

Perth and Kinross Council
Development Management Committee – 16 April 2014
Report of Handling by Development Quality Manager

Application for Approval of Matters Specified in Conditions 1, 2, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21(b), 22, 23, 24 and 25 of 08/00122/OUT and subsequent Section 42 consent (11/00933/FLM) at Cherrybank, Necessity Brae, Perth

Ref. No: 14/00269/AMM
Ward No: 10- Perth City South

Summary

This report recommends approval of the application for a development comprising 98 residential units as the development proposals are considered to broadly comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

Background and Description

- 1 Detailed planning consent is sought for the conclusion of reserved matters for part of the wider site relating to In Principle Planning Major (IPM) consent 08/00122/OUT (as extended by 11/00933/FLM under section 42 of the Planning Act) for residential development and including associated access roads, path networks, open space, local play area and SUDs pond. A previous application for matters specified in conditions (13/01544/FLL) was withdrawn due to discussed material changes, leading to the resubmission of the current proposal.
- 2 The 3.9Ha site forms part of a wider site (6.34Ha) area straddling two sides of Necessity Brae, occupying a prominent position adjacent to the insurance building group at Pitheavlis to the south west of Perth City centre. Through the 2008 IPM Consent, the site under current consideration was referred to as Site A, commonly and locally known as Cherrybank, which originally formed the headquarters of Bell's distillers and was latterly occupied by Bank of Scotland banking group. All buildings on the site have been demolished, the site is currently characterised by its brownfield plateau on the south and steep slopes down to Glasgow road to the northwest and steeply to the north east to Craigie Burn (which enters the site half way along its northern boundary (under Glasgow road) leaving the north eastern boundary of the site under the B9112 (Necessity Brae)).
- 3 The overriding characteristics of the site include the established landscape framework, with original elements planted up over 50 years ago. The landscaped grounds won a Civic Trust Award in 1982 and are currently restricted by a blanket Tree Preservation Order across the entire site. Views into the site from Glasgow Road and Necessity Brae are limited due to this mature landscape.

- 4 The immediate surrounding architecture is extremely varied, including interesting buildings such as Pitheavlis (currently Aviva), Cherrybank Gardens and Pitheavlis Cottages.

Pitheavlis Cottage Group, consisting of 8 planned cottages, built in a garden city movement architectural idiom, laid out in three blocks are all B listed, situated immediately adjacent to the southern site boundary.

PROPOSAL

The proposal consists of the following elements:

Residential Element

- 5 98 residential units are proposed in total, comprising 84 dwellinghouses and 14 flats. A mix of house types are proposed, incorporating detached, semi-detached and terraced units of 2 storey height with the two flatted blocks on a 4 storey scale. Keeping within the developable area of the In Principle Consent, development is centred around the existing brownfield building platforms and on the edges of these platforms, within the core area of the site. A standard palette of materials has been proposed for the dwellings, consisting of brick, dry dash render and concrete roof tiles.
- 6 The following report section refers to the corresponding conditions of the In Principle Consent and how these are proposed to be addressed through the current application.

Removal of Care Home Element (condition 7 – N/A)

- 7 The care home element, which was originally included as part of the In Principle Planning application in 2008 as a commercial element to Site A of the wider 6.4Ha has been omitted from the current scheme as proposed as part of this planning application. Further background to this omission is addressed in the appraisal section.

Vehicular Access (conditions 1 and 10)

- 8 The existing established vehicular access road taken off Necessity Brae is proposed to be reutilised with a street hierarchy proposed within; forming a secondary street and courtyard areas. The principal road offers potential future linkage to undeveloped sites to the west, parallel with Glasgow Road.

Pedestrian/Cycle Access and Infrastructure (conditions 1 and 18)

- 9 A series of pedestrian and cycle route opportunities are to be integrated into the site, within the established landscape framework. As well as the principal vehicular access, pedestrian route opportunities are offered at three separate points off Glasgow Road (one formal and two informal) and a link path opposite Low Road, at the bottom of Necessity Brae, adjacent to the proposed

community play area. As per condition 18, secure waterproof cycle storage facilities have been proposed adjacent to the flats.

Transport Infrastructure Requirements (conditions 11, 15 and 16)

- 10 As part of the IPM consent, conditions 11, 15 and 16 sought associated transport infrastructure improvements and street lighting details, including areas outwith the red site line boundary, affected through the impact of the development. No street lighting details have been submitted as part of the current submission. Submitted plan references 58 and 67 include a transport statement and junction upgrade proposals.

Open Space, play area and Landscaping (conditions 1, 21b and 24)

- 11 Approximately a third of the defined site area has been identified as public open space with associated play area and Sustainable Urban Drainage (SUDs) proposals. This site already benefits from an established, robust landscape framework. The site is covered by a blanket Tree Preservation Order (TPO) There are some alterations proposed to the overall landscape framework in particular on the southern edge bounding Necessity Brae and on the edges of the principal development areas, with the main established landscape belt at the top end (northern environs) of the site retained largely as the status quo with no fundamental changes.

Public Art Installations (condition 25)

- 12 Two original public art installations (from 1979) survive as part of the Cherrybank site, which include the large circular mosaic (by artist Sadie McLennan) and sundial (artist Ian Hamilton Finlay), originally commissioned by Bell's Distillers. The stainless steel sundial has been removed from the site and stored at Ian Hamilton Finlay's former home of 'Little Sparta' for safekeeping until the future development outcome of the Cherrybank site was secured (As identified in In principle Consent 08/00122/OUT Outline Conservation Plan – Ironside Farrar (Jan 2007). The mosaic remains on site (moved from its original situation through previous site operator), with areas of surface damage which is not considered to be irreparable.
- 13 In both cases, the developers have agreed and now propose to retain the public art installations, albeit relocating both pieces to work, more cohesively with the proposed development layout. The sundial is proposed to be sited at the junction entrance to the main courtyard leading to terraces and flatted blocks, with the mosaic relocated to the lower slopes of the site close to Glasgow road, adjacent to a principal public foot/cycleway. Support is given for the retention of the public art works within the site, which satisfies condition 25 of the In Principle Consent and placemaking policy criteria of the approved Development Plan.

Associated Infrastructure (condition 12)

- 14 A Sustainable Urban Drainage (SUDs) element has been identified and proposed to the north eastern end of the site, above Craigie Burn.

PRE-APPLICATION CONSULTATION

- 15 The proposed development is classed as a major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. This requires pre-application consultation with the local community to be undertaken. A Proposal of Application Notice (PAN) was not required directly in this instance due to the timing of the original in principle consent application and subsequent determination (08/00122/OUT), predating the requirement as set out in regulation 6 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and Section 35B of the Planning Act.
- 16 An original application was submitted in 2013 (13/01544/FLL), which was ultimately withdrawn by the applicant following discussions with the Council.

NATIONAL POLICY AND GUIDANCE

- 17 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.

Scottish Planning Policy 2010

- 18 This 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.
- 19 The following sections of the SPP are of particular importance in the assessment of this application:-
- Paragraph 25: Determining planning applications
 - Paragraph 33: Sustainable Economic Growth
 - Paragraphs 34 – 44: Sustainable Development and Climate Change
 - Paragraph 66: Housing

- Paragraphs 77 - 84: Location and Design of New Development
- Paragraphs 86 – 88: Affordable Housing
- Paragraphs 89 – 91: Other Housing Requirements
- Paragraphs 110 – 112: Historic Environment
- Paragraphs 125 – 148: Landscape and Natural Heritage
- Paragraphs 149 – 158: Open Space and Physical Activity
- Paragraphs 165 – 176: Transport
- Paragraphs 196 – 211: Flooding and Drainage
- Paragraph 215: Waste Management
- Paragraph 255: Outcomes

Designing Places (2001): -

- 20 The national policy statement which marks the Scottish Government's determination to raise standards of urban and rural development.

Designing Streets (2010):

- 21 Designing Streets. is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document Designing Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

DEVELOPMENT PLAN

- 22 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Local Development Plan 2014.

TAYplan: Strategic Development Plan 2012-2032

- 23 The vision states *“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.”*

The principal relevant policies are in summary: -

Policy 1: Locational Priorities

- 24 Seeks to focus the majority of development in the region's principal settlements. Perth City, within Perth Core Area is identified as a Tier 1 Settlement, making a major contribution to the region's economy.

Policy 2: Shaping Better Quality Places

- 25 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 3: Managing TAYplan's Assets

- 26 This recognises the importance of historic buildings and townscapes and identifies the importance of only allowing development where it does not adversely impact upon or preferably enhances these assets.

Policy 8: Delivering the Strategic Development Plan

- 27 States, *"To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010"*.

LOCAL DEVELOPMENT PLAN 2014

- 28 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 29 The application site is located within the settlement boundary of Perth City, sandwiched between Glasgow Road and Necessity Brae, north of the M90 bypass.

The principal relevant policies are in summary: -

PM1A: Placemaking

- 30 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

Policy PM1B - Placemaking

- 31 All proposals should meet all eight of the placemaking criteria.

Policy PM3 - Infrastructure Contributions

- 32 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are

reasonably related to the scale and nature of the proposed development are secured.

Policy HE2 - Listed Buildings

- 33 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. 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 building's character, appearance and setting.

Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction

- 34 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

Policy EP2 - New Development and Flooding

- 35 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. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP5 - Nuisance from Artificial Light and Light

- 36 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

Policy EP11 - Air Quality Management Areas

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

Policy ED1B - Employment and Mixed Use Areas

- 38 Within areas identified for mixed use a range of uses such as housing, offices, light industry, surgeries and leisure uses would be acceptable providing they are compatible with the amenity of adjoining uses. Proposals for predominately one use on a mixed use site will not be acceptable.

TA1B- Transport

- 39 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public

transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy NE2A - Forestry, Woodland and Trees

- 40 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

Policy NE2B - Forestry, Woodland and Trees

- 41 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

NE3: Biodiversity

- 42 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

EP2: New Development and Flooding

- 43 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.

EP5: Nuisance from Artificial Light and Light Pollution

- 44 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

OTHER POLICIES

45 Affordable Housing Supplementary Guidance (2012)

Sets out the Council's updated 2005 Affordable Housing Policy and supporting guidance for securing appropriate affordable housing requirements to all sites where the threshold has been met or exceeded.

Developer Contributions (2012)

- 46 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.

Open Space Standards (2001)

- 47 Sets out the Councils adopted open space adoption standards for new residential developments, which gives developers three viable options to pursue/proposed as part of their development.

SITE HISTORY

- 48 08/00122/OUT Proposed residential development, erection of a hotel with associated public house/restaurant, erection of a care home and offices with associated car parking, internal access roads and adjusted site levels (in outline) 15 August 2008 Application Permitted
- 49 11/00001/PAN Variation of conditions 2 and 3 (08/00122/OUT) to extend time period for submission of reserved matters 21 March 2011
- 50 11/00933/FLM Variation of Conditions 2 and 3 of previous consent (08/00122/OUT for residential development) to allow an extended time period for submission of reserved matters 8 September 2011 Application Permitted
- 51 13/01544/FLL Application for Approval of Matters Specified in Conditions 1, 2, 3, 4, 10, 11, 16, 17, 21, 23 and 24 (08/00122/OUT and subsequent Section 42 consent 11/00933/FLM) 12 February 2014 Application Withdrawn

CONSULTATIONS

- 52 **Environmental Health** – No objection.
- 53 **Community Greenspace** – Support in relation to the general proposed approach of tree-scape and identified new supplementary species (minor amendments proposed). Comments received in relation to the overall public space strategy, its proposed long term maintenance (not supported), play area provision and SUDs relationship. (Addressing IPL conditions 21 and 24)
- 54 **Scottish Water** – No objection, advising that due to the size of the development, Scottish Water would require to assess the impact the new demand will have on existing infrastructure, with any required infrastructure upgrades to be met by the developer.
- 55 **Local Flood Prevention Authority** – Comments received in relation to IPM conditions 10, 12, 13, 14 and 20, seeking additional information and clarity. Developers have responded to points, but no follow up response from LFPA in this regard to date.
- 56 **Scottish Environment Protection Agency** – No objection to proposals as submitted (in relation to conditions 10, 12 and 20) Conditions 10 and 12 still to be fully addressed by further condition or otherwise.
- 57 **Affordable Housing** – No objection, combined response received in relation to affordable housing and education contributions (conditions 22 and 23) with a

breakdown of salient contributions identified in the appraisal section. Part on site provision (14 units), with remaining 10.5 units secured by contribution.

- 58 **Education and Children's Services** – No objection, combined response received in relation to affordable housing and education contributions (conditions 22 and 23) with a breakdown of salient contributions identified in the appraisal section.

REPRESENTATIONS

- 59 No letters of representation have been received regarding this application.

ADDITIONAL STATEMENTS

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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	Transport Statement, Planning Policy Statement, Design and Access Statement, Tree Survey, Glasgow Road photographic study, landscape overview.

APPRAISAL

Policy

- 61 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.
- 62 TAYplan Policy 1 (Location Priorities) states that Tier 1 settlements should make a major contribution to the regional economy over the next 20 years. The site is situated within the Tier 1 settlement of Perth City, with the proposed development of 98 dwellings in this location broadly satisfying TAYplan Policy 1.
- 63 The Perth and Kinross Local Development Plan (LDP) 2014 allocates the site for mixed use development (ED1B). The principle of part residential use on the site is considered acceptable in this context and despite the current proposed

omission of the care home, it has been accepted on balance and holistically, that the remaining 2.44 Ha of developable site across the road will satisfy the mixed commercial, long term job creation requirements of the associated policy objectives on this occasion.

Principle

- 64 The principle of some form of residential development has been historically established through IPM Consent 08/00122/OUT. Whilst the layout for the 2008 IPM Consent was not approved; there exists an established material planning commitment given to the principle of a large proportion of residential development within the Cherrybank site. Carrying forward to the current application, the proposed residential density of the current submission is reduced in numbers overall (approximately 20%) from the indicative masterplan submitted as part of the IPM Consent (which proposed a total of 122 units 92 private and 30 affordable).

Local Development Plan Allocation

- 65 The site sits as part of site MU1, designated by Policy ED1B, mixed use development within the LDP (2014).
- 66 The reporter acknowledged the IPM consent as part of area MU1 and also stated that in order for the wider site to be effective, it might be necessary to increase the amount of residential development and reduce the employment land element. It was considered that this would be appropriate to address at a detailed masterplan stage. The reporter also confirmed that it was “essential to achieve a coordinated approach across the entire MU1 area”.
- 67 Whilst this current application has not benefited from a masterplan exercise as part of the wider MU1 area, it is considered that the fundamental land use coordination issues have been appropriately considered as part of this site coming forward, including: landscaping, roads and associated infrastructure.
- 68 The proposed site is considered to be in a strategic development location (part of Tier 1 of TAYplan) immediately adjacent to the transport network, including Broxden Park and Ride. The proposed density is considered to be acceptable with 66 of the proposed dwellings 2 and 3 bedroom, assisting towards satisfying current market demand for modest sized dwellings.
- 69 The proposed development broadly accords with SPP 2010, Designing Places, Designing Streets and salient TAYplan Policy and LDP Policies including PM1 and ED1b as it is considered that the proposed density of development represents an efficient use of the site whilst still respecting the surrounding natural and built environment. The proposed development parameters go some way to respecting the character and amenity of the place, with minimal impact on the amenity of neighbouring properties.

Omission of Care Home

- 70 In the context of Policy ED1B, which this site is currently designated, suggests a range of compatible uses would be supported, including housing, offices, light industry, surgeries and leisure uses, albeit avoiding single uses as part of site development.
- 71 The development elements of the current planning submission and any associated repercussions have been fully investigated in the context of the omission of the care home element, which was a significant element of the In Principle Consent in the context of this half of the site.
- 72 Montagu Evans, marketing the entire 6Ha (both sides of Necessity Brae) wider site area, are acting on behalf of Hansteen (current land owner) provided a background supporting statement as part of the 2013 planning application 13/01544/FLL setting out the ongoing marketing strategy for the wider site over the last three years, which included targeted marketing to both care home operators and housebuilders (forming site A). Montagu Evans advised that there had been no interest from care home operators developing any part of this site and also documented the demise of care home operators in recent times and the development of a 140 care home facility at Isla Road in Perth by Balhousie Group. Montagu Evans considered that in this context, there is no current demand for a care home on this part of the site and the Isla road proposal addresses any current shortfall in care home provision for the Perth market.
- 73 As mentioned, the proposed dedicated residential use of the identified Cherrybank site is considered to be a partial policy departure in this context. The broader objectives of the policy can however still be satisfied by the re-development of the remaining 2.44 Ha of the in principle consent site boundaries for compatible mixed use projects, offsetting the single residential element currently under consideration. By virtue of the overall site layout therefore, this proposal remains proportionate and justifiable in the wider site context in satisfying Policy ED1B.

Landscape Impact/Visual Amenity

- 74 The landscape quality of this site is a key, valuable asset with the site covered by a blanket TPO. The site offers part of a 'green, urban park' network and is a part of a landmark when arriving and departing Perth via Glasgow Road and Necessity Brae. The site is considered to offer a considerable landscape asset for the area (particularly when opened up to wider public and community use). It will be crucial to ensure that the existing landscape framework is largely retained, enhanced and maintained in perpetuity as a result of these proposals. It is considered appropriate in this context to ensure that the final details of the landscape proposals will be secured appropriately by condition.

Listed Buildings

- 75 Whilst not necessarily directly inter-visible, Pitheavlis cottage group, which are Category B listed, are situated immediately adjacent to the southern tip of the site. The overall situation of the proposed dwellings within the site in this environ, particularly plots 14,15,19,20,21,22,23,26 and 27, have the potential to partially off-set and diminish the special character and nature of the cottage group. Providing that the landscape details are appropriately addressed and controlled along the boundary at this point there is not considered to result in an adverse impact on the setting of the affected listed buildings. It is however considered appropriate to revisit the proposed landscape plan, particularly on this corner. Whilst the removal of cypress/leylandi hedge is considered appropriate, particularly in the context of long term site boundary maintenance, it is fundamentally necessary to ensure that appropriate replacement hedge planting is secured around this corner/edge and to recreate/define the strong boundary edge, screen the fence boundary facing Necessity Brae and Pitheavlis Cottage group and in doing so, appropriately protect the wider setting of the distinctive and attractive listed cottage grouping, which is currently strongly characterised by green framework, including strong boundary hedging.

Tree Preservation Order

- 76 The supporting tree survey report was considered comprehensive, including a tree protection plan for trees to be retained. Whilst a substantial number of category A listed trees are proposed for removal, the associated compensatory landscaping proposals and tree planting schedule will provide a good degree of mitigation in this context.
- 77 A semi mature Horse Chestnut (tag no. 2997) tree, which is located at the entrance of the site (south of the vehicular access) off Necessity Brae, was originally proposed for removal. Following request by the Council this element has been reviewed and is now proposed for retention, which is considered to be a positive and supported outcome, particularly in the longer term context, providing a strong natural entrance feature to the Cherrybank site .

Open Space Adoption

- 78 As part of the submitted proposals, the developers have proposed that the associated open space is managed by the residents of the development through applying a levy on each individual residential plot. This is fundamentally contrary to council adopted policy as set out in 'Public Open Space In New Residential Developments – Standards and Adoption (2001)' and will therefore be resisted.
- 79 The principal issue in operating a levy mechanism is that the significant open space identified for the Cherrybank site is public open space and not just dedicated for the residents of the development. It has been the experience of the Community Greenspace section that applying a levy has been unworkable in the past, particularly when looking at maintenance and management

arrangements in perpetuity and has resulted in Perth and Kinross Council taking on the maintenance of the open space with no or a funding deficit.

- 80 There are three options available to manage the public open space as established through Council Policy summarised as follows;
- The Scottish Greenbelt Company (established originally in 1992 by Scottish Enterprise, SNH and Strathclyde Regional Council) take title to the land and maintain it in perpetuity for a charge to the developer, with the Council getting sight of the agreement;
 - The Council takes on the maintenance of it for a fixed commuted sum; or
 - An alternative company maintains the open space in perpetuity for a charge to the developer and a permanent bond is paid to the Council against any default.
- An official position response has not been obtained from the developers in this regard, but it is understood that the option to pursue Council adoption is preferable of the three offered. The detail of this will be resolved through the agreed terms of the S.75 agreement.

Traffic Safety/Access

- 81 Transport Planning colleagues have been directly involved throughout the process and have advised that the proposed development accords broadly with the Scottish Governments Designing Streets policy and the applicant has demonstrated that the generated traffic can be accommodated through suitable upgrades to the existing road network, concluding that on Roads matters, provided that recommended conditions are applied, there will be no adverse impact on pedestrian and traffic safety as a result of the proposed development.
- 82 Following review of the original withdrawn application 13/01544/FLL, a distinctive road hierarchy was developed, providing a principal route through the layout, leading to the adjacent Cherrybank Gardens site for potential future vehicle and pedestrian connections. The site is considered to display an appropriate level of permeability and connectivity throughout, both through the developable area and tying into the undeveloped landscape framework to the north, using the site topography and desire lines through the established open space to create a path network with pedestrian/cycle links with Glasgow Road and Necessity Brae, with good connections to public transport options. Secure cycle parking storage facilities have been proposed adjacent to the flatted blocks, satisfying IPM condition 18.1
- 83 As per condition 11, 15 and 16 of IPM consent, transport infrastructure improvements and details are being sought as part of any detailed planning consent. There have been some details provided in relation to the required junction upgrade at Necessity Brae and Glasgow Road, but no details in relation to proposed street lighting. Whilst the street lighting element can be suitably controlled at the roads construction consent, in both cases it is considered appropriate to further condition these elements as part of any planning consent.

Flooding & Drainage

- 84 The development aims to respect and accord with the original In Principle Consent, particularly in relation to flooding issues (conditions 12 -14 of IPM consent) SEPA are satisfied with the general nature of the proposed development respecting appropriate conditions, albeit the detail of condition 12 (SUDs) and 13 remain to be satisfactorily addressed. The Councils Flood team have sought further clarity regarding the associated aforementioned conditions. It is recommended for the avoidance of doubt that condition 13 wording be re-applied to any associated reserved matters consent. The applicants and the Council flooding team are in current dialogue regarding condition 12, with the intention of an agreed resolution prior to Development Management Committee.

Sustainable Urban Drainage

- 85 A notional area has been identified for SUDs, adjacent to the play area; situated above (south) Craigie Burn. The detail of the SUD's scheme is still lacking. A natural approach to the SUDs detailed design is considered appropriate in this context, including security boundary details, which will obviate the requirement for security fencing round the identified play area to the south. More detail will be required to be worked up in this regard, prior to the commencement of development, looking at establishing natural site profiling and boundary features to complement the wider landscape framework. This element can be controlled by condition.

Bio-diversity

- 86 There are a number of biodiversity assets and ongoing opportunities for this site, particularly in the northern sloping section of the site. Whilst there are no specific conditions from the IPM consent which need to be addressed, it will be important to build on and protect this asset. Principal areas of disruption in this regard relate to the construction phase of the development. This will be controlled through conditioning the requirement for a site specific Construction Management Scheme, including consideration to be given for existing biodiversity assets.

Public Art Installations

- 87 The applicants have agreed to retain the identified public art installations, namely, the sundial and mosaic, albeit relocating both pieces to work more cohesively with the proposed development layout. The sundial is proposed to be sited at the junction entrance to the main courtyard leading to terraces and flatted blocks, with the mosaic relocated to the lower slopes of the site close to Glasgow Road, adjacent to a principal public foot/cycleway. Support is given for the retention of the public art works within the site, which satisfies condition 25 of the IPM Consent and placemaking policy criteria of the approved Development Plan.

Design, Scale and Layout

- 88 Through Designing Places (2001) Scottish Government signalled the importance weighted to the design and quality of new development, and bringing long-term benefits to the urban and rural environment. This is further interpreted through the associated Development Plan placemaking policy, highlighting good design should be the aim of everyone in the planning and development process, to be achieved at all scales of development.
- 89 Designing Streets (2010) published by the Scottish Government suggests that streets should be designed as social spaces, being well-connected at all levels. It aims to move away from vehicle dominated road layouts in favour of streets designed for people that achieve a sense of place, producing interesting and useable street layouts.
- 90 Permeability of place is a crucial component in good street design. Internal permeability is important, but any area should also be properly connected with adjacent street networks. A development with poor links to the surrounding area creates an enclave, which encourages movement to and from it by car rather than by other modes. In this case the proposal includes two vehicular and five pedestrian/cyclist access points.
- 91 When considering the layout of any new development, one of the most important issues to consider is creating the opportunity for natural surveillance. Buildings, spaces and pedestrian routes should be located to maximise natural observation from pedestrians and passing motorists. Active frontages should be encouraged wherever possible.
- 92 The site layout as currently proposed has been the result of ongoing discussions between developer and the Council following the submission from withdrawn application 13/01544/FLL. Generally, the proposed layout takes cognisance of Designing Streets and incorporates appropriate natural surveillance of public space and the main pedestrian routes. The proposal is in line with PAN 77 - Designing Safer Places.
- 93 The proposal consists of two storey detached, semi-detached and terraced properties with two four storey flatted blocks, providing a reasonable mixture of house types. The layout includes a hierarchy of shared surfaces that assist in achieving a sense of place with proposed 'secondary treatments' on street edges. The street layout is considered to be usable and broadly achieve Designing Streets (2010) policy objectives. The proposed layout and linkages ensure the site has appropriate levels of permeability and future connectivity for all modes of transport, especially pedestrians and cyclists with footpaths connecting up with Glasgow Road and onto public transport connections.
- 94 The massing and scale of the dwellings can be accommodated within the plots without having an adverse impact on the amenity of neighbouring properties and working within the parameters of the established landscape framework, blanket TPO and topography. It is considered that the proposed density is acceptable. The private garden ground amenity offered to approximately two thirds of the dwellings is acknowledged to be compromised in relation to future

occupiers exercising permitted development rights. As such, whilst amenity space is proportionately reasonable in relation to individual plots and the overall site crucially benefits from a third (1 Ha approx.) being left as open space parkland; it is considered appropriate to remove permitted development rights from all semi-detached and terraced plots where the private amenity space is tightest and future development, including house extensions and outbuildings would have the greatest impact on neighbouring amenity.

- 95 A number of minor alterations have been negotiated in an attempt to tighten up the layout, remove unusable areas of ill-defined open space and appropriately detail and reinforce the importance of the landscape proposals, particularly through boundary definition to plots and bounding the red site line area.
- 96 Following concerns from officers regarding the public interface with proposed boundary treatments on the rear boundaries of the plots to the north of the site with Glasgow Road in the context of the setting of the open space and landscape framework, the applicants have produced and submitted a photographic study as part of this submission; showing various points along Glasgow Road, looking into the site satisfying officers that no more than glimpse views of proposed timber palisade fencing could be witnessed from Glasgow Road. Some additional hedge and shrub planting is still considered appropriate to soften around key plots (particularly adjacent to the principal pedestrian route), but this element can be addressed by condition.
- 97 In terms of house design and finish, the applicant has suggested that the finishes has been influenced by the surrounding area, proposing bespoke elevations and high quality external finishes, which are stated to contribute to the character of the site and surrounding area, making reference to the local vernacular. This element of the proposal is debatable as to how appropriate the proposed choice and composition of the material finishes are. Whilst it is accepted by the Council that the application of standard house types would not be rejected in this context, a closer and more sensitive, contemporary approach to the choice of materials and the overall material composition on individual buildings is considered appropriate. It is therefore recommended that this element is controlled by condition, allowing further review and more place specific, contemporary solutions to be agreed. To support both standard house types and a standard palette of materials and composition is considered to be a lost opportunity for this site and is recommended that this approach is resisted.
- 98 In relation to aforementioned, boundary walling of private garden ground (where the boundary was on a public elevation or could be witnessed immediately from a public viewpoint) was considered the most appropriate solution in relation to satisfying Designing Streets national policy and the Council Placemaking policy. Unfortunately, the applicant has not proposed a walling detail, which the Council would look to support in this context with the walling element consisting essentially of 600mm high wall, with brick columns and fence panels filling in the gaps. A solid, continuous wall, not including any timber fence panel elements is considered an appropriate solution in this context and is recommended to be pursued by condition.

- 99 In summary, the proposals are considered broadly appropriate in terms of design, scale and form and aside from additional detail and control of walling, material finishes and composition and a refined landscaping scheme (to be controlled by condition), the development is assessed to satisfy basic policy objectives of Designing Places, Designing Streets, TAYplan policy 2 and placemaking policy of the local development plan.

Building Sustainability

- 100 Policy EP1 of the LDP - states that sustainable design and construction will be integral to new development within Perth and Kinross. A sustainability statement has been provided in support of this application, stating the dwellings will comply with Section 6 – Energy of Building (Scotland) Regulations 2011. The appropriate section of the Building (Scotland) Regulations 2011 is Section 7 – Sustainability. By virtue of full compliance with Section 6, the development would meet the very basic Bronze standard of Section 7 towards sustainability. The applicant has also suggested associated low energy measures, which they intend to apply and integrate as part of individual dwellings, including A rated white goods, low energy lighting and high efficiency boilers. These commitments and compliance of Section 6 of the Building (Scotland) Regulations 2011 will therefore meet the minimum standards required in accordance with Policy EP1, which in this context is considered appropriate.

Residential Amenity

Overlooking

- 101 There are not considered to be any associated overlooking impact from the proposed residential units to existing residential properties due to the separation distances and established landscape framework between proposed and existing dwellings. Every proposed dwelling where there is upper floor windows facing the boundary are calculated to be in excess of 18 metres from the exterior wall of a neighbouring property.

Overshadowing, loss of sunlight and daylight

- 102 The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight-a guide to good practice 1991' sets out guidelines on how to assess for the potential impact, it should be noted that the standards are not mandatory and should be interpreted flexibly.
- 103 Taking cognisance of the BRE good practice, the proposed distances between new and existing properties and associated site levels, an acceptable level of daylight and sunlight will be provided to all new and existing properties. No adverse impact calculated through overshadowing.

Private Amenity Space Provision

- 104 All properties are considered to include an acceptable amount of amenity ground (proportionate to dwelling size) and will not have any adverse impact

regarding overlooking or overshadowing on each other. As aforementioned, it is considered appropriate to remove permitted development rights from all semi-detached and terraced plots where the private amenity space is tightest and future development, including house extensions and outbuildings would have the greatest impact on neighbouring amenity.

- 105 Overall, in terms of residential amenity, the proposals are not considered to result in any adverse impact to either existing or proposed residential amenity, satisfying LDP Policy PM1 as the design and siting respects the character and amenity of surrounding properties.

Environmental Health

- 106 As a result of no specific conditions identified pertaining to Environmental Health issues in relation to the residential development of the wider site area from the original In Principle Consent, Environmental Health colleagues have confirmed that they have no concerns in relation to the proposals forming this application.

Affordable Housing

- 107 The Councils Affordable Housing officer has confirmed that 25% ($98 \times 0.25 = 24.5$ units) will be required for affordable housing and in this case it has been agreed that 14 can be delivered on site (through identified flat blocks) and 10.5 units delivered via a commuted sum at £26,500 per unit. The total commuted sum for affordable housing in this case is £278,250.00. Delivery of this will be dealt with via the Section 75 Legal Agreement. As a consequence, the proposal complies with the Councils Affordable Housing Policy 2012.

Education

- 108 A capacity constraint is defined where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 109 This proposal is within the catchment of Craigie Primary School.
- 110 A primary education contribution will be required from all relevant units within this development. Primary education contributions are not sought from affordable housing units. The site does not contain any other units which do not meet the Supplementary Guidance criteria and therefore exempt. Each contribution is £6,395 per unit.
- 111 The outline consent application identified a clear contribution obligation for any detailed development coming forward towards Education infrastructure. Education contribution is calculated at 98 residential units (- 24.5 unit affordable element) \times £6395 = £470, 032.50. This contribution will be dealt with via the Section 75 Legal Agreement.

Economic Development

- 112 The economic impact of 98 residential dwellings is considered to be significant in assisting in the Perth Housing Market delivery. Employment opportunities will exist during the construction phase and consequently achieve increased available expenditure through net growth in residential occupation, resulting in a positive impact on consumer spend within the Perth City market area.
- 113 Based on the Perth and Kinross Retail Review (2011), average spends by each adult within Perth on convenience goods in 2016 will be £2,016 per annum. If each of the new dwellings (98) contains two adults this could result in a net regional gain of £395,000 available to spend on convenience goods.
- 114 In terms of comparison goods, the potential available expenditure of £3,420 per adult could be in the region of £670,000 per annum in 2016.

LEGAL AGREEMENTS

- 115 A Section 75 Legal Agreement will require to be drafted in relation to securing the following:
- On site Affordable Housing provision (14 units on site, with 10.5 units commuted sum at £26,500 per unit);
 - Commuted sum for primary school education provision (£470,032.50);
 - Maintenance arrangements (in perpetuity) of the agreed open space areas (including provision of Play Park).

DIRECTION BY SCOTTISH MINISTERS

- 116 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 REASONS FOR RECOMMENDATION

- 117 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to satisfactorily comply with the adopted Perth and Kinross Local Development Plan 2014 and TAYplan 2012. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

- A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
- 2 Prior to the occupation of any residential plot, 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.
- 3 Roads and associated works, including the signalisation of the Necessity Brae/Glasgow Road and the Glasgow Road/Oakbank Place junctions, shall be constructed in conformity with the Council's specifications and to the satisfaction of the Council as Planning Authority prior to the occupation of any residential plot.
- 4 Prior to the occupation of any residential plot, a 3 bay bus shelter to the Council's Public Transport Units specification shall be provided on Necessity Brae on the development side (north). A corresponding stop shall also be provided on the opposite side of Necessity Brae.
- 5 Prior to the occupation of any residential plot, bus stops on both sides of Glasgow Road shall be provided adjacent to the new pedestrian access point.
- 6 Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.
- 7 A street lighting installation designed to BS 5489 – 1:2013 shall be provided within the site. The type and standard of lighting shall be assessed using the zoning system outline in 'The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution' and be agreed with the Council as Planning Authority'
- 8 Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse are hereby revoked in full for all semi-detached and terraced dwellings (including house type Portree, Newmore and Newton) of the approved Site Layout Plan.
- 9 For the avoidance of doubt, the proposed external finishing details and composition as currently proposed are not approved as part of this consent. Revised details relating to elevation finishes of the proposed dwellings, including the elevation material composition, specification and colour of the proposed external finishing materials to be applied shall be reviewed in consultation with the Council and thereafter submitted formally for the written approval of the Planning Authority prior to the commencement of the development. The scheme as approved shall thereafter be undertaken and completed commensurate with the subsequent phases of the development.

- 10 For the avoidance of doubt, the proposed external garden walling details are not approved as part of this consent. Revised wall details shall be reviewed in consultation with the Council and thereafter submitted for the written approval of the Planning Authority, prior to the commencement of the development. The revised boundary wall details as approved shall thereafter be undertaken and completed commensurate with the subsequent phases of the development.
- 11 The current proposed landscaping, planting scheme and open space maintenance proposals are not fully approved at this stage. A comprehensive scheme shall be re-submitted for further written approval in advance of commencement of development and shall include the following revisions and additions as appropriate:
- Full details of the standard of planting stock proposed, stock selection and stock numbers identified;
 - Link path adjacent to play area shall be re-aligned to more accurately reflect pedestrian desire lines whilst still respecting protected trees;
 - Remove or amend maintenance proposal details to reflect established Council open space policy;
 - As a landscape feature, SUDs scheme details shall be submitted, adopting natural site profiling and planting approach with appropriate security fence details proposed, in consultation with the Councils Public Space Management colleagues;
 - Security fence details to proposed play area shall be omitted (following agreed boundary details for SUDs scheme), integrating the play area within the wider landscape setting;
 - Additional native hedge planting proposals shall be continued round the external boundary parameters of each side residential plots 54 and 55 (tapering off), as formal site boundary definition.
 - Additional new native hedge planting shall be proposed on the southern site edge, adjacent to external boundaries of residential plots 19 - 22 and part of plot 23 and continued through from the boundary of plots 13, 14 and 15, wrapping round the external boundary elevations of associated plots as one continuous hedge.
- 12 The revised landscaping plan as approved shall thereafter be carried out in accordance with the approved scheme within one calendar year of the commencement of development and thereafter maintained.
- 13 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species.
- 14 The development shall fully comply with and respect the approved Tree Survey recommendations and remain in full accordance with BS5837: *'Trees in relation to construction, demolition and construction. Recommendations'*.
- 15 Full details regarding the siting and re-installation of Public Art elements consisting of Sun Dial and Mosaic, including methodology shall be submitted to the Council for written approval prior to commencement of development. The detailed scheme as approved shall be implemented prior to the occupation of

the final phase of development and in advance of the public open space being handed over and formally adopted.

- 16 Full details of proposed site boundary openings forming new pedestrian accesses onto both Glasgow Road and Necessity Brae shall be submitted prior to the commencement of development for further written approval. The opening details as approved shall thereafter be implemented prior to the occupation of any residential plot. In addition, site boundary railings bounding the site shall all be repaired and refurbished to the satisfaction of the Council prior to the occupancy of any residential plot and in advance of the associated public open space being handed over for formal adoption.
- 17 Prior to the occupation of any residential plot, the Scouring Burn (adjacent to the site for a distance of 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the site) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water; all to the satisfaction of the Council as Roads Authority.
- 18 A detailed, site specific Construction Management Statement (CMS) shall be submitted for written approval by the Council as Planning Authority, prior to the commencement of development. The approved CMS shall thereafter be fully respected and adhered to through the construction phase of the development.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted development plan.
- 3 In order to ensure that the associated roads infrastructure is suitably upgraded in order to adequately accommodate the impact of the development proposed.
- 4 In order to ensure that associated local sustainable infrastructure improvements are undertaken to adequately accommodate the impact of the development proposed.
- 5 In order to ensure that associated local sustainable infrastructure improvements are undertaken to adequately accommodate the impact of the development proposed.
- 6 In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted development plan.
- 7 In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted development plan.

- 8 In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality and to avoid over-intensive development of individual plots.
- 9 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 10 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 11 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in order to satisfy placemaking policy criteria and suitably retain the setting of listed buildings.
- 12 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 13 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 14 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 15 To ensure the preservation of established outdoor art installations within the site and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 16 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.
- 17 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with the adopted development plan.
- 18 To ensure the construction phase is carefully managed to minimise landscape impacts and mitigate for any associated impacts on ecology, neighbours, general public and the wider environment.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

Consent not to be issued until a Section 75 Agreement has been completed and signed in respect the following issues: -

- Affordable housing;
- Education contribution;
- Open space provision /maintenance;
- Play area infrastructure provision;
- Transport infrastructure upgrade at Glasgow Road Junction

D INFORMATIVES

- 1 The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.

- 2 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.

- 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 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.

- 5 The applicant is advised that in terms of Sections 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.

- 6 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 Environmental Protection Agency.

- 7 No work shall be commenced until an application for building warrant has been submitted and approved.

8 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Background Papers: Public Open Space in New Residential Developments – Standards and Adoption (Environment and Consumer Services Committee - 30 May 2001)

Contact Officer: Callum Petrie – Ext 75353

Date: 1 April 2014

Nick Brian
Development Quality Manager

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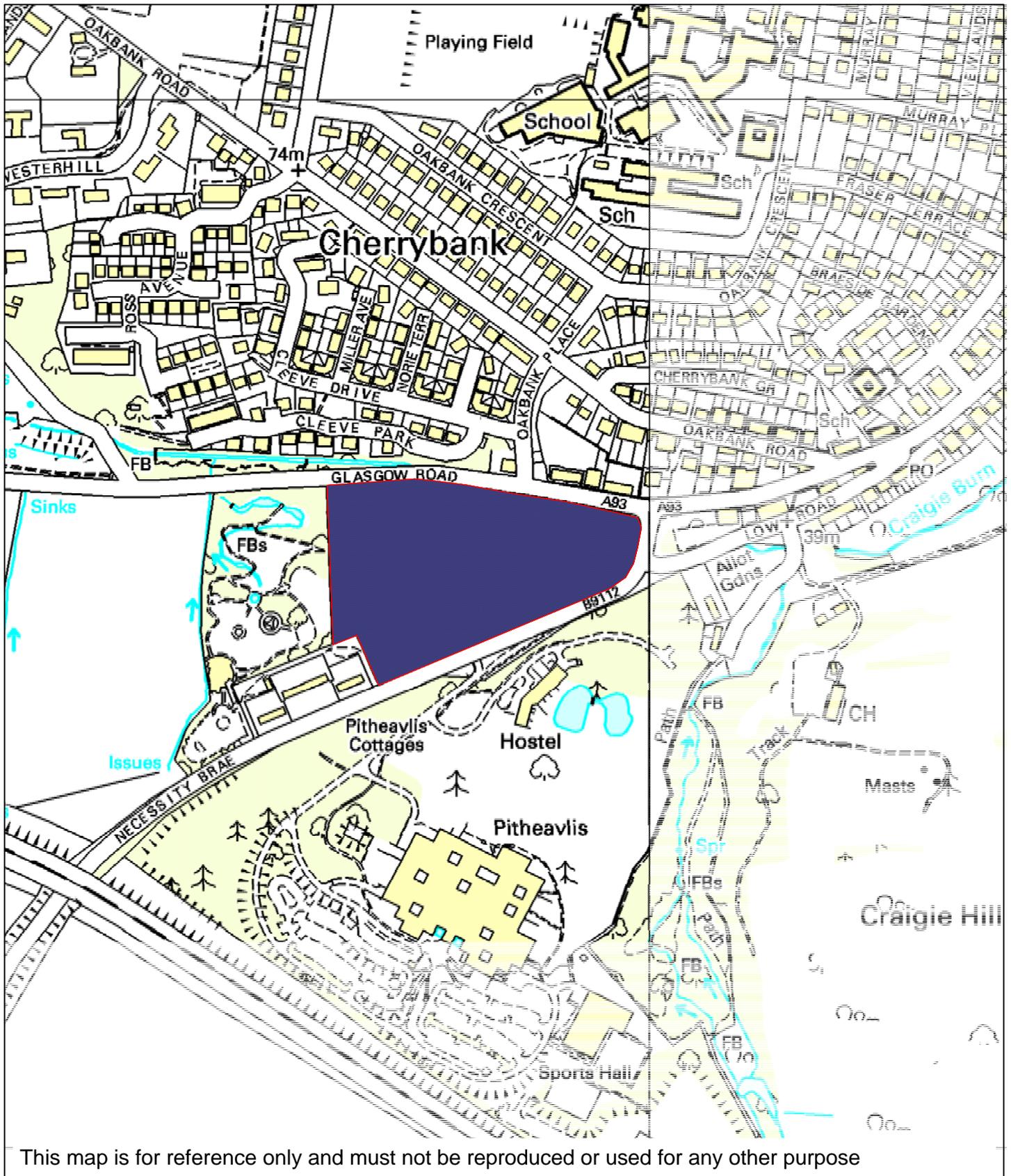
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Perth & Kinross Council

14/00269/AMM

Approval of Matters Specified in Conditions

Cherrybank, Necessity Brae, Perth



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