefore, provide the required on-site transport measures to minimise and manage future levels of traffic generated by the proposal and would be acceptable in this instance.

2.8 Core Paths

2.8.1 Policies 1 and 13 of the FIFEplan state 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.

2.8.2 A Core Path (Path Code: P597/01) and Cycle Network Route (Route Name: 764 and West Fife Way) run adjacent to the southern boundary of the site. A condition is recommended requiring that these remain free from obstruction from construction vehicles during the construction period of the development. The proposal, subject to this condition, would therefore protect the core path and cycle network route and would comply with Development Plan Policy in this respect.

2.9 Contaminated Land/Land Stability

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

2.9.2 A contaminated land risk assessment report has been submitted which advises that investigative works have been carried out and that the site, due to historic contamination, poses a low to medium risk to human health and plant life. The report further sets out a series of mitigation measures such as gas protection measures, gardens and soft landscaping areas

being covered with 600 mm of clean capping and the use of a compound barrier pipe for the potable water supply to the development.

2.9.3 Fife Council's Contaminated Land team (CL Team) have no objections subject to conditions relating to contaminated land investigative works and remediation of the site. Draft conditions regarding this matter have, therefore, been attached to this recommendation. The proposal subject to these conditions would have no significant impact on amenity in relation to contaminated land and would comply with the Development Plan in this respect.

2.9.4 The applicant has submitted a Coal Mining Risk Assessment as the site is located within a coal mining high risk area and the Coal Authority has been consulted. The Coal Authority agree with the conclusions of the Coal Mining Risk Assessment Report and have no objections to the proposal subject to conditions relating to further intrusive investigative works and that any required remediation/mitigation works are carried out in full. Conditions are recommended regarding these matters. The proposal subject to these conditions would, therefore, have no significant impact on amenity in relation to unstable land and would comply with the Development Plan in this respect.

2.10 Air Quality

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

2.10.2 Fife Council's Air Quality in Fife Advice for Developers advises that an air quality impact assessment (AQIA) is required where the construction and occupation of a proposed development has the potential to increase road traffic emissions and if the proposal would introduce ten new parking spaces or more and would be a residential development with a site area of more than 0.5 hectares or it would be for more than 9 residential units. This guidance further advises that a simple assessment should be carried out to determine if a more detailed AQIA is required. The guidance sets out several relevant criteria such as daily vehicle movements increasing by more than 500, daily H.G.V movement increasing by more than 100, the introduction of a roundabout, creating or changing a bus station and any other sources of air pollution. The guidance states that if these criteria are breached then a more detailed air quality impact assessment would not be required.

2.10.3 A simple assessment has been submitted and this concludes that a more detailed AQIA is not required as the proposal would not breach any of the relevant criteria where a more detailed assessment would be required. The CL Team advise that they agree with the findings of this assessment. The proposal would therefore have no significant detrimental impact on air quality and would comply with the Development Plan in this respect.

2.11 Water/Drainage/Flood Risk

2.11.1 Policies 1 and 3 of FIFEplan state that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner. Where necessary and appropriate as a direct consequence of the development or as a consequence of cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served by adequate infrastructure and services. Such measures will include foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS).

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

2.11.3 Fife Council's Flooding, Shoreline and Harbours Team advises that they have no objections to the proposed surface water management solution and that the required certificates have also been provided. The agent has also submitted a maintenance regime for the SuDS and has confirmed that maintenance would be the responsibility of homeowners, Scottish Water and Fife Council as Roads Authority. Scottish Water have confirmed that an attenuated discharge of 12.6 l/s to the existing surface water sewer on Carnock Road would be permitted with the exact point of connection to be agreed with them. The proposed development would, therefore, have no detrimental impact on future options for flood management and would incorporate adequate measures and services including underground storage cells, permeable paving and filter trenches.

2.11.4 The applicant/agent has also advised that the proposed development would be connected to the public drainage and public water supply network. Scottish Water have advised that they have no objections to the proposal and there is sufficient capacity at Glendevon Water Treatment Works and for a foul only connection at Iron Mill Bay Wastewater Treatment Works. It is considered that the proposed residential development could be connected to the existing water supply, and it should be noted that the applicant would also need to submit a formal application to Scottish Water before proceeding with the development. There would, therefore, be no significant detrimental impact on the site or the surrounding area in terms of drainage/flooding as the proposal would be served by an acceptable surface water management scheme and would connect into the existing wastewater system. The proposal would therefore be acceptable and would comply with Development Plan Policy in this respect.

2.12 Natural Heritage including impact on Trees, Protected Species and Wildlife Habitats

2.12.1 Policies 1 and 13 of the FIFEplan state that development proposals will only be supported where they protect or enhance natural heritage and access assets including protected and priority habitats and species, green networks and greenspaces and woodlands (including native and other long-established woods), and trees and hedgerows that have a landscape, amenity, or nature conservation value. Policy 13 also states that the Scottish Government's Control of Woodland Removal Policy includes a presumption in favour of protecting woodland.

2.12.2 Impact on Trees

2.12.2.1 The agent has submitted an arboricultural impact assessment reports (AI report) which advises that a tree survey of the site was carried out and this includes a tree protection plan. The AI reports include full details of the trees on or adjacent to the site including their root protection areas (RPA), falling distances and it also shows the footprint of the proposed development in relation to these constraints. The tree protection plan sets out measures which should be incorporated during the construction of the development and recommends that all trees which are being retained must be protected by barriers with tree protective fencing measuring approximately 3.15 metres high to be installed along the southern boundary before any works commence on site. A condition is recommended regarding this matter. The AI report also shows that no dwellings would be located within the falling distances or the RPA of the existing trees to the south.

2.12.2.2 The AI reports advise that all individual trees within the site along with the group of trees to the north, north-east and south have been assessed as being category C or U. Category C is of low quality and value with an estimated life expectancy of 10 years, whilst a category U tree is in such a condition that it cannot be realistically retained as a living tree. The AI report concludes that there are no trees of arboricultural quality or merit within or directly adjacent to the site and the existing tree cover should not be considered a constraint to development on the site.

2.12.2.3 Fife Council's Tree Officer advises that they agree with the findings of the AI reports, and they have no objections to the proposal. The loss of the existing trees on site and partial removal of a group of trees to the south of the site would be acceptable as these trees are of no significant landscape, amenity, or nature conservation value. The proposal also includes significant tree planting and natural landscaping within the open space areas and within streets and gardens and would provide a significant overall enhancement to the site in terms of biodiversity when compared to the previous use of the site which was mostly covered in hardstanding and is significantly contaminated. The proposal subject to conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.12.3 Protected Species and Wildlife Habitats

2.12.3.1 Objections state that the proposal would have a detrimental impact on wildlife and their habitats. This matter is fully assessed below.

2.12.3.2 An ecological appraisal report has been submitted which includes a desk-based search, a phase 1 habitat survey and protected species survey of the application site. The report advises that a walkover survey was carried out on the site and there were no habitats or species within the site which are considered a constraint to development. The report concludes that the trees fronting the application site are of negligible ecological value, whilst there was no evidence of badgers within the application site or the 30-metre buffer zone and no trees within the site which had bat roost potential. The report does advise that the existing buildings on site do have potential for bat roosts and recommends that bat surveys be carried out before demolition takes place. These surveys were carried out in 2019 and August 2020 and the buildings referenced in this report have subsequently been demolished. It should be noted that the buildings on site could be demolished without the need for planning permission and the developer will have been required to comply with the relevant legislation regarding protected species. The current submitted reports are more than two years old, however, there has been no significant changes on site apart from the demolition of the existing buildings. The findings of these reports, are therefore, still considered relevant, however, conditions are recommended requiring that an updated Ecological report is submitted before any works commence on site. This will allow a

precautionary approach to be taken with regards to habitats and protected species. Conditions are also recommended which require that bat and bird roost boxes/bricks are located throughout the site and requiring that all construction works take place outwith the bird breeding season. It is considered, therefore, that the proposal would have no significant ecological impact on protected species, wildlife habitats or birds subject to the recommended conditions. The proposal subject to conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.13 Low Carbon

2.13.1 SPP (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 authorities should seek to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to:

- Energy efficiency;

- Heat recovery;

- Efficient energy supply and storage;

- Electricity and heat from renewable sources; and

- Electricity and heat from non-renewable sources where greenhouse gas emissions can be significantly reduced.

2.13.2 Policies 1 and 11 (Low Carbon) of FIFEplan (2017) state that planning permission will only be granted for new development where it has been demonstrated that:

- 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;
- Construction materials come from local or sustainable sources;

2.13.3 Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) notes that major developments are required to provide an energy statement of intention which sets out how the proposal will meet the requirements of Policy 11. This statement should also investigate the feasibility of creating a new or connecting to an existing or proposed district heating network, however, this is not required if the proposed development is not within a district heating buffer zone as set out in section 3.2.2 of this guidance.

2.13.4 The developer has submitted a sustainability statement which addresses this aspect of the proposal. The submitted information advises that the new homes will be constructed in accordance with the latest Building Regulations with increased insulation to the fabric of the dwelling and renewable energies incorporated. This further advises that all new homes will include photovoltaic roof panels and other measures to ensure that the site is as energy efficient as possible. The submission also advises that construction materials will be from local or sustainable sources where possible and the development will encourage and facilitate the use of sustainable transport in the order of walking, cycling, public transport and cars. The statement advises that this is encouraged through the provision of multiple cycle path/pedestrian

connection points which link into the surrounding network. The proposal is not located within any district heating network buffer zone, therefore, there is no requirement to investigate the potential to connect to any district heating network. Sufficient information has been submitted to demonstrate that the proposal could incorporate sufficient energy efficiency measures and energy generating technologies which would contribute towards the current carbon dioxide emissions reduction target. Conditions are also recommended requiring that full details of any energy generating technologies and measure are submitted for approval before any works commence on site. The proposal, subject to conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.14 Infrastructure and Planning Obligations

2.14.1 Circular 3/2012: Planning Obligations and Good Neighbour Agreements sets out Scottish Government expectations on the role planning obligations will play in addressing the infrastructure impacts of new development. The circular requires that planning obligations meet all the five tests as set out in paragraphs 14-25 of the circular. A planning obligation should be necessary to make the proposed development acceptable in planning terms; serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans; relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area; fairly and reasonably relate in scale and kind to the proposed development and be reasonable in all other respects.

2.14.2 Policy 1, Part B, criterion 1 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, other than a change of use of employment land or leisure site, will be exempt from these obligations if they are for the re-use of derelict land or buildings, previously developed land, or the rehabilitation of contaminated land within a defined settlement boundary. Policy 4 further states that in the case of a change of use proposed on an employment or outdoor sports facilities site, a commuted sum payment will be sought to offset the loss of the land for that use and allow reinvestment.

2.14.3 Fife Council's Planning Obligations Framework Guidance (2017) (POG) 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 describes when planning obligations will be sought, where exemptions will apply, and how methodologies will be applied when considering the impacts, a proposed development will have on existing infrastructure. The priorities to be addressed are educational provision, transport, affordable housing development, greenspace, public art, and employment land.

2.14.4 The POG also advises that planning obligations will not be sought for the construction for residential development of fewer than ten houses, Town Centre redevelopment, listed building conversions, brownfield sites (previously developed land), rehabilitation of contaminated land (excluding mine workings) within a defined settlement or changes of use. POG also advises 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. Previously developed land is defined within POG as land or a site that has previously been developed and this could

include vacant or derelict sites, infill sites, land occupied by redundant or unused buildings and employment land which is not in operational use.

2.14.5 The proposal would be located on previously developed land as it is employment land which is not in operational use. As per POG, the proposal would be exempt from the requirement to make planning contributions unless there is a critical infrastructure capacity issue.

2.14.6 The applicant advised under the previous planning application (20/02252/FULL) and this current application that the development could not financially bear any planning obligations as the site is very constrained and difficult to develop due to the topography of the site, contaminated land and the coal mining legacy on site. Section 3.12 of POG advises that any assessment in this respect must be supported by a development appraisal which Fife Council, normally via the District Valuer (DV), will verify. The Council will also require documentary evidence necessitating "open-book accounting" to show the viability of a proposal will be curtailed by the requirement for planning obligations. A development appraisal was submitted by the agent, and this was passed to the DV to independently assess. The DV concluded that the provision of 12 affordable dwellings on site and an education contribution of £16,895.74, would not make the development unviable and that this requirement should not be relaxed. The development appraisal, however, did show that the development was unlikely to be able to bear any other financial contributions. Further negotiations between the developer and Fife Council took place and it was agreed that the development would provide 12 affordable dwellings on site, whilst a contribution to education would be made. The following sections set out the developments impact on infrastructure, whether there is a critical capacity risk and whether planning obligations are required due to the impact of the development, whilst, also taking into account the development appraisal which was submitted.

2.15 Strategic Transport Interventions

2.15.1 POG advises that Fife Council undertook an assessment of traffic impacts of the new development proposed within the Local Development Plan. The focus of these studies was the cumulative impact on the strategic road network. The studies identified or confirmed a requirement for various strategic transport improvements. POG then 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 type the less it pays. The obligation costs per house for contributing development within the defined zones of Dunfermline, Kirkcaldy and Glenrothes is set out in figure 3 of the POG.

2.15.2 TDM advise that the application site lies within the Dunfermline Core Intervention Zone as per Figure 4 of the Framework and is required to contribute £5332 per dwelling, excluding any exemptions, to the transport fund as per Figure 3 of the Framework. This development would, however, be exempt from the requirement to make this contribution as per section 2.14 above.

2.16 Affordable Housing

2.16.1 Policy 1, Part C, Criterion 1 of the Adopted FIFEplan states that development proposals must meet the requirements for affordable housing. Policy 2 of the Adopted FIFEplan states that open market housing development must provide affordable housing at the levels for each Housing Market Area (HMA), consistent with the Affordable Housing Supplementary Guidance. This should be fully integrated into new development and be indistinguishable from other forms

of housing. In order to achieve mixed and balanced communities, mixed tenure developments will be promoted. Policy 4 of Adopted 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. Fife Council's Supplementary Guidance on Affordable Housing (2018) considers that housing proposals must accord with the structure plan housing land requirement and sets out when a development would be exempt from the provision of affordable housing.

2.16.2 Fife Council's Affordable Housing team have been consulted and have advised that in line with the Affordable Housing supplementary guidance, Fife Council would require that 25% of the total units be made available as affordable. In this case, however, Housing have agreed that affordable housing credits accrued at the Carnock Road, Dunfermline site can be used against this site, therefore, they would accept the provision of 12 affordable units in this instance. The submitted site layout shows the provision of 12 affordable units on site and the unit size and types have all been agreed with Housing. They have also advised that they would accept the size of the cottage flats garden ground areas of 33.6 square metre each. This matter would be dealt with through a condition. The proposal subject to a condition, would therefore be acceptable and would comply with the Development Plan in this respect.

2.17 Education

2.17.1 POG 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.

2.17.2 Fife Council's Education Services (ES) have advised that the development is within the catchment area of Milesmark Primary School, Queen Anne High School, St Margaret's Roman Catholic Primary School and St Columba's Roman Catholic High School, whilst the site is also within the Dunfermline North and West local nursery area. ES advise that there would be no capacity risk at St Columba's RC High School, however, there would be a capacity issue at Queen Anne High School, St Margaret's Roman Catholic Primary School and within the Dunfermline North and West local nursery area. There would also be a critical capacity issue at Milesmark Primary School within the next two years as a result of the proposal. ES have, therefore, requested a contribution and mitigation measures to address these capacity risks. A contribution towards Queen Anne High School, St Margaret's RC Primary School and the Dunfermline North and west Local nursery area would not, however, be required as the proposed development is exempt from planning contributions as per section 2.14 above and no critical capacity risk has been identified at these schools. It should also be noted that a contribution was initially requested for St Margaret's as there was previously considered to be a critical capacity risk at this school, and this amount was included within the development appraisal submitted by the agent. The most recently updated response from Education, however, confirms that the capacity risk at this school can now be considered not to be critical. This development would, therefore, be exempt from the requirement to contribute to any capacity risk at St Margaret's PS.

2.17.3 Fife Council's Education Services have advised that there is no scope to extend Milesmark Primary School due to the restricted site size, therefore, there is no viable option to

extend the existing education infrastructure. They have, therefore, advised that in this case phased units on a capped build per year to ensure the school roll does not exceed 5 classes and/or consideration of delay of build until the school roll at Milesmark PS starts to decline should be agreed with Education Services. A draft condition is recommended regarding the phasing of the proposal with this to be agreed in writing with Fife Council as Planning Authority and Education Services. The proposal subject to a condition would, therefore, be acceptable in this instance and would comply with the Development Plan in this respect.

2.18 Green Infrastructure and Open Space

2.18.1 Policy 1, Part C, criterion 4 of FIFEplan requires proposals to provide green infrastructure in accordance with the Green Network Map. Policy 3 of FIFEplan ensures that new development makes provision for infrastructure requirements to support new development. This includes green infrastructure and green network requirements such as open space and amenity space.

2.18.2 Making Fife's Places Supplementary Guidance (2018) sets out that development proposals for 50 or more residential units should provide 60 square metres of open space per dwelling on site or, they can alternatively, make a contribution towards existing open space where each residential unit is located within 250m walking distance of an existing open space. The guidance also states that equipped play areas and/or other specific facilities may be required on site.

2.18.3 This development is not located within 250 metres walking distance of an existing open space area and would be required to provide 4140 square metres of open space on site (69 dwellings x 60 square metres of open space). The proposal would include approximately 3537 square metres of open space on site which would equate to a shortfall of approximately 603 square metres of open space. It is considered, however, that this shortfall would be acceptable in this instance as the proposal would result in the re-development of a previously contaminated brownfield site which would bring about a significant visual and biodiversity enhancement to the area. It should also be noted that the development sites to the west and east which were approved under planning permission references 15/00509/FULL and 17/02461/FULL were approved with a small shortfall with regards to open space requirement. The proposed open space provision would, therefore, be acceptable in this instance.

2.19 Public Art

2.19.1 Policies 1 and 4 of the FIFEplan states that a contribution towards on-site public art will be sought in relation to Major applications for housing. The requirement for public art to be provided as part of new development will be determined on a site-by-site basis using the process set out in the POG. The POG states that the public art amount should equate to £300 per unit excluding affordable housing units and that the public art element of the development should be integrated into the overall design of the proposal rather than provided a separate sum of money.

2.19.2 Making Fife's Places Supplementary Guidance states that 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. In this way, incorporating public art will help to create distinctive places.

2.19.3 There would be no requirement for a financial contribution towards public art as the proposed development is exempt from planning contributions as per the POG. The submitted drawings show that the vehicular access into the site would include a stone boundary wall on either side of the access which would incorporate an art feature. No details of this have, however, been submitted and a condition is recommended requiring that details of this art feature be submitted and agreed in writing with Fife Council as Planning Authority. These details should also include a thorough analysis relating to how the proposed art feature is based on a contextual approach relating to the surrounding area. The proposal subject to this condition would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.20 Commuted Sum for Loss of Employment Land

2.20.1 Policy 5 (Employment Land and Property) advises that the loss of employment land can be compensated with a commuted sum payment, which will be ring-fenced and used only for bringing forward the implementation, or upgrade, of existing and planned employment sites. The sum should be equivalent to the replacement value of the gross area lost and calculated at serviced land value at the time of the decision. The District Valuer or equivalent Royal Institution of Chartered Surveyors qualified Valuer will arbitrate as needed on the agreed commuted sum.

2.20.2 As per section 2.2 above, the loss of this employment land has been fully justified and would have no impact on the 7-year supply of employment land. A development appraisal report has also been submitted which demonstrates that any additional contributions could potentially make this development unviable. It is considered, therefore, that a commuted sum to offset the loss of this employment land would not be required in this instance as the loss of this employment land has been fully justified and to enable this site to be re-developed. The proposal, would therefore, be acceptable in this instance.

**CONSULTATIONS**

| | |
|---|---|
| Land And Air Quality, Protective Services | No objections subject to conditions |
| Business And Employability | No objections subject to a commuted sum |
| Education (Directorate) | No objections subject to the phasing of the development being agreed |
| Housing And Neighbourhood Services | No objections subject to conditions |
| Structural Services - Flooding, Shoreline And Harbours | No objections |
| TDM, Planning Services | No objections subject to conditions |
| Urban Design, Planning Services | No response |
| NHS Fife | No response |
| Parks Development And Countryside | No objections subject to contribution towards open space. |
| Natural Heritage, Planning Services | No response |
| The Coal Authority | No objections subject to conditions |
| Environmental Health (Public Protection) | No objections subject to conditions |
| Rights of Way/Access Officer | No objections subject to conditions |
| Scottish Water | No objections |

## REPRESENTATIONS

Four letters of objection have been received. The concerns raised have been fully addressed in this report of handling. The concerns raised include:

- Lack of information regarding retaining wall and visual impact of wall. These concerns are assessed under sections 2.3.5 to 2.3.9 above.
- Loss of daylight/sunlight due to retaining wall. These concerns are assessed under section 2.4.4.4 to above.
- Loss of Privacy due to overlooking of gardens. These concerns are assessed under section 2.4.5 above.
- Construction period would impact parking and vehicular access would cause congestion. These concerns are assessed under sections 2.7.4 to 2.7.6 above.
- Detrimental impact on wildlife and their habitats due to proposal. These concerns are assessed under sections 2.12.3 above.

The concerns also advise that an acoustic fence required by condition 1 of planning permission reference 17/02461/FULL has not been erected, however, this neighbouring development has been completed and is occupied. This fence should have been completed before the first dwellinghouse of the neighbouring development to the east was occupied, as this was required to protect occupants from the noise impact of the Milesmark Depot. This current application would result in a residential use replacing the Milesmark Depot, therefore, the acoustic fence would no longer be required should this current application be approved and if the development is implemented. Given this context enforcement action is not appropriate at this stage however this matter would be further investigated depending on the outcome of the determination of this current application.

## CONCLUSIONS

The proposal would be compatible with its surrounds in terms of land use and would not cause any detrimental impacts on surrounding residential properties within the proposed scheme or the surrounding area. The proposal would be acceptable in terms of its impact on road safety and would provide the necessary transport measures to minimise and manage future levels of traffic generated by the proposal. The proposal is also considered to be in keeping with the scale, massing, layout and height of the existing built form at this location and would be an appropriate form of development which would represent a positive visual improvement to the site and surrounding area. The proposal, subject to conditions would, therefore, be acceptable in meeting the terms of the Development Plan and National Guidance.

## RECOMMENDATION

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

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

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

2. The units hereby approved on plots 58 to 69, shall be affordable housing as defined within Fife Council's Supplementary Guidance on Affordable Housing (2018) and shall be retained as such for the lifetime of the development unless otherwise agreed in writing with Fife Council as Planning Authority.

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

3. 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.

4. 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 3. 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.

5. 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.

6. BEFORE ANY WORKS COMMENCE ON SITE; a scheme of intrusive site investigation works to identify any coal mining legacy issues shall be undertaken. The results of these investigations along with details of any required remedial works and/or mitigation measures to address land instability shall be submitted in a report for the prior written approval by Fife Council as Planning Authority in consultation with The Coal Authority. Thereafter any identified and agreed remedial works and/or mitigation measures shall be undertaken in full BEFORE ANY DEVELOPMENT WORKS COMMENCE ON SITE. The intrusive site investigations and remedial works shall be carried out in accordance with the relevant authoritative UK guidance.

Reason: To avoid unacceptable risks to human health and the environment.

7. A signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall then be submitted to and approved in writing by Fife Council as Planning Authority BEFORE THE DEVELOPMENT IS OCCUPIED. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To avoid unacceptable risks to human health and the environment.

8. BEFORE ANY WORKS COMMENCE ON SITE; a phasing plan for the development shall be submitted for the written approval of Fife Council as Planning Authority in consultation with Education Services. That phasing plan shall outline the timescales and build rate for the

completion of the development. The development shall, thereafter, be implemented in accordance with the details approved through this condition.

Reason: In the interests of ensuring that the development will have no significant detrimental impact on local school capacity.

9. BEFORE ANY WORKS COMMENCE ON SITE; an updated Ecological Appraisal report which shall include a phase 1 habitat survey and a protected species survey, and which considers any subsequent detailed layout and sets out any required mitigation and biodiversity enhancement measures shall be submitted to and approved in writing by Fife Council as Planning Authority. This report shall also include details relating to the provision of bird and bat roost boxes or bricks throughout the site. All works shall then be carried out in full accordance with any subsequent approved details and all approved bird and bat roost boxes or bricks shall be provided BEFORE EACH RELATED DWELLING IS OCCUPIED unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of ecological enhancements as a precautionary measure to ensure the protection of protected species.

10. BEFORE ANY WORKS COMMENCE ON SITE; a Construction Method Statement and Management Plan, including an Environmental Protection Plan and a Scheme of Works to mitigate the effects on sensitive premises/areas from dust, noise and vibration relating to construction activities on site, shall be submitted to and approved in writing by Fife Council as Planning Authority. All construction works shall then be carried out in full accordance with these approved details.

Reason: In the interests of safeguarding residential amenity.

11. BEFORE ANY WORKS COMMENCE ON SITE; a scheme of landscaping including a landscaping plan indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs, and hedges to be planted, and the extent and profile of any areas of earth mounding, shall be submitted to and approved in writing by this Planning Authority. These submitted details shall also include details of all proposed boundary treatments and retaining walls. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is sooner.

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

12. 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.

13. BEFORE ANY WORKS COMMENCE ON SITE; full details of the proposed energy generating technologies (including manufacturer's details) shall be submitted to and approved in

writing by Fife Council as Planning Authority. Thereafter, the development shall be carried out in full accordance with these approved details.

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

14. BEFORE ANY WORKS COMMENCE ON SITE; full details relating to the public art feature proposed at the entrance to the site shall be submitted to and approved in writing by Fife Council as Planning Authority. These details shall also include a full contextual and historic analysis of the site in relation to this art feature. Thereafter, the development shall be carried out in full accordance with these approved details.

Reason: In the interests of successful placemaking.

15. BEFORE ANY WORKS COMMENCE ON SITE; full details of all required plot and gable enhancements for the residential units within plots 10, 47, 48, 49, 60, 64 and 66 shall be submitted to and approved in writing by Fife Council as Planning Authority. These enhancements should take the form of additional glazing elements or additional materials such as timber cladding to allow these elevations to be visually broken up.

Reason: In the interests of visual amenity; to ensure that all gable ends facing onto public elevations are visually broken up and to allow for a visually interesting development.

16. The construction of the development shall be carried out fully in accordance with the recommendations contained within the submitted Arboricultural Impact Assessment Report (Plan Reference 71) and as per the tree protection plan contained within this document. This Planning Authority shall be formally notified in writing of the completion of the required tree protection measures and NO WORKS SHALL COMMENCE ON SITE until this Planning Authority has confirmed in writing that the measures as implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

Reason: In the interests of safeguarding trees.

17. The noise mitigation measures as specified within the submitted noise impact assessment report (Plan Reference - 45A) shall be carried out in full BEFORE EACH AFFECTED DWELLING IS OCCUPIED and maintained for the lifetime of the development unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of safeguarding residential amenity.

18. BEFORE THE OCCUPATION OF THE DWELLINGHOUSES WITHIN PLOTS 1 TO 10 AND 67 TO 69; evidence shall be submitted to and approved in writing by Fife Council as Planning Authority to demonstrate that the following internal sound levels have been achieved in each of these plots:

- The 16hr LAeq shall not exceed 35dB between 0700 and 2300 hours when readings are taken in any noise sensitive rooms in the development.
- The 8hr LAeq shall not exceed 30dB between 2300 and 0700 hours when readings are taken inside any bedroom in the development.

- The LAMax shall not exceed 45 dB between 2300 and 0700hrs when readings are taken inside any bedroom in the development.

If it cannot be demonstrated that the aforementioned sound levels have been achieved, a further scheme incorporating further measures to achieve those sound levels shall be submitted to and approved in writing by Fife Council as Planning Authority. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned sound levels have been achieved shall then be submitted to and approved in writing by this Planning Authority before these dwellings are brought into use.

Reason: In the interests of safeguarding residential amenity.

19. BEFORE THE OCCUPATION OF THE FIRST DWELLINGHOUSE on the shared surface street fronting plots 39 to 47; a raised table at the carriageway narrowing fronting plot 53 and a 2 metres wide footway between the driveways of plots 52 and 53 shall be provided.

Reason: In the interest of road safety and to provide a safe pedestrian route passing the raised table.

20. BEFORE THE OCCUPATION OF THE FIRST DWELLING; visibility splays 2.4 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 Carnock 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.

21. BEFORE THE OCCUPATION OF THE FIRST DWELLING; visibility splays 2.4 metres x 25 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at all internal junctions 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.

22. BEFORE THE OCCUPATION OF EACH DWELLING: the off-street parking provision as shown on the approved site layout drawing (plan reference - 03E) shall be provided in accordance with the current Fife Council Parking Standards. The parking spaces for Plots 58 to 69 shall be for communal use only and shall be constructed to allow for their simple conversion to electric vehicle charging points. 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

23. The, hereby approved wheel cleaning facilities (plan reference 72) shall be provided and maintained throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles on to the public roads.

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

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

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

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

Reason: In the interests of species protection.

26. The Core Path (Path Code: P597/01) and Cycle Network Route (Route Name: 764 and West Fife Way) located adjacent to the site shall be kept clear of all obstructions for the duration of any construction period.

Reason: In order to protect the adjacent Core Paths.

27. The fence located along the retaining wall on the north-eastern boundary of the site and as indicated on the approved site plan (Plan Reference 03E) shall be no higher than 1.2 metres above ground level when measured from the top of the retaining wall, unless otherwise agreed in writing with Fife Council as Planning Authority.

Reasons: In the interests of visual amenity; a higher fence would not be visually appropriate at this location.

**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)
National Planning Framework 4
PAN 1/2011: Planning and Noise
Circular 3/2012: Planning Obligations and Good Neighbour Agreements
Building Research Establishment's Site Layout Planning for Daylight and Sunlight Guidance (2022)

Development Plan
Adopted FIFEplan (2017)
Fife Council's Supplementary Guidance on Affordable Housing (2018)
Making Fife's Places Supplementary Guidance (2018)
Fife Council's Low Carbon Fife Supplementary Guidance (2019)

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

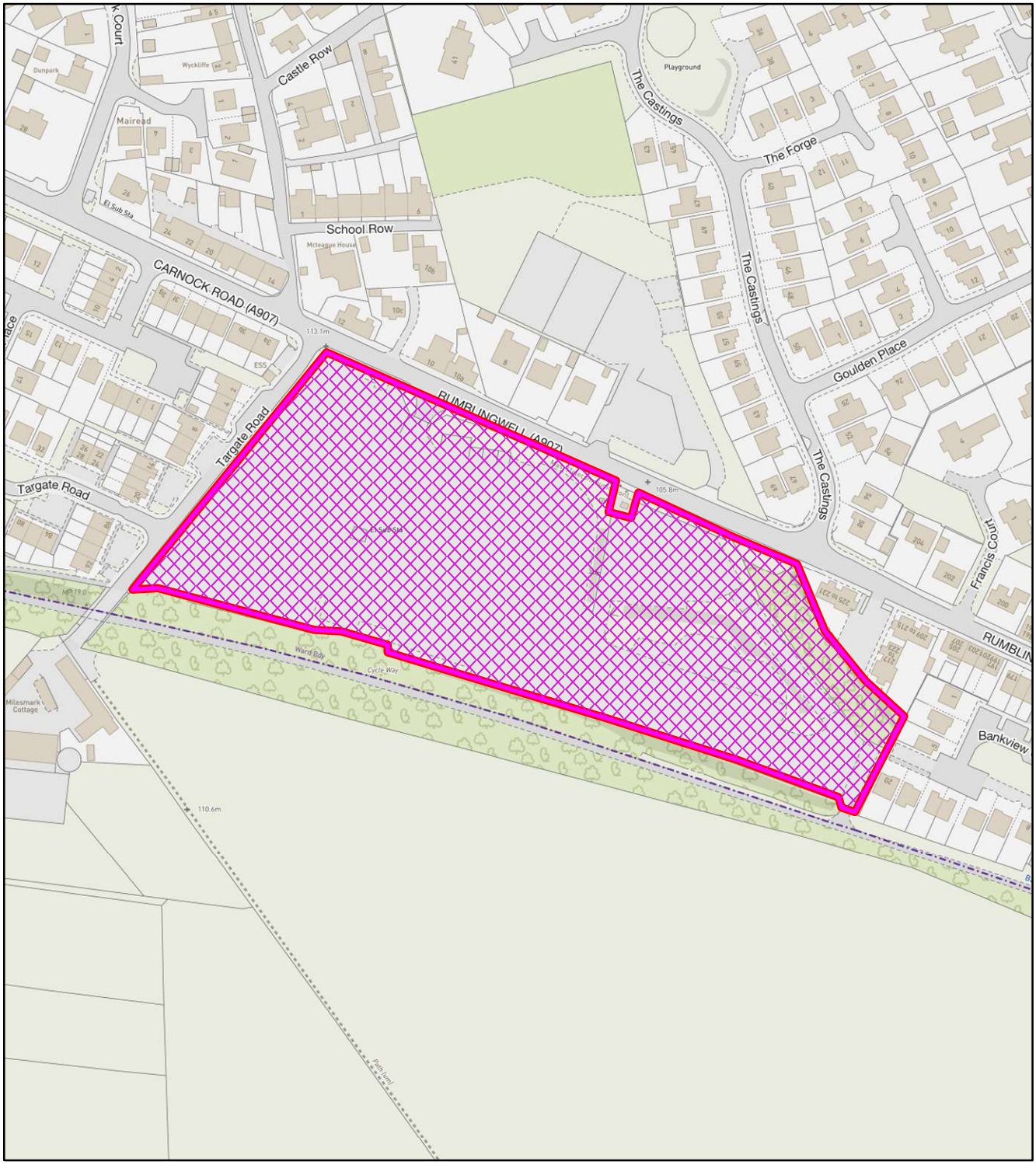
Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2022)
Fife Council's Planning Customer Guidelines on Garden Ground (2016)
Fife Council's Minimum Distance between Windows Guidance (2011)
Fife Council's Planning Customer Guidelines on Dormer Extensions (2016)
Fife Council's Planning Obligations Framework Guidance (2017)

Report prepared by Scott Simpson, Planner, Case Officer.
Report agreed and signed off by Alastair Hamilton, Service Manager (Committee Lead) 9/1/23.

Date Printed 15/12/2022

# 22/02270/FULL

## Milesmark Roads Depot, Dunfermline




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Legend

Application Boundary

0 12.5 25 50 75 m

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Fife Council

Economy, Planning & Employabilty Services

**ITEM NO: 5**

**APPLICATION FOR MODIFY/DISCHARGE OF PLANNING OBLIGATION REF: 22/01895/OBL**

| | |
|---|---|
| **SITE ADDRESS:** | **FORMER TULLIS RUSSELL MILL GLENROTHES FIFE** |
| **PROPOSAL :** | **MODIFICATION OF PLANNING OBLIGATION 18/01756/EIA** |
| **APPLICANT:** | **ADVANCE CONSTRUCTION (GD) LTD CALDERGROVE HOUSE LINNET WAY STRATHCLYDE BUSINESS PARK** |
| **WARD NO:** | W5R15 Glenrothes Central And Thornton |
| **CASE OFFICER:** | Kathleen Illingworth |
| **DATE REGISTERED:** | 30/06/2022 |

## REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The applicant has lodged an appeal to the DPEA against the non-determination of application reference: 22/01895/OBL which seeks to modify the legal agreement associated with planning permission in principle 18/01756/EIA - for a residential led mixed-use development on the former Tullis Russell site. The associated PPP application was determined by West and Central Planning Committee. A response from the planning authority was required to be formalised and submitted to the DPEA before the next meeting of this Committee. Accordingly, because of the associated urgency, paragraph 2.1.1 of Fife Council's current List of Officer Powers, afforded for a view being taken from the Executive Director of Enterprise and Environment and the Convenor and Vice-Convener of this Committee to enable a response from the planning authority to be timeously lodged. This Report of Handling is therefore for information and noting by the Committee and presents the agreed position of planning authority for the purposes of the appeal.

## SUMMARY RECOMMENDATION

The application is recommended for refusal.

**ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS**

1.0 BACKGROUND

1.1 This application relates to a planning obligation associated with planning permission reference: 18/01756/EIA - Planning Permission in Principle for residential led mixed-use development including employment, Class 4 business and light industry, Class 1 retail, Class 8 care home, parkland / open space and associated development including formation of access on the former Tullis Russell site, located within the settlement of Glenrothes. The development site, which measures 55.5 hectares is located to the north of the centre of Glenrothes, beyond the Queensway Industrial Estate. The site is split by the River Eden – reflecting the existing catchment areas for primary schools as Pitcoudie Primary School for properties to the north of the river and Warout Primary School for properties to the south of the river. That application was approved by Members subject to conditions and the conclusion of a legal agreement. The Section 75 Agreement required monetary contributions towards the education and transport infrastructure, and, the provision of affordable housing on-site.

1.2 This application seeks to modify the planning obligation relating to application reference: 18/01756/EIA. The application seeks to modify the financial contribution towards education infrastructure arising from a reduction in the proposed number of new homes anticipated to be delivered on site.

1.3 The current S75 agreement relating to education is for a contribution towards four additional teaching areas, ancillary accommodation and a multi-purpose hall at Pitcoudie Primary School and delivery of a singular modular unit for nursery provision for a maximum of 24 nursery pupils serving the development. That contribution was based on the delivery of up to 850 homes (as per the initial proposal) on the site and a primary catchment area for the whole site being Pitcoudie Primary School. The Education Service considered that the development site should not be split across different school catchments and that the whole site should be included in the catchment area for Pitcoudie Primary School.

1.4 Reserved matters planning applications have been submitted for 479 units. In the Supporting Statement submitted with 22/01895/OBL, the agent advises that a further planning application for 71 units will come forward (no application has been received to date) bringing the total number of units on site to 550. The agent anticipates that 550 will be the total number of residential units delivered on the site and on that basis wishes to revisit the agreed education solution based on this revised number. The Supporting Statement sets out three options;-

Option 1 - All pupils to Pitcoudie Primary School (as per existing S75 Agreement).
Option 2 – All pupils to Warout Primary School.
Option 3 – Split catchments (using existing catchment areas).

The Supporting Statement confirms the Applicant’s preferred mitigation option as option two - all Residential Units re-zoned to Warout Primary School.

1.5 On the basis of a maximum of 550 units delivered on site, the developer wishes to revisit the proposed education solution and asks for the following modifications;-

1. In Clause 1.1 under the definition of “Education Contribution” replace the words “FOUR THOUSAND TWO HUNDRED AND SEVENTY FOUR POUNDS AND FIFTY PENCE (£4,274.50) STERLING Indexed” with

“SIX HUNDRED AND EIGHTY EIGHT POUNDS AND SEVENTEEN PENCE (£688.17) STERLING Indexed or such other figure as may be agreed between the parties;”

2. In Clause 1.1 under the definition of “Education Infrastructure” replace the words “four additional teaching areas, ancillary accommodation and a multi-purpose hall at Pitcoudie Primary School and delivery of a singular modular unit for nursery provision for a maximum of 24 nursery pupils serving the Development” with

“a temporary two class extension at Warout Primary School and delivery of a singular modular unit for nursery provision for a maximum of 24 nursery pupils serving the Development or such other mitigation as may be agreed between the parties”

3. In Clause 1.1 insert the following definition after the definition of Education Contribution;

“Education Contribution Total” means the sum of THREE HUNDRED AND TWENTY THOUSAND POUNDS (£320,000) STERLING (being the Education Contribution multiplied by 465) or such other figure as may be agreed between the parties;

4. In Clause 1.1 insert the following words at the end of the definition of Indexed;

“with the exception of the Education Contribution in which case b = the index at Q4 2018;”

5. In Clause 1.1 insert the following definition before the definition of “Market Unit”:

“Market Site” means the Agreement Subjects under exception of the Kingdom Site”

6. Insert the following clause:

“3.2 Not more than 465 Residential Units may be constructed on the Market Site without the consent of the Council”

1.6 The Applicant contends that in view of the likely number of residential units on the Legal Agreement Subjects as a whole, the Planning Obligation is not currently Circular 3/2012 compliant as it does not meet all of the necessary tests. It does not fairly and reasonably relate to the scale of the proposed development because it assumed that many more residential units would be built on Agreement Subjects than is now the case.

1.7 The Supporting Statement notes that the existing Agreement can also be modified to control no more than 550 homes being delivered across the site. Clarification from the Council is also requested on whether the level of financial contributions towards nursery infrastructure could also be reduced. This would be a matter for further separate consideration and is not considered further within this report.

1.8 Education has been reconsulted and following a period of discussion both with the agent and with other internal colleagues a response to the Supporting Statement and regarding modification of the S75 Agreement was received from Education.

1.9 An appeal to the DPEA was submitted on the 25th November 2022. A response to the appeal is required, from Fife Council, by the 27th December 2022 – hence the reason why this report is being sent to Members for information purposes only. As part of the appeal submission - the appeal documents (Appendix – Questions for the Council in response to the School Estate Impact Report (Supporting Statement)) did raise other questions regarding modelling assumptions (made by Education), school capacity, catchment areas, cost of extension, contributing sites and requirement for modular accommodation – all at Auchmuty High School. Education has confirmed that those questions will all be answered and they will form part of the Council's response to the appeal.

2.1 Relevant Planning History

Planning permission reference 18/01756/EIA - Planning Permission in Principle for residential led mixed-use development including employment, Class 4 business and light industry, Class 1 retail, Class 8 care home, parkland / open space and associated development including formation of access. Approved by Members of Central and West Fife Planning Committee subject to conditions and the conclusion of a legal agreement. Decision issued 30th April 2020.

20/00977/ARC - Proposed residential development to include 85no. affordable housing units, drainage, parking and associated landscaping. Approved using officer delegated powers in October 2020. This development (Kingdom Housing Association) (KHA) occupies the southern part of site.

21/00508/ARC - Application for approval of matters specified in conditions 2 (Parts a, b, c, d, e, f, h, i, j and k); 26 and 28 of 18/01756/EIA in relation to 145 houses. Approved by Members November 2021. This part of the development occupies the north eastern corner of site.

21/02611/ARC - Erection of 152 no. dwellings and associated drainage, infrastructure and landscaping. (Approval of Matters Specified in Conditions of consent 18/01756/EIA in respect of condition nos. 2 (Parts a, b, c, d , e, f, h, I, j, and k); 26 and 28) (as amended). This part of the site is adjacent to the Kingdom Housing Association
site.

21/02762/ARC New 97no. unit private residential development on site of previous Tullis Russell water treatment facility which has since been demolished. Approved using officer delegated powers in November 2021. This part of the development occupies the north west corner of the site.

22/01118/ARC - Application for Approval of Matters Specified in Condition 1 of 18/01756/EIA for Planning Permission in Principle for residential led mixed-use development including employment, Class 4 business and light industry, Class 1 retail, Class 8 care home, parkland / open space and associated development including formation of access. This application was for phase 2 infrastructure works to serve the area to the north east of the KHA site (industrial units) and was withdrawn. No further applications have come forward for that site.

3.0 Procedural Matters

3.1.1 In this case, as earlier confirmed, the related planning application (18/01756/EIA) was determined by Members of the Central and West Planning Committee. A subsequent appeal to the Scottish Government means that, under paragraph 2.1.1 of Fife Council's current List of Officer Powers, a view was taken from the Executive Director of Enterprise and Environment and the Convenor and Vice-Convener of this Planning Committee to enable a response from the planning authority to be timeously lodged. This Report of Handling is therefore for information and noting by the Committee and presents the agreed position of planning authority for the purposes of the appeal.

4.0 Assessment

4.1 Circular 3/2012: Planning Obligations and Good Neighbour Agreements require that planning obligations meet all of the following 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; and
- be reasonable in all other respects

4.2 The original planning obligation which this application seeks to modify 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 appropriate payments to mitigate the effects of the development as per the terms of the Development Plan and Supplementary Guidance at the time the planning permission was granted.

4.3 The main points of assessment for this application are as follows:

- Contribution towards Education
- Circular 3/2012 Tests

4.4 Contribution towards Education

4.4.1 Policy 1, Part B, criterion 1 of the FIFEplan advises that development proposal 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.

4.4.2 Fife Council's Planning Obligations 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.

4.4.3 A contribution towards education is required to meet the terms of FIFEplan Policies 1 and 4 and the Planning Obligations Framework Guidance (2017). The Supporting Statement submitted in support of 22/01895/OBL proposes a different methodology for calculating the contribution required and bases the contribution required on the anticipated delivery of 550 units on site rather than up to 850 as approved by the Planning Permission in Principle (PPP) application.

4.4.4 Education colleagues have re-considered the level of contributions using Educations agreed methodology and agree that if the number of units is restricted 550 a reduced contribution will be required. Based on 550 units, Education agrees that their recommendation would be for the school catchments to be split. As a result of a change in the catchment from that previously recommended there will be an impact on Auchmuty High School. The mitigation for that impact will require further consideration.

4.4.5 The approved PPP application Legal Agreement allows for the education contributions to be revisited. Clause 6.9 instructs that on completion of the 100$^{th}$ Market Unit and thereafter on Completion of every 50$^{th}$ Market Unit the Council shall conduct a review of the projections used to calculate the dates by which this Agreement anticipates the Education Infrastructure shall be needed.

4.4.6 Clause 6.2 of the S75 Agreement states that 'unless otherwise agreed under clause 6.9, the Council shall deliver the education Infrastructure by August 2022'. Education colleagues advise that works to Pitcoudie PS, rising as a result of the Tullis Russell development, have not yet started on site. Given that there are, to date, no completions on site - works are expected (informally) to be workflowed for 2024/ 2025. There is still an opportunity for the extent/ timing of any works, arising as a result of the development, to be agreed with the developers. The PPP remains live and development of the site is on-going, and it should be noted that the PPP does allow up to 850 units.

4.4.8 The S75 Agreement for 18/01756/EIA does not directly refer to a maximum number of units on site. It is condition 6 of 18/01756/EIA that restricts the number of units;-

> 6. In the event that changes are required at any time over the life of this permission to the Development Framework document required by Condition 2, a written request shall be submitted for the consideration and prior approval of the Planning Authority. Any such request shall be submitted along with justification for why such an amendment is required and shall include an amended Development Framework. FOR THE AVOIDANCE OF DOUBT and not withstanding any other changes proposed by the amended framework, the maximum number of houses across the site shall not exceed 850. Once approved, any subsequent applications requiring approval specified by condition shall be designed in a way that fully accords with any such amended document as required by Conditions 2(g) and 4(b).
>
> Reason; To allow for the flexibility and the ability to respond to unforeseen changes inherent with a development of this scale and complexity.

It is noted that this S75A application does propose to add another clause – Clause 3.2 'Not more than 465 Residential Units may be constructed on the Market Site without the consent of the Council"'.

4.4.9 As per paragraph 4.4.4 above Education has revisited the need for a revised level of obligation and its preferred option is to split the catchment areas of the whole development site. This is contrary to the recommendation made by the applicant who would make Warout Primary School the catchment for the whole site.

4.4.10 Accordingly, the proposed modification has been considered by Education who do not agree with the proposed preferred mitigation based on a maximum capacity of 550 units. The proposed modification of the section75 Agreement is also not supported as the legal agreement would contradict the original consent for PPP in terms of anticipated numbers. The Legal Agreement does include provision to amend the education solution/contributions without the need for a formal application to amend those solutions/ contributions (an OBL application) see paragraphs 4.4.5, 4.4.6 and 4.4.7 above and can resolve the anticipated reduction in completed units on site.

4.6 Circular 3/2012 Tests

4.6.1 Section 2.1 of this report set 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.

4.6.2 An education capacity issue rising directly from the development is still identified and a contribution towards that infrastructure is required from this development. Planning obligations are therefore necessary to make the proposed development acceptable in planning terms. Education Estate has already agreed that if the numbers of units reduce – then they would revisit that level – using their agreed methodology. They have carried out an assessment but they would opt for a split catchment rather than Warout Primary School as proposed by the applicant. The modification proposed does not meet the first test

4.6.3 The contributions would be used to resolve the impact of the development on education capacity in the catchment. As per section 4.4.7 above it is only the level of contribution is questioned. Education Estate has already agreed that if the numbers of units reduce – then they would revisit that level – using their agreed methodology. The modification proposed would not serve a planning purpose. The second test is not met.

4.6.4 For the reasons given above the contributions proposed do not relate to the proposed development. The third test has therefore not been met.

4.6.5 The level of contribution required is as per the values given in the Planning Obligations Framework Guidance (2017). The proposed modifications are not considered to be fair and proportionate to the development. The fourth test has therefore not been met.

4.6.6 The need for a contribution towards education is set out within the Adopted FIFEplan (2017), the Planning Obligations Framework Guidance (2017) and therefore has been established through policy. The modification proposed is not considered reasonable in all other respects. The fifth test has therefore not been met.

4.6.7 This application to modify the planning obligations is not supported since the proposed obligations do not meet all of the tests within Circular 3/2012

**CONSULTATIONS**

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|---|---|
| Education (Directorate) | Option 3 (split catchments) between Pitcoudie PS and Warout PS is recommended. The increase in numbers to Warout PS has meant that a contribution towards Auchmuty High School will now be required. |

## REPRESENTATIONS

None

## CONCLUSIONS

The applicant, in this application to modify the planning contribution, bases their modification on a reduction in numbers relevant to the approved Planning Permission in Principle.18/01756/EIA. Education has made a reassessment based on reduced numbers and does not agree with the proposed preferred solution and this application to modify an existing S75 agreement. The planning authority has demonstrated by their reassessment of the infrastructure required, if only 550 units are built on site, that in accordance with the terms of the legal agreement that the level of contribution requires to be re-assessed. This application to modify the level of education contributions required as requested by the applicant however is not acceptable to the planning authority and is therefore recommended for refusal.

## RECOMMENDATION

Refuse

## 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
National Planning Framework 4
Scottish Planning Policy (SPP) (2014)
Adopted FIFEplan (2017)

Other Guidance/Legislation
Circular 3/2012: Planning Obligations and Good Neighbour Agreements (Revised 2020)
Planning Obligations Framework Guidance (2017)

Report prepared by Kathleen Illingworth, Case Officer and Chartered Planner
Report reviewed and agreed by Alastair Hamilton, Service Manager (Committee Lead) 23/12/22.

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