

Perth and Kinross Council  
Development Management Committee – 11 September 2013  
Report of Handling by the Development Quality Manager

**Modification of existing consent (Ref: 11/01333/FLM) – Replacement of care home with 50 sheltered units at site of Tayside Care Home, Isla Road, Perth**

Ref No: 13/00942/FLM  
Ward No: 12- Perth City Centre

### Summary

This report recommends approval of a detailed planning application for 50 sheltered units on the grounds that the proposal is considered to accord with the provisions of the Development Plan and there are no material reasons which justify refusal of the planning application.

### BACKGROUND AND DESCRIPTION

- 1 The former Tayside Care Home site lies between Isla Road and the River Tay. The site is roughly square in its shape, with a road frontage (north to south) of approx 120m and a depth of approx 132m (east to west), resulting in a site area of approx 1.5 ha. The local area is generally residential in character, with the site bounded to the east by Isla Road and to the north and south by existing residential properties. On the opposite side of Isla Road (to the east) are further residential properties, a public park and a commercial garage. The site is bounded to the west by the River Tay.
- 2 As part of the existing consent, the large 'L' shaped 1960s, flat roofed care home which sat on the eastern part of the site has been demolished. The cleared site slopes generally east to west, with a 7m fall from Isla Road (east) down towards the River Tay (west). Within the grounds are a substantial number of specimen mature trees which are covered by a blanket Tree Preservation Order (TPO).
- 3 The existing consent also allows the erection of a new care facility comprising two state of the art care homes (60 beds each), 25 assisted living units with communal facilities and three luxury mainstream dwellings on the banks of the River Tay. The modification sought would replace one of the 60 bed care homes and fourteen of the assisted living units with a block of 50 one and two bedroom sheltered units, a resident's lounge, kitchen, reception area, sun room, roof terrace, guest suite, laundry, refuse room and house manager's office.
- 4 The sheltered units will be contained in one large U shaped building, with accommodation principally provided over three main levels. The topography of the site allows a small area of basement to be on the western flank of the building which will be utilised to provide four of the sheltered units. This results in a small fourth level of the building being occupied. The building will

be of a relatively modern design incorporating concrete slate roof tiles, with elevations of cast stone, concrete block and timber cladding. Juliet balconies to the eastern elevation and walk out balconies to the west and southern elevations will incorporate glass balustrades and stainless steel handrails and fixings. On-site vehicular parking for the sheltered units will be provided via a small car park to the north of the building (10 spaces), with an additional 23 spaces off the main entrance and 16 in front of the care home entrance. Whilst the height of the main ridge line of sheltered unit block will be approx 5m higher than the height of the previous flat roofed building, the ridge line is approximately at the same height as the currently consented care home.

- 5 The remaining care home facility on the south east of the site and the three dwellings on the west of the site would remain unaltered from the existing permission.

## **HIERARCHY OF PLANNING APPLICATIONS**

- 6 The proposal constitutes a 'major' application under the terms of the Town & County Planning Hierarchy of Development Regulations (2009). To this end, the applicant has carried out the Pre-Application Notification Process, which involved the community, Bridgend, Gannochy and Kinnoull Community Council and Perth and Kinross Council officials. The planning application is being presented to the Development Control Committee solely because it constitutes a 'major' planning application.

## **NATIONAL PLANNING POLICY AND GUIDANCE**

- 7 The Scottish Government expresses its planning policies through the National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

### **The Scottish Planning Policy 2010**

- 8 The SPP is a statement of Scottish Government policy on land use planning and contains:
  - the Scottish Government's view of the purpose of planning,
  - the core principles for the operation of the system and the objectives for key parts of the system,
  - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
  - concise subject planning policies, including the implications for development planning and development management, and
  - the Scottish Government's expectations of the intended outcomes of the planning system.

Of specific relevance to this application are:-

- 1 Paragraphs 66-91: Housing
- 2 Paragraphs 110-124: Historic Environment.
- 3 Paragraphs 196 -211: Flooding and Drainage

### **Planning Advice Note 33: Contaminated Land**

- 9 The planning system has a key part to play in addressing the problem of historical contamination and this PAN highlights the pursuing policies to re-used and redeveloped sites, the issues that Planning Authorities need to be aware of in relation to contamination, and the role of the planning system in dealing with these issues.

### **Scottish Historic Environment Policy**

- 10 This document, produced by Historic Scotland, provides guidance to Planning Authorities on how to deal with planning applications which affect both Listed Buildings and Conservation Areas, and the settings of both.

### **DEVELOPMENT PLAN**

- 11 The Development Plan for the area consists of the TAYplan Strategic Development Plan 2012 – 2032 Approved June 2012 and the Adopted Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).

### **TAYPLAN**

- 12 The vision set out in the TAYplan states that:

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

### **Policy 1: Location Priorities**

- 13 Seeks to focus the majority of development in the region’s principal settlements, which includes Perth Core Area. Also prioritises land release using the sequential approach and prioritises within each category as appropriate, the reuse of previously developed land and buildings.

### **Policy 2: Shaping Better Quality Places**

- 14 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

### **Policy 5: Housing**

- 15 Seeks to ensure that the mix of housing type, size and tenure meets the needs and aspirations of a range of different households throughout their lives, including the provision of an appropriate level of affordable housing based on defined local needs.

## **Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000 Policy 41**

- 16 Identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved. Sets out that there may be some scope for infill development, but only where this will not significantly affect the density, character or amenity of the area concerned. Seeks to retain small areas of private and public open space where they are of recreational / amenity value to their surroundings.

### **Policy 41A**

- 17 Seeks to achieve the highest possible provision of affordable housing in areas of particular need subject to the availability of resources.

### **Policy 43**

- 18 Seeks provision of appropriate areas of amenity and recreational open space as an integral part of new housing development.

### **Policy 57**

- 19 Sets out that Tree Preservation Orders are identified on the Proposals Map and that these are served where trees are under apparent risk in order to protect environmentally important groups of trees.

### **Policy 58**

- 20 Seeks to retain the architectural or historic character of designated conservation areas.

### **Policy 59**

- 21 Seeks to secure the sympathetic restoration of listed buildings and safeguard their setting.

### **Policy 65**

- 22 Seeks to secure adequate car parking and servicing within all new development to the satisfaction of the Council.

### **Policy 67**

- 23 Seeks to encourage the provision of facilities which afford easier access and mobility for the disabled.

## **Perth Area Draft Plan 2004**

- 24 Members will be aware that on 30 January 2008 the Council's Enterprise and Infrastructure Committee took the decision not to progress this Plan to a finalised stage. Therefore, although the contents of the Draft Plan should be

noted, I consider the weighting which is given to its policies and proposals should be limited at this point in time.

## **PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012**

25 Members will be aware that on 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.

26 The principal relevant policies are:-

### **Policy PM1: Placemaking**

27 Development must contribute positively to the quality of the surrounding built and natural environment.

### **Policy PM2: Design Statements**

28 Design Statements will normally need to accompany a planning application if the development comprises 5 or more dwellings.

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

29 The plan identifies areas of residential and compatible uses where existing residential amenity and character will be protected and where possible improved.

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

30 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units

### **Policy RD6: Particular Needs Housing**

31 Support will be given to proposals for particular needs housing and accommodation for the frail, elderly or those with special needs where they are appropriately located and where they have minimum impact on the environment.

### **Policy TA1B: Transport Standards and Accessibility Requirements – New Development Proposals**

32 Development proposals should be well served by all modes of transport and provide safe access/car parking

### **Policy CFB1: Open Space Within New Development**

- 33 The Council will seek the provision of appropriate areas of informal and formal open space as an integral part of any new development.

### **Policy HE2: listed Buildings**

- 34 The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the buildings character, appearance and setting.

### **Policy HE3A: Conservation Areas – New Development**

- 35 There is a presumption in favour of development within a Conservation Area that preserves or enhances its character or appearance. The design, materials, scale and siting of new development within a conservation area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting.

### **Policy NE1A: Environment and Conservation Policies – International Nature Conservation Sites**

- 36 Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special Areas of Conservation and Special Protection Areas) or a 'Ramsar' Site, will only be permitted where the Appropriate Assessment indicates that:(a) it will not adversely affect the integrity of the site;(b) there are no alternative solutions; and(c) there are imperative reasons of overriding public interest.

### **Policy NE2B: Forestry, Woodland and Trees**

- 37 Tree surveys should accompany all applications for planning permission where there are existing trees on a site.

### **Policy EP1: Climate Change, Carbon Reduction and Sustainable Construction**

- 38 Sustainable design and construction will be integral to new development within Perth & Kinross.

### **Policy EP2: New Development and Flooding**

- 39 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

### **Policy EP3C: Surface Water Drainage**

- 40 All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **Policy EP3D: Reinstatement of Natural Watercourses**

- 41 The Council will not support development over an existing culvert or the culverting of watercourses as part of a new development unless there is no practical alternative.

### **Policy EP11: Air Quality Management Areas**

- 42 Development proposals within or adjacent to designated Air Quality Management Areas which would adversely affect air quality may not be permitted.

## **OTHER COUNCIL POLICIES**

### **Perth and Kinross Council Air Quality Action Plan August 2009**

- 43 This document sets out Perth and Kinross Council's Air Quality Action Plan for the area designated as an AQMA on 5 May 2006. The aim of this Plan is to outline measures Perth and Kinross Council will take to reduce emissions of nitrogen oxides and fine particulate material within the city of Perth, thereby working towards achievement of the Air Quality Strategy objectives as required by the Environment Act 1995.

### **The Developer Contributions Incorporating Primary Education and A9 Junction Guidance 2012**

- 44 Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

### **Affordable housing Guide 2012**

- 45 Sets out the Council's Policy for securing appropriate affordable housing provision on a site by site basis.

### **Kinnoull Conservation Area Appraisal (April 2010)**

- 46 This is a management tool, which helps to identify the special interest and changing needs of an area. It serves as supplementary planning guidance to the Local Plan.

## **SITE HISTORY**

- 47 A planning application (11/00490/FLM) for a care facility was withdrawn in August 2011 prior to being determined.
- 48 A similar planning application (11/01333/FLM) for demolition of the existing care home building, erection of a new care facility comprising 2 no. Care Homes, assisted living units and communal facilities and the erection of 3 no. mainstream dwellings was approved in January 2013. It is this permission that this application seeks to modify.

## CONSULTATIONS

- 49 **Scottish Environment Protection Agency** has no objection to the proposals.
- 50 **The Environmental Health Manager** has commented on the proposal in terms of air quality, odour, noise and lighting, and subject to appropriate conditions, has no objection to the application
- 51 **The Transport Planning Officer** has commented on the proposal, and subject to appropriate conditions relating to pedestrian and traffic safety, has no objection to the application.
- 52 **Housing and Community Care** have commented that the proposal is subject to the Council's Affordable Housing policy and therefore a "commuted sum" is likely to be eligible.
- 53 The **Council's Conservation Officer** has no objection to the proposals subject to appropriate conditions.
- 54 The **Council's Community Waste Advisor** has requested that further consideration is needed to ensure that the development adheres to specifications for domestic waste.
- 55 **North Inch/Muirton Community Council** was consulted on the proposal and have not made a comment.
- 56 **Bridgend, Gannochy and Kinnoull Community Council** object to the proposal on the grounds of inadequate road infrastructure in the area and the cumulative effect that additional housing development will have before the delivery of the Cross Tay Link Road. Specific issues are raised in connection with the submitted Transport Assessment.

## REPRESENTATIONS

- 57 One letter of representation has been received from a local resident. The main issues raised by the objector are:
- a The potential to exacerbate parking problems in the area
  - b Safety issues in relation to increased use of a new access to the site
- 58 These matters will be addressed in the appraisal section.

## ADDITIONAL STATEMENTS

59	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Submitted

Report on Impact or Potential Impact	Contamination Land, Flooding Report & Tree Survey all submitted as part of previous application. Bat report submitted as part of previous application updated.
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## APPRAISAL

### Policy

- 60 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the planning application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 61 In terms of the Development Plan, the principal land use policy of specific relevance is Policy 41 of the PALP which seeks to ensure that the character, amenity and density of the existing area(s) is retained or where possible, improved.
- 62 The proposed modification to provide sheltered housing is considered to be compatible with the surrounding residential use, and the key test of the acceptability of this proposal in terms of its compliance with Policy 41 is therefore whether or not the design and siting of the new buildings are acceptable, in terms of the visual impact and their potential impact on the amenity of existing residential properties.
- 63 In addition to Policy 41, Environment & Resource Policy 8 of the Structure Plan, and Policies 58 and 59 of the PALP, all seek to protect the built heritage of existing areas. For reasons stated elsewhere in the report, I consider the proposal to be in accordance with the aforementioned Development Plan policies.

### Visual Impact

- 64 Whilst the demolished care home was smaller and located further into the site, the existing permission established that a building of the size and position of that proposed on the site could be acceptable.
- 65 The previously consented development comprised two care home blocks linked by a common hub facility. The revised design scheme involves two separate blocks with no link building. In terms of layout and massing this is preferable to the previous scheme. There is the possibility of glimpse views of the River Tay and beyond from Isla Road and the central mews access.
- 66 The height of the building, in combination with its forward position and its lower neighbours, will inevitably change the localised streetscene, however, high (three) storey buildings in close proximity to public roads are not uncommon in the immediate area, such as the existing residential flats along Main Street. The care home and sheltered accommodation blocks are no

higher than the previously consented development and the proposed modification does not result in a development which would be particularly visually obtrusive or incongruous.

- 67 Although the sheltered housing block stretches continually along its Isla Road frontage, the design, in my view, works extremely well in allowing for a greater level of accommodation to be provided whilst not giving the appearance of one continuous, monotonous frontage.

### **Impact on Existing Residential Amenity**

- 68 The principal conflict with existing residential amenity is the relationship of the proposed new sheltered housing and the existing properties to the north. As the properties to the north are on the boundaries to the site, there is the clear potential for direct overlooking, loss of light and potential adverse impact from odours and noise arising from the new sheltered accommodation.
- 69 In terms of the potential for direct overlooking and loss of light, the closest part of the neighbouring property (its southern gable of 1 Mansfield Road) is windowless. The property does, however, have a series of windows which would be approx 15m from the nearest part of the new sheltered units. Whilst the consented scheme included three windows, one on each level of the care facility, that were directly opposite the affected windows, the modified proposal has a number of north facing windows which have been placed further to the west, set slightly back from the building line. In my opinion whilst there would still be the potential to cause direct overlooking into 1 Mansfield Road and onto garden ground, this is reduced from the previous consented scheme. As all of the windows in the proposed sheltered housing block serve a hallway, I see no logical reason as to why they could not be opaque or obscure glazing.
- 70 In terms of loss of light, the height of the building is the same as that already approved and I do not consider the modification would increase the loss of light to any greater degree. The new building is directly due south of the affected property and the shadows that it may cast to the north are unlikely to change significantly from the status quo.
- 71 In terms of the potential impact from odours and noise from the sheltered housing, the applicant has not finalised the type of heating system or fuel required, the type of kitchen ventilation or the type of air conditioning that will be used. Although technical details are normally necessary to allow for a full assessment of the potential impact that these elements would have on existing residential properties, it is extremely unlikely that appropriate systems could not be achieved to protect existing residential amenity. I therefore consider it appropriate in this case to condition that full details of all heating, ventilation and air conditioning systems are submitted for the approval in writing by the Council as Planning Authority prior to any works commencing on site.

## **Impact on Built Heritage**

- 72 The site lies immediately outwith the Kinnoull Conservation Area, and adjacent to a number of Listed Buildings. The proposed modification will not have any more impact on these designations than the consented scheme, provided appropriate tree protection measures are taken and appropriate landscaping is secured. Whilst materials have been detailed, it will be important to approve samples of roof and wall finishes, including boundary walls, to ensure appropriate finishes and minimise impact.

## **Road related issues**

- 73 Bridgend, Gannochy and Kinnoull Community Council assert that the proposal is contrary to the Proposed Local Development Plan which has an embargo on housing developments of ten or more units along the A93 / A94 until the Cross Tay Link Road is committed. The Proposed Local Development Plan embargo, however, does not relate to brownfield sites such as the application site, and as such the Proposed Plan does not contain a presumption against the proposed development.
- 74 The Community Council also express concerns that:
- There is no spare capacity on the existing road network for the proposal until remedial measures are implemented.
  - The trip rates used underestimate the impact of the development and the trip rates should be amended to reflect maximum not average levels.
  - Low traffic growth rates should not be assumed as consents already exist that could increase housing provision by 22% between 2013 and 2018.
- 75 The Council's Transport Planning Officer has considered these issues alongside the Transport Assessment provided by the applicant and further information submitted to respond to the Community Council's particular concerns. His conclusions are that the trip rates and traffic growth rates assumed in the Transport Assessment are appropriate given the nature and location of the development and traffic survey evidence collected as part of the Transport Assessment. Further, it should be noted that the development is proposed on a brownfield site which would have generated some traffic, and is an amendment to an existing planning permission. The evidence provided in the Transport Assessment is clear that the proposed modification to the existing permission would actually result in the generation of less traffic than the already consented development.
- 76 Although the proposed modification to the existing consent would result in a reduced level of traffic impact, as the site is within an area of the Air Quality Management Area that is a 'hot spot' area with exceedances for NO<sub>2</sub>, it is recommended that a Green Travel Plan is implemented and submitted to the planning authority approval within 6 months of the care home becoming operational. Whilst the Community Council have requested to be active consultees in the creation and implementation of the Green Travel Plan, I do not consider that this is appropriate to include the condition on the consent, as it would not meet tests of need, ability to enforce and reasonableness set out in Circular 4/1998 (The Use of Conditions in Planning Permissions).

77 Concerns have also been raised in a representation that the level of parking provision proposed is inadequate and the proposed new access to the development could be unsafe. The submitted Transport Assessment is clear that the 29 parking spaces proposed within the development is in line with parking standards used by the Council, which generate a requirement of between 46 and 50 spaces. The Transport Assessment also sets out that the proposed new access to the site has adequate visibility, in line with design standards. I would therefore consider that all road, parking and safety issues related to the proposed modification could be satisfactorily addressed through conditions recommended by the Council's Transport Planning Officer.

### **Affordable Housing**

78 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought, is to be in the form of affordable housing. In this case, the 50 units proposed generate an affordable housing requirement of 12.5 units. With developments of this scale, provision of affordable housing on site is preferred.

79 The applicant has assumed that because of the nature of the development, on-site provision of affordable housing is not possible and has consequently also assumed that a commuted sum would fulfil their affordable housing requirement. In the Perth Housing Market Area, a commuted sum for 12.5 units would equate to £331,250 (i.e. 12.5 x £26,500).

80 The applicant submitted a Financial Viability Assessment with the application to demonstrate that they considered the provision of such a commuted sum would render the development unviable. A £7,000 developer contribution package could, however, be offered as part of the application. Evidence presented to support this figure in the Financial Viability Assessment did not satisfy officers that such a reduction was appropriate. It was accepted, however, that the full figure of £331,250 commuted sums required by the Affordable Housing policy may have a detrimental impact on the viability of the proposals, and as such it was considered that there was merit in further dialogue with the developer.

81 Following consideration and discussion with the agent, an increased figure of £50,000 affordable housing contribution was offered 'without prejudice' in order to try and progress the application. The increased sum could not be substantiated in viability terms. Whilst additional correspondence from the agent addressed some of the initial concerns in relation to the Financial Viability Assessment, the clarification was not considered sufficient to be able to accept the initial £7,000 figure and it was felt that if the reduction in affordable housing contribution to £50,000 could not be substantiated in viability terms, it could not be considered to be in accordance with the policy.

82 After further detailed discussion with the agent, a revised Financial Viability Assessment and additional information was submitted which addressed previous concerns relating to the benchmark market valuation used in the original submission. The revised Financial Viability Assessment showed that

an increased developer contribution of £144,000 could now be supported by the development.

- 83 The Affordable Housing Enabler Response recognises that Perth and Kinross has an ageing population. The Council's Housing Needs and Demand Assessment (2009) sets out that GROS projections estimate an increase in older person households of approximately 6,000 over the period 2008 – 2018. The study sets out that the extent and nature of this future ageing population will necessitate strategic investment in the development and delivery of housing based care, support, aids and adaptation. The study further states that housing requirements may not be focussed on a net increase in provision, but in ensuring that the substantial numbers of older households in privately owned accommodation can sustain independent living.
- 84 The response also sets out that the proposed development would both increase provision of specialist housing and would ensure that older households in privately owned accommodation can continue to live independently. The provision of this sort of accommodation can also have benefits in terms of reduced demand on public sector resources and health services. The wider benefits also include the possible associated increase in the availability of family housing in the area as statistics show that 2/3 of residents in such developments move from homes with 3 or more bedrooms.
- 85 Such benefits have been recognised at a national level where changes are proposed to national planning policy in the consultation draft Scottish Planning Policy document that would exempt sheltered housing proposals from the provision of an element of affordable housing. In anticipation of such proposed changes it is important to be clear that local planning policy is clear that these proposals are subject to the Council's affordable housing policy. Section 5.12 of the Affordable Housing Supplementary Guidance sets out that:
- “The Council will continue to seek the provision of a wide range of housing suitable for older people and recognise that it will not be appropriate to require an affordable housing contribution for some types of specialist accommodation, for example, care homes or other residential institution. However, in the case of open market sheltered housing developments these will be subject to the affordable housing policy.”*
- 86 A reduction in contribution on the basis of viability can be agreed in line with the Affordable Housing policy and Supplementary Guidance as drafted. In reaching a decision as to whether the affordable housing contribution is appropriate in this instance, regard should also be had to the guidance provided in the letter dated 15 March 2011 written by Jim MacKinnon (Former Director and Chief Planner at the Directorate for the Built Environment, the Scottish Government) to the Heads of Planning at all Scottish Local Planning Authorities. This letter *“stressed the importance the Scottish Government places on removing constraints to the development of housing land in the current economic climate”*. It further confirmed that realism and development viability were vital in the delivery of housing in the current economic climate

and that requests for affordable housing should not affect the viability of projects so as to stifle overall levels of housing development.

- 87 The benefits of the provision of the type of accommodation proposed are also recognised. I consider that the clarification and revision of the figures presented in the submitted FVA have resolved concerns over the process undertaken to derive the original affordable housing offer. It is accepted that the full commuted sum may render the development unviable. The current position represents a significantly improved offer which has resulted from a process of negotiation and which can be substantiated in viability terms. It is considered that a reduction in affordable housing contribution in accordance with the Council's affordable housing policy can be justified on this basis.

### **Education Contribution**

- 88 Education and Children's Services have confirmed that the site is within the Robert Douglas Memorial School catchment area. The school is currently at capacity and therefore a developer contribution should be requested for this development. The Developer Contribution Supplementary Guidance (November 2012) is clear that Sheltered housing will not be required to pay a contribution towards education provision. For the purpose of the Guidance sheltered housing is defined as groups of housing units provided for elderly people who require occasional support and assistance from a resident warden but who do not require full residential care. In this instance, whilst the proposal is termed "sheltered housing" there is no resident warden and an expectation of independent living. The proposal does not therefore strictly conform to the definition given in the Supplementary Guidance.
- 89 It is considered, however, that the proposed development has many characteristics that are similar to the definition: the development is to be provided in one block and has within it a manager's office, communal areas and a 24 hour "care line" system whereby residents can connect to support and assistance. I would consider that differences between the proposal and the definition of sheltered housing given in the Supplementary Guidance are minimal, and on this basis, it would not be appropriate to require an education contribution from the development.
- 90 In many cases, it can be argued that an education contribution is not required because the unit's occupation will be limited to persons over 60 years, or in the case of a couple, one of the occupants can be over the age of 60 years and the other over the age of 55 years. Whilst this argument has some logic, the Council has previously stated that this is a market rather than a planning restriction, and does not in itself justify a departure from developer contributions policy. It is important to be clear in this instance that not requiring an education contribution from this development is contrary to current policy. It is however considered that the built form, facilities and nature of the development proposed are material considerations that would justify a departure from development plan policy.

## **Drainage**

- 91 As the site lies within a sewered area, foul drainage will be disposed of by means of the public sewerage system. Scottish Water have not commended on this application, but raised no objection to the original application. Precise details of the disposal of surface water will be confirmed prior to works commencing.

## **Contaminated Land**

- 92 As there is the potential for ground contamination associated with the former uses to be present on-site it is appropriate for the Council's standard remedial condition to be attached to any consent.

## **Flooding issues**

- 93 SEPA has commented on the planning application in terms of flooding-related matters and have raised no objection, provided a flow path is provided to ensure no risk of flooding from the small watercourse to the east of the development site that is culverted to flow beneath the former care home.

## **Impact on the River Tay Special Area of Conservation (SAC)**

- 94 As the site is immediately adjacent to the River Tay, which is a SAC, a construction method statement will be sought from the applicant to ensure that no pollutants from the construction phase are released into the River. With regard to potential pollutants when the development is completed and occupied, both surface water disposal and foul effluent drainage systems will be controlled via Scottish Water, SEPA and Building Standards to ensure that there is no detrimental impact to the integrity of the River Tay SAC.

## **Economic Benefits**

- 95 No specific details have been submitted by the applicant insofar as an economic justification for this project, however, it would be reasonable to assume that the implementation of sheltered accommodation could create a small number of administrative and / or professional jobs on a full or part-time basis. In addition, in the current difficult economic climate, such a financial investment in Perth by the applicant should be seen as a welcome boost for the Council, as it attempts to meet its high commercial and business aspirations.

## **LEGAL AGREEMENTS**

- 96 A legal agreement may be required if the applicant wishes to delay the payment of the Affordable Housing Contribution.

## **DIRECTION BY SCOTTISH MINISTERS**

- 97 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been

no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASON FOR RECOMMENDATION**

- 98 The proposal is a 'major' planning application; however, the Committee should take note of the limited level of representation received in relation to this planning application. It is accepted that the use of the site for a sheltered housing is appropriate (based on the previous and consented use and surrounding land uses) and, subject to appropriate conditions to protect residential amenity, I consider the design and layout of the sheltered housing to be entirely acceptable. The proposal would reduce the impact of the site overall on the road network from the currently consented development. The development fulfils the Council's affordable housing policy requirement by justifying a reduction in such provision on viability grounds. The benefits of providing such specialist accommodation are recognised and as such it is recommended that this planning application be approved.

## **RECOMMENDATION**

### **A Approve the planning application subject for the following conditions:**

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 3 Prior to the commencement of any works on-site precise details of an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be submitted for the approval in writing by the Council as Planning Authority. The approved scheme shall be implemented in full and operated and maintained, within the kitchen area(s), such that cooking odours are not exhausted into or escape into any neighbouring properties, all to the satisfaction of the Council as Planning Authority.
- 4 Prior to the commencement of any works on-site precise details of the air conditioning systems shall be submitted for the approval in writing by the Council as Planning Authority, and thereafter implemented in full to the satisfaction of the Council as Planning Authority. All plant or equipment including any ventilation or air conditioning systems associated with the operation of the sheltered housing units be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart to the satisfaction of the Council as Planning Authority.

- 5 Prior to the commencement of any works on-site, precise details of all external lighting shall be submitted for the approval in writing by the Council as Planning Authority, and thereafter implemented in full to the satisfaction of the Council as Planning Authority. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised, to the satisfaction of the Council as Planning Authority.
- 6 The hours of deliveries to sheltered accommodation shall be restricted to 07.00 to 18.00 hours Monday to Saturday and 08.00 to 17.00 hours on Sunday, unless otherwise agreed in writing by the Council as Planning Authority.
- 7 A detailed scheme to deal with contamination on the site shall be submitted prior to the commencement of any works on-site. The scheme shall contain details of proposals to deal with contamination to include:
  - a) the nature, extent and type(s) of contamination on the site
  - b) measures to treat/remove contamination to ensure the site is fit for the use proposed
  - c) measures to deal with contamination during construction works
  - d) condition of the site on completion of decontamination measures.

Prior to the occupation of either the care facility or any of the dwellings, the measures to decontaminate the site as approved by the Council as Planning Authority shall be fully implemented.

- 8 All trees which are shown as being retained shall be adequately protected by stout fencing during the course of construction and appropriate root protection zones (RPZ) implemented, to the satisfaction of the Council as Planning Authority. A detailed plan showing the extent of the fencing and the extent of the RPZ shall be submitted for the approval in writing by the Council as Planning Authority prior to the commencement of any ground works on site.
- 9 Prior to the occupation and use of the approved development all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.
- 10 Within six months of the development being occupied a detailed Travel Plan, aimed at encouraging more sustainable means of travel, shall be submitted and approved in writing by the Council. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and will include targets for modal shift from the private car to more sustainable means of transport. It will also identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.
- 11 Prior to the commencement of any works on-site, a Construction Method Statement (CMS) shall be submitted for the approval in writing by the Council

as Planning Authority which identifies measures to prevent harmful materials potentially entering the River Tay SAC during the construction phases, which could reduce water quality and have a detrimental impact upon the interests of the Special Area of Conservation. The CMS should include the following:

- a) pollution prevention safeguards, including drainage arrangements and the possible use of siltation traps, settlement tanks and bunds;
- b) storage and disposal of materials, including the siting of stock piles, use of buffer strips and disposal methods;
- c) construction site facilities, including extent and location of construction site huts, vehicles, equipment, and materials compound;
- d) timing, duration and phasing of construction

The approved CMS shall be implemented in full to the satisfaction of the Council as Planning Authority.

- 12 The windows on the north elevation of the ground, first and second floor of proposal named and highlighted in PURPLE on the approved plans shall be opaque or obscure glazing for perpetuity, to the satisfaction of the Council as Planning Authority.
- 13 Prior to the commencement of any works on site precise details of the means of disposal of surface water shall be submitted for the approval in writing by the Council as Planning Authority. The approved scheme shall be implemented in full to the satisfaction of the Council as Planning Authority.
- 14 Prior to the commencement of any works on site precise details of all on site waste and recycle facilities shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall be implemented in full to the satisfaction of the Council as Planning Authority.
- 15 Prior to the commencement of any works on site a detailed landscaping and planting scheme shall be submitted for the approval in writing by the Council as Planning Authority. The approved scheme shall be implemented in full and thereafter retained in perpetuity to the satisfaction of the Council as Planning Authority.
- 16 Prior to the commencement of any works on site precise details of all external wall and roof finishes for both the sheltered housing and boundary walls shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall be implemented in full to the satisfaction of the Council as Planning Authority.

**Reasons:**

- 1 In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.

- 2 To ensure that the development is carried out in accordance with the plans approved.
- 3-6 In the interest of residential amenity.
- 7 In order to comply with the aims of PAN 33
- 8 To maintain the contribution of existing trees to the landscape quality of the area
- 9 -10 In the interest of residential amenity.
- 11 In the interest of proper site management.
- 12 To protect the amenity of occupants of nearby housing
- 13 To ensure the site is adequately drained
- 14 In the interest of proper site management
- 15-16 In the interest of visual amenity

## **B JUSTIFICATION**

The application is considered to be a departure from the Development Plan in that it does not provide for Education Infrastructure Developer Contributions. The development is considered to be acceptable as the built form, facilities and nature of the housing being provided means that it is indistinguishable from a sheltered housing development as defined in the Council's Development Contributions Supplementary Guidance.

## **C PROCEDURAL NOTES**

Permission will not to be issued until the requisite financial contribution to enable the securing of the affordable housing site has been paid or a Legal Agreement has been completed and signed in respect of the following issue: -

Affordable housing contribution

## **D INFORMATIVES**

- 1 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
- 2 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country

Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

- 3 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be :
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 4 The applicant is advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 5 The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 6 The developer is advised to contact the Council's Community Waste Advisor in order to ensure appropriate provision is made for storage of waste and recycling facilities and access for service provision.

Background Papers	One letter of representation
Contact Officer:	John Russell, Ext 75346
Date:	22 August 2013

**Nick Brian**  
**Development Quality Manager**

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000



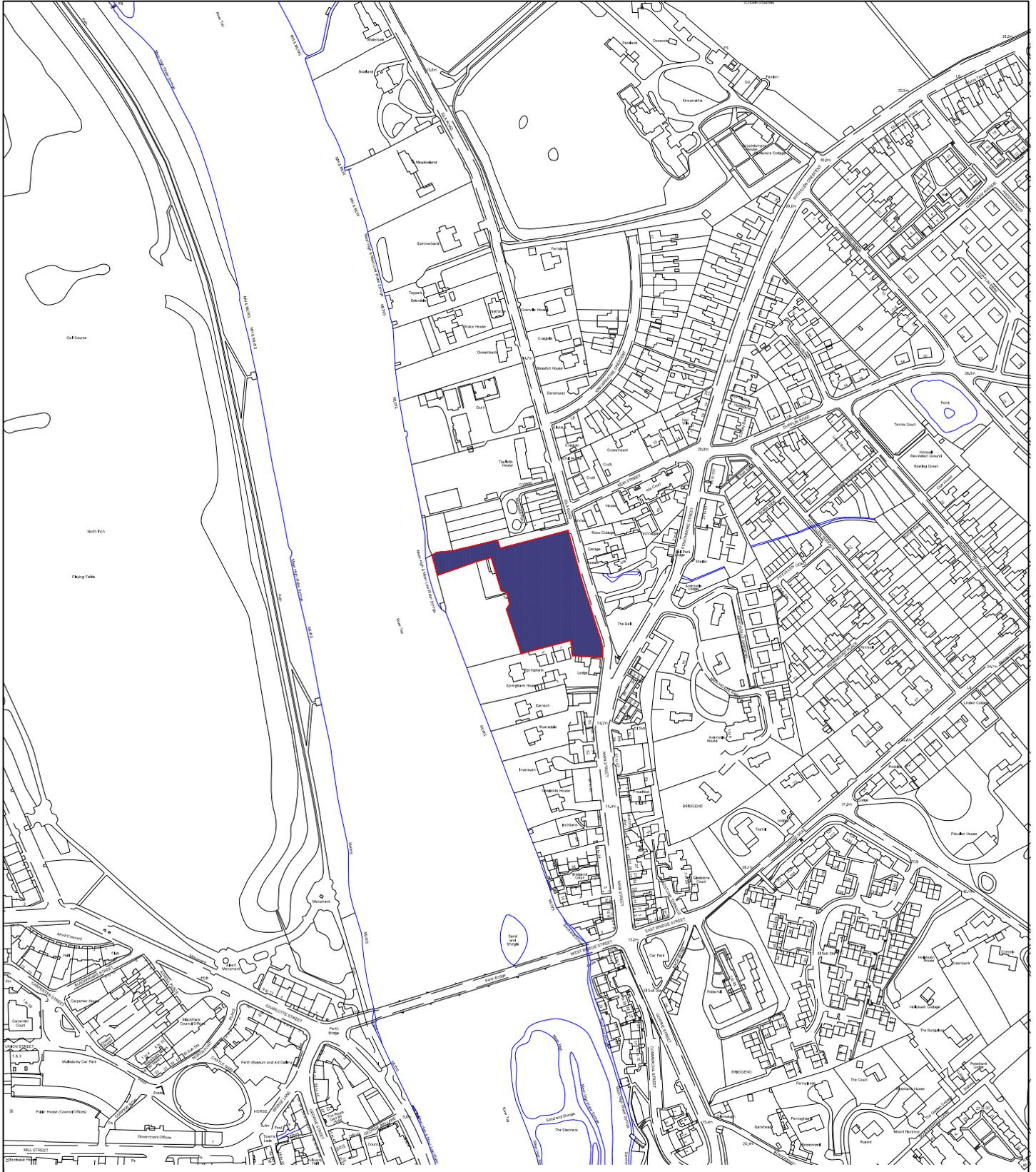
Council Text Phone Number 01738 442573

# Perth & Kinross Council

## 13/00942/FLM

### Tayside Care Home, Isla Road, Perth

#### Modification of 11/01333/FLM Replacement of care home with 50 sheltered units



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↑ Scale  
1:5000

