

## West and Central Planning Committee

Blended Meeting – Committee Room 2, 5<sup>th</sup> Floor, Fife House,  
Glenrothes



Wednesday, 13 September, 2023 - 2.00 p.m.

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### AGENDA

Page Nos.

**1. APOLOGIES FOR ABSENCE**

**2. DECLARATIONS OF INTEREST**

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

**3. MINUTE** – Minute of the meeting of West and Central Planning Committee of 16 August, 2023. 4 - 6

**4. 23/00971/FULL - BALLINGALL FARM, LESLIE, GLENROTHES** 7 - 34

Erection of a battery energy storage facility (46 MW) with ancillary buildings including formation of access track, erection of fencing, associated drainage and landscaping infrastructure.

**5. 22/02635/FULL - KENT STREET, DUNFERMLINE** 35 - 46

Revision to conditions schedule for 22/02635/FULL - erection of 59 houses, formation of new access, provision of open space, related infrastructure including suds basin, with related works at land to north of Kent Street, Dunfermline, Fife.

**6. 23/00868/PPP - LAND TO THE EAST OF LYDIARD HOUSE, WINDYGATES ROAD, FIFE** 47 - 59

Planning permission in principle for residential development (Class 9) and associated development, including alteration to access arrangements.

**7. 22/02475/FULL - THE FOUNDRY, CHARLESTOWN, DUNFERMLINE** 60 - 69

Mixed-use (Sui Generis) development (part-retrospective) comprising: siting of yurt for delivery of yoga classes; erection of outbuilding/part-use of grounds for delivery of therapy services; and erection of shed for purposes incidental to delivery of the therapy services.

**8. 23/01030/FULL - 17 TOWNSEND CRESCENT, KIRKCALDY, FIFE** 70 - 75

Erection of 1.6 metre high boundary fence and gate to front of dwellinghouse (in retrospect).

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

Lists of applications dealt with under delegated powers for the periods 7 August to 3 September, 2023.

Note – these lists are available to view with the committee papers on the [Fife.gov.uk](http://Fife.gov.uk) website.

**Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.**

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

Fife House  
North Street  
Glenrothes  
Fife, KY7 5LT

6 September, 2023

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## **BLENDED MEETING NOTICE**

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

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

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

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

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

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

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

**THE FIFE COUNCIL - WEST AND CENTRAL PLANNING COMMITTEE – BLENDED MEETING**

**Committee Room 2, 5th Floor, Fife House, North Street, Glenrothes**

**16 August 2023**

**2.00pm – 3.40pm**

**PRESENT:** Councillors David Barratt (Convener), David Alexander, John Beare, James Calder, Ian Cameron, Altany Craik, Dave Dempsey, Derek Glen, James Leslie, Derek Noble, Gordon Pryde, Sam Steele and Andrew Verrecchia.

**ATTENDING:** Mary Stewart, Service Manager – Major Business & Customer Service, Natasha Cockburn, Lead Professional (Infrastructure), Martin McGroarty, Lead Professional and Brian Forsyth, Planner, Planning Services; Mary McLean, Legal Services Manager, Gemma Hardie, Solicitor and Emma Whyte, Committee Officer, Legal & Democratic Services.

**104. DECLARATIONS OF INTEREST**

No declarations of interest were submitted in terms of Standing Order 22.

**105. MINUTE**

The committee considered the minute of West and Central Planning Committee of 7 June 2023.

**Decision**

The committee agreed to approve the minute.

**106. CHANGE OF MEMBERSHIP**

The committee were asked to note that Councillors Colin Davidson and Julie MacDougall had been replaced by Councillors Ian Cameron and Altany Craik on the West and Central Planning Committee.

**Decision**

The committee noted the change to the membership of the committee.

**107. 22/01914/FULL - LAND TO NORTH OF 10 TO 22 CAMERON CRESCENT, WINDYGATES**

The committee considered a report by the Head of Planning Services relating to an application for the erection of 77 residential units with associated engineering, infrastructure, landscaping and open space.

**Motion**

## 2023 WCPC 42

Councillor Barratt, seconded by Councillor Craik, moved to approve the application subject to the 24 conditions and for the reasons detailed in the report following the conclusion of a legal agreement.

### **Amendment**

Councillor Alexander, seconded by Councillor Dempsey, moved to refuse the application on the grounds that the proposed development did not comply with the Adopted FIFEplan Local Development Plan (2017) in connection with the requirement for two accesses and associated road traffic concerns and was contrary to Fife Council policies 1, 3 and 14 and Policy 14 of National Planning Framework 4 (2023).

### **Roll Call**

**For the Motion – 7 votes**

Councillors Barratt, Beare, Cameron, Craik, Noble, Pryde and Verrecchia.

**For the Amendment – 5 votes**

Councillors Alexander, Calder, Dempsey, Glen and Steele.

Having received a majority of votes, the motion to approve the application was carried.

### **Decision**

The committee agreed:-

- (1) to approve the application subject to the 24 conditions and for the reasons detailed in the report;
- (2) the conclusion of a legal agreement to secure £288 per residential unit for strategic transport interventions, excluding affordable units (index linked to Q1 2017);
- (3) that authority be delegated to the Head of Planning Services, in consultation with the Head of Legal and Democratic Services, to negotiate and conclude the legal agreement; and
- (4) that should no agreement be reached within 6 months of the committee's decision, authority be delegated to the Head of Planning Services, in consultation with the Head of Legal and Democratic Services, to refuse the application.

*Councillor Leslie left the meeting during consideration of the above item.*

#### **108. 23/00701/FULL - LAND 300M EAST OF WESTER BALBEGGIE COTTAGES, WESTER BALBEGGIE FARM, BALBEGGIE AVENUE**

The committee considered a report by the Head of Planning Services relating to an application for a proposed battery energy storage system with ancillary equipment and associated access.

## 2023 WCPC 43

Members were advised of an amendment to Condition 10 of the permission 23/00701/FULL, the reference to "Condition 14" should read "Condition 9" and that all references to "Solar Farms", as in Condition 11, should be removed from the Planning conditions, as this application was solely for Battery Energy Storage System, not a combined Solar Farm and BESS.

### **Decision**

The committee agreed to approve the application subject to the:-

- (1) 11 conditions and for the reasons detailed in the report; and
- (2) amendments to conditions as set out above.

### **109. 23/00739/PPP - THE FARMHOUSE, MASTERTON, MASTERTON ROAD**

The committee considered a report by the Head of Planning Services relating to an application for planning permission in principle for residential development (Section 42 application for the development the subject of planning permission in principle 22/00984/PPP without complying with its conditions (1D) and (3)).

Members were advised of an amendment to para 2.7.1 of the report, the sentence beginning "The approximation" should read:-

"The approximation for the area of greenfield land in 1.1 above also excludes all other areas of the site previously developed and/or understood to be within the original curtilage."

### **Decision**

The committee approved the application subject to the 14 conditions and for the reasons detailed in the report.

### **110. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS**

### **Decision**

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

**ITEM NO: 4**

**APPLICATION FOR FULL PLANNING PERMISSION REF: 23/00971/FULL**

**SITE ADDRESS: BALLINGALL FARM LESLIE GLENROTHES**

**PROPOSAL: ERECTION OF A BATTERY ENERGY STORAGE FACILITY (46 MW) WITH ANCILLARY BUILDINGS INCLUDING FORMATION OF ACCESS TRACK, ERECTION OF FENCING, ASSOCIATED DRAINAGE AND LANDSCAPING INFRASTRUCTURE**

**APPLICANT: GLENROTHES BESS LTD  
THE FACTORY WHITCHURCH**

**WARD NO: W5R14  
Glenrothes North, Leslie And Markinch**

**CASE OFFICER: Martin McGroarty**

**DATE REGISTERED: 17/05/2023**

**REASONS FOR REFERRAL TO COMMITTEE**

This application requires to be considered by the Committee because:

This application relates to a major development.

**SUMMARY RECOMMENDATION**

The application is recommended for:

Conditional Approval

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

**1.0 BACKGROUND**

## 1.1 The Application Site

1.1.1 The proposal is for planning permission for the construction and operation of a battery energy storage system of 46MW, with ancillary buildings, including formation of access track, erection of fencing, associated drainage and landscaping infrastructure. The proposal area indicated on plan covers around 1.5Ha of land to the north of Ballingall Farmhouse and Steadings, which lie on the unclassified U023 Leslie to Falkland (Lomond Hills) road, between the settlements of Leslie and Falkland. Ballingall Farm is not a working farm, and the proposal site comprises an area of around 2.5 acres within the south-east corner of a single field, of which only around 0.3Ha of land would be required for the BESS facility itself, and the land is currently in agricultural use as equestrian grazing. The land falls generally from a high point in the north towards the south of the site – the level difference from high to low is around 8m across the site.

1.1.2 The site is surrounded by agricultural land or woodland, though the residential area of Formonthills, Glenrothes, lies approximately 105m to the north-east separated by dense tree and shrub coverage. Ballingall Farmhouse, which is the applicant's property, lies 270m south-west of the application site. Ballingall Mill lies 360m to the south-west across the U023 road, and separated by the Lothrie Burn which has heavy tree and shrub coverage, and The Den Plantation, along the southern boundary of the site and beyond. Lomond Quarry lies approximately 600m to the south-west, beyond Ballingall Mill. Pitkevy Farm lies 775m, and Pitkevy Cottage 600m, to the north-west across the U023 road.

1.1.3 The Electricity Distribution Station lies some 830m to the south and a 400kV Overhead Power line on large steel pylons runs north from the Electricity Distribution Station past the eastern edge of the application site. Planning Permission 17/03318/FULL, for an energy storage facility (BESS) at Roaring Hill, Leslie, around 650m south of this application site, was approved with conditions on 22<sup>nd</sup> December 2017 and is currently under construction. Planning Permission 21/02661/FULL, for an energy storage facility (BESS) at Pitkevy, around 750m west of this application site, was approved with conditions on 19<sup>th</sup> January 2022.

1.1.4 Access to the site is proposed to be taken from the U023 road at an existing field access around 360m north of Ballingall Farmhouse and Steadings.

### LOCATION PLAN

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## 1.2 The Proposed Development

1.2.1 This application seeks full planning permission for the erection of a battery energy storage system and associated infrastructure, including a DNO substation, switch room building, storage unit, fencing and CCTV cameras. The proposed batteries store electricity and would allow the local Grid network to operate more efficiently; taking excess energy, storing it and releasing it onto the network when the grid needs it at times of peak demand. The system would have a maximum import capacity of 46MW. The development will, as a minimum, store and supply 184,000 kWh of electricity per day as an enabling technology for renewable generation. In renewable generation terms this equates to an annual saving of 19,011 CO2 metric tonnes and the availability to provide electricity to over 19,189 homes every year and is an alternative / replacement for gas fired power generation in providing a rapid response to satisfy peak demand. The proposed development will contribute to such grid balancing as we switch to renewables using advanced and efficient battery technology with a low environmental impact, producing zero emissions.



1.2.2 The proposed development would comprise:

- 16 battery units (2.3m high x 6.0m wide x 9.7m long);
- 16 inverter units (2.18m high x 2.02m wide x 3.0m long);
- 8 transformers (2.18m high x 2.03m wide x 2.12m long);
- 1 switchgear unit (2.79m high x 2.44m wide x 6.10m long);
- 1 sub-station building (3.61m high x 6.96m wide x 10.90m long);
- 1 storage unit (2.79m high x 2.44m wide x 6.10m long);
- 1 security gate, site security fencing and acoustic barrier fencing (3m high, posts at 3m centres);
- 5 CCTV/infra-red camera poles (3m high).;
- 1 access track from the existing field access north of Ballingall Farmhouse, off Falkland Hill Road, will be used for installation and then used periodically for maintenance

1.2.3 All containers and fencing will be finished in materials appropriate to mitigate their visual appearance within the landscape. Full finish details can be secured by condition of any planning permission granted. Within the compound, the development would involve the installation of the 16 battery unit blocks and 16 inverter or power conversion system units, with 8 transformers (each transformer serves 2 inverter units and two battery unit blocks).

1.2.4 The development itself involves the creation of an access track from the Falkland Hills Road to the east of the site, with the track following an existing field access. The compound would be located in the south-eastern section of the site and a security fence and vehicular access gate would form the perimeter of the compound. An acoustic fence along the northern and eastern boundaries is required for sound attenuation of the proposed development in the context of the residential development at Formonthills, Glenrothes. The access track would lead into the compound and provide access to the northern end of the compound, where a substation, switchgear unit and storage unit would be located. The development would be stepped down in three distinct levels, working with the site topography, with the plant containers being similar in size and profile to shipping containers. There is an established landscape screen around the whole boundary of the field in which the application site lies.

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

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

### **1.3 Relevant Planning History**

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

1.3.2 Application 22/00671/SCR was registered on 2nd March 2022, requesting a Screening Opinion as to whether the development now proposed represented a development that would be

subject to a full Environmental Impact Assessment (EIA). A decision indicating that a full EIA would not be required was issued on 23rd March 2022.

1.3.3 Application 22/02780/PAN was registered on 12th August 2022, setting out the proposed public consultation arrangements in advance of this current planning application, and the PAN was agreed on 2nd September 2022.

## **1.4 Application Procedures**

1.4.1 The proposal comprises development of an energy storage facility which has a capacity which exceeds 20 megawatts but does not exceed the 50MW limit at which the Scottish Government's Energy Consents Unit would determine the application under the Electricity Acts. The Chief Planner's Letter dated 27th August 2020 advises that the Scottish Government considers that a battery installation generates electricity and is therefore to be treated as a generating station. This application is, therefore, classified as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The applicant has carried out the required pre-application consultation (ref: 22/03271/PAN) and a Pre-Application Consultation Report outlining comments made by the public has been submitted as part of this application. The manner of the consultation exercise, including the notification and media advertisement process, complied with the relevant legislation.

1.4.2 No representations or objections were received from the public in relation to this application.

1.4.3 A physical site visit was undertaken on 22<sup>nd</sup> May 2023 by the Case Officer and drone footage of the site is also available.

1.4.4 This application was advertised in The Courier newspaper on 25th May 2023.

## **2.0 ASSESSMENT**

### **2.1 Legislation**

2.1.1 Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise. Under Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority should have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.

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

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

## **2.2 Relevant Matters**

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

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

## **2.3 Principle of Development, including Contribution to Renewable Energy Supply**

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

2.3.2 Policy 11 (Energy) of NPF4 states that proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, and these include enabling works, such as grid transmission and distribution infrastructure. The policy further states that development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Policy 11 also advises that significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policy further states that project design and mitigation will demonstrate how the following impacts are addressed:

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

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

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

2.3.5 The Scottish Government's Energy Storage: Planning Advice document (2013) provides advice for Planning Authorities on energy storage and states that energy can be stored at variable scales, for both electricity and heat, in a number of ways, through technologies such as hydro pumped storage, hydrogen and fuel cells, compressed air and cryogen. This document further advises that a clear case has been made that, if the energy sector is to maximise environmental, economic and social benefits, renewable energy will need to be linked to energy storage, whilst, energy storage technologies can counteract intermittency associated with certain energy supplies, can ensure excess power is not lost at times of high production and can provide energy on demand off-grid in a variety of ways. Oversupply is likely to become more prevalent the closer Scotland gets to realising its 100% electricity from renewables target. It is also expected that energy storage will be essential if Scotland is to realise its ambition to become a renewable energy exporter and to attract the economic advantages of ensuring that the energy storage supply chain locates in Scotland. The document also advises that in deciding applications for all renewable types Planning Authorities should consider the potential for energy storage such as hydrogen and fuel cell storage, within the site or in accessible nearby sites or within transitional technologies and that they should encourage new developments to plan for energy centres incorporating transitional technologies which give the potential for energy storage linked to renewable storage at a future date.

2.3.6 Policy 1, Part A, of the Adopted FIFEplan LDP stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the LDP. Policy 7 (Development in the Countryside) of the LDP states that development in the countryside will only be supported where it is for other development which demonstrates a proven need for a countryside location. Policy 7 also advises that in all cases development must be of a scale and nature compatible with surrounding uses; be well-located in respect of available infrastructure and contribute to the need for any improved infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area.

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

2.3.8 The application site is located outwith any designated settlement boundary and is, therefore located within the countryside as per the LDP. It has previously been accepted that this type of infrastructure may have a proven need for a countryside location as required by Policy 7 of the LDP. Policy 29(a) (Rural Development) of NPF4 also provides support for

essential infrastructure applications of this type within the countryside, whilst Policy 11 of NPF4 provides support in principle to new and replacement transmission and distribution infrastructure providing the proposal is designed to address its impacts, with significant weight to be placed on the contribution of the proposal to renewable energy generation targets and reduction targets for greenhouse gas emissions.

2.3.9 The proposed development can only be sited where a practical and viable connection to the national electricity grid is possible and therefore there are strict locational requirements. The grid system across Scotland and the UK is very constrained with little headroom for additional capacity and this area of Fife is one of the few places where there is capacity to connect. An existing Substation is located just under 1km southeast of the Application Site, therefore avoiding the need for prohibitive lengths of cable route disturbance, keeping connection costs to an acceptable level and minimising transmission losses (the proposed development would supply power to the local distribution network at or near the point of use and, in doing so, it results in lower transmission losses which occur when power is transmitted over long distances - national level transmission losses can amount to up to 14%). The cabling will be laid in a shallow trench along the route that will be backfilled ensuring the land will return fully to its original condition.

2.3.10 Other factors that were considered in the site selection process were as follows:

- the impact on the environmental assets and the cultural heritage of the area is minimal;
- whilst the application site comprises a modest section of field that is designated as prime agricultural land (0.3 Ha of Class 3.1 land), the field in question does not form part of a working farm, therefore no prime land would be removed from food production, and the use is a temporary one;
- there are no concerns regarding flooding or drainage impacts;
- suitable construction access can be provided between the site and the main road network;
- the site has few neighbouring sensitive receptors;
- whilst the application site lies within the Lomond Hills Local Landscape Area, the site is well screened from the majority of public views by existing, mature planting; and
- landowner agreement to develop the site has been secured, ensuring a viable development.

2.3.11 The UK energy system is currently undergoing a fundamental transformation and commercial scale BESS installations will be a major enabler of this. Centralised large power generators using predominantly fossil fuels, one-way power flows and predictable energy consumption are now being phased out. As the UK transitions towards a self-sufficient, green and carbon free energy future, Active Network Management enabled by the use of BESS installations such as that proposed in this application will be crucial to delivering that transition smoothly.

2.3.12 The proposed development would have an output of 46MW and would contribute to the nation's electricity needs and the Government's energy objectives. Battery storage, both now and into the future, will play a vital role in maintaining grid stability as we switch our energy generation to renewable sources and is a necessity in the energy generating infrastructure mix. Commercial scale battery storage will assist in the prevention of events such as power surges and outages, both of which are damaging to electrical infrastructure. Without such infrastructure, power supply becomes unreliable, and it will be difficult to switch our energy generation to entirely clean, green production.

2.3.13 In this case, whilst it is recognised that there are elements of both national guidance and the LDP which discourage development within the countryside, the applicant has submitted

sufficient supporting information which details the reasoning for the facility to be situated at this location; principally, it requires to be located close to an existing substation site. The proposal would also comply with Policy 29 of NPF4 as it is essential infrastructure, and this policy provides support for essential infrastructure applications of this type within the countryside. The proposal has evidenced the need for a countryside location in compliance with Policy 7 of the LDP. The proposal would also contribute to the need for improved energy infrastructure within Fife and would contribute to Fife's Net Zero targets and would, therefore, comply with Policy 11 of NPF4 which provides support for all forms of renewable, low-carbon and zero emissions technologies. Whilst the proposal makes use of 0.3 hectares of prime agricultural land, this is a temporary, modest land-take from a non-working farm and NPF4 Policy 5 Soils allows for development proposals on prime agricultural land where it is for essential infrastructure.

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

## **2.4 Landscape and Visual Impact**

2.4.1 Policy 11 (Energy) of NPF4 states that project design and mitigation will demonstrate how visual impacts on communities and individual dwellings are addressed along with any significant landscape and visual impacts and cumulative impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. The policy also advises that impacts on the historic environment should also be addressed through acceptable design and mitigation.

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

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

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

2.4.5 The proposal site is located within the Lomond Hills Local Landscape Area as identified in the Adopted FIFEplan LDP.

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

- Viewpoint 1 from the north-eastern site boundary.
- Viewpoint 2 from the eastern site boundary.
- Viewpoint 3 from Balgeddie Park, Glenrothes.
- Viewpoint 4 from Monks Walk, Leslie.
- Viewpoint 5 from local road, south of Pitkevy.
- Viewpoint 6 from Ballingall Mill.
- Viewpoint 7 from Core Path near Lomond Quarry.

2.4.7 The applicant's landscape assessment concludes that no significant impacts are predicted on any landscape character types or landscape designations within the study area from the proposed development. Any locally significant visual effects are only predicted during the construction and early operational phase from Viewpoints 1 (North-east site boundary) and Viewpoint 2 (Eastern site boundary). Effects from Viewpoint 1 would also remain significant during the longer term. From these locations, the proposed development would tend to remain very noticeable (but not prominent) until the proposed mitigation planting matures. The LVA states, however, that these viewpoints only represent the views of a small number of walkers using undesignated paths across fields adjacent to the site. Additionally, due to the screening effect of dense coniferous woodland that contains the nearby suburb of Balgeddie, effects on the users of the nearby Core Path would not be significant. In the longer term, no significant effects are predicted at any of the six other assessment viewpoints, nor on the users of any roads, recreational routes, or settlements, in the wider landscape.

2.4.8 The limited extent and duration of significant effects identified in the applicant's LVA reflects the nature of the key characteristics of the landscape within which the site is located. The viewpoint appraisal indicates how the proposed development would relate well to the landform and the medium-large scale of the land use pattern. The presence of large pylons and a sand and gravel/hard rock quarry near the site also limit changes to the experience of rural character. As such, most of the key characteristics of the Foothills Landscape Character Type landscape would remain unaffected.

2.4.9 The relatively extensive coverage of trees and woodlands in the surrounding landscape, including mature woodlands along the Lothrie Burn, would significantly restrict the opportunity for uninterrupted views of the proposed development. Consequently, any non-significant adverse effects are very localised, including those on the Lomond Hills Local Landscape Area. The proposed landscape mitigation measures would also provide some all-year-round screening to most parts of the infrastructure, which would effectively mitigate any potentially significant effects. These measures would also add to a landscape framework that helps integrate the Site into the surrounding landscape and as such, contributes to the conservation of rural character.

2.4.10 In this instance, the scale of the proposal is such that changes to the landscape as a result of the development would be limited to a small area of a previously undeveloped agricultural field. The proposed battery storage facility avoids the need to remove any mature trees or hedgerows within the site and, as illustrated within the proposed Landscape and Ecology Plan, additional gorse, shrub, tree and hedgerow planting is proposed to the northern, eastern and southern site boundaries to further screen the site and aid visual enclosure. All containers and fencing will be painted a dark green colour to mitigate their visual appearance within the landscape, and a condition is recommended to secure this.

2.4.11 In this instance it is considered that the applicant has demonstrated through the siting, use of materials and the submitted Landscape and Visual Appraisal that the expected landscape impacts of the proposed development are modest, and any localised impacts will be appropriately and successfully mitigated by carrying out improvements to existing landscape screening as detailed in the submitted Landscape and Ecology Plan. The Development Plan framework indicates that, where impacts are localised and/or appropriately designed mitigation has been applied for this type of development, they will generally be considered to be acceptable. In combination with the site selection process, which requires developments of this nature to be in close proximity to Electricity substations with sufficient capacity to deal with the electricity being imported and exported from and to the grid, and the government's aspirations for the planning system to help reduce emissions and energy use by enabling development that contributes to efficient energy supply and storage, it is therefore considered that any localised impact on the landscape, as described above, can be accepted. The proposal would, therefore, be visually acceptable, would have no significant detrimental impact on the site or surrounding landscape and would comply with the Development Plan in this respect.

## **2.5 Amenity Impact**

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

2.5.2 Policies 1 and 10 of the LDP state that new development is required to be implemented in a manner that ensures that existing uses and the quality of life of those in the local area are not adversely affected.

### **Noise**

2.5.3 PAN (Planning Advice Note) 1/2011 Planning and Noise provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. It also advises that Environmental Health Officers should be involved at an early stage in development proposals



which are likely to have significant adverse noise impacts or be affected by existing noisy developments.

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

2.5.5 Policies 1, and 10 of the LDP state that proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to noise and they will only be supported where they will have no significant detrimental impact on the operation of existing or proposed businesses and commercial operations or on the amenity of surrounding existing land uses.

2.5.6 A Noise Impact Assessment has been submitted in support of this application. The objectives of the assessment were to identify and describe any likely significant noise effects on key receptors during the operational phase of the proposed development. In order to assess the potential noise impacts of the proposed development, the current baseline characteristics of the application site and the surrounding area were identified. as well as the predicted impacts of the proposed development.

2.5.7 A total of 10 noise sensitive receptors were included in the assessment within a study area of 500m of the noise generating area of the application site. All of the identified receptors are residential dwellings, 9 of which are dwellings associated with the Pitkeyv Gardens area of Glenrothes, around 105m to the northeast of the site. The other dwelling is the Ballingall Farmhouse and steadings, which is the applicant's property. Around 270m south-west of the application site, Existing, significant landscaping and planting lies between the application site and both the Pitkeyv Gardens area and Ballingall Farm complex.

2.5.8 An assessment of the acoustic impact of the Proposed Development was undertaken in accordance with BS4142. The results showed High impacts at seven receptors and Low impacts at three receptors within the Study Area. A 3m high acoustic grade fence was proposed around the perimeter of the development area. With this mitigation in place, the noise levels reduced to Low at all receptors. An impact assessment was then conducted comparing the predicted effects of the operational stage of the development against Noise Rating curves for the internal noise. The noise levels at all receptors were below the target NR25 Noise Rating Curve. Internally, the predicted noise rating met the required limits at all noise sensitive receptors.

2.5.9 Accordingly, the NIA concluded that the Proposed Development would not have an adverse noise impact on the local area.

2.5.10 Following discussion with the applicant regarding the visual impact of the acoustic fence in the eastern and southern boundary of the site, the Noise Impact Assessment was revised to consider the predicted impact on noise sensitive receptors with the acoustic fencing contained to the northern and western boundaries of the site, where its visual impact would be less. The findings of the revised Noise Impact Assessment confirm that the proposed development would still meet relevant criteria for noise at all the noise sensitive receptors.

2.5.11 Fife Council's Environmental Health Public Protection team advises that the approach taken in the noise assessment is suitable for the context of this site in terms of the methodology of the updated noise report and its conclusions are accepted. Nevertheless, it would be prudent to set a receptor condition on any grant of planning permission to verify that predicted noise levels have been achieved to protect nearby residents.

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

### **Construction Impacts**

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

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

2.5.11 The proposal is not located within the direct vicinity of any residential properties with the nearest residential area being located around 105 metres to the south-west, separated by dense tree and shrub planting. Any construction impact would also be temporary in nature; the proposed development would therefore have no significant detrimental impact on the site or surrounding area. A condition is recommended, however, requiring that a Construction Environmental Management Plan (CEMP) be submitted for approval. The remote location of the site and adherence to best working practices detailed in the CEMP would be sufficient to mitigate any potential negative impact during the construction phase. The proposal subject to this condition would, therefore, be acceptable and would comply with the Development Plan in this respect.

### **Light Pollution**

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

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

2.5.14 Infra-red security cameras would be located around the site, but no other site lighting is proposed, therefore there will be no amenity impact on any sensitive receptors from this source. The proposed infra-red CCTV lighting has the potential, however, to impact on nearby habitats and a condition is recommended requiring the submission of a lighting plan in this respect. The proposal, subject to conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

### **2.6 Transportation/Road Safety**

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

2.6.2 Policy 1, Part C, Criterion 2 of the LDP states that development proposals must provide the required on-site infrastructure or facilities, including transport measures to minimise and manage future levels of traffic generated by the proposal. Policy 3 of the LDP advises that such infrastructure and services may include local transport and safe access routes which link with existing networks, including for walking and cycling. Further detailed technical guidance relating to this including parking requirements, visibility splays and street dimensions are contained within Appendix G (Transportation Development Guidelines) of Making Fife's Places Supplementary Guidance (2018).

2.6.3 A Construction Traffic Management Plan (CTMP) prepared by Neo Environmental on behalf of the applicant has been submitted in support of the application. This indicates that there would be a 12-month construction period generating some 30 two-way HGV vehicle trips per day plus general site staff trips. During its operational life, the facility would generate only 4 – 8 two-way maintenance vehicle trips every 28 days. Fife Council's Transportation Development Management (TDM) team has no objection in principle to this proposal based on the trips generated and they have assessed the submitted CTMP in further detail as below.

2.6.4 Paragraph 4.4 of the CTMP states that "due to the narrow nature of the road and bend just north of the site access, it is highly unlikely vehicles will be travelling at 60mph at this section of the road from the north. Therefore, Neo Environmental believe that a visibility splay of 160m x 3m to the north and 210m x 3m to the south is suitable and represents the visibility required for the likely speed of vehicle at the site entrance." TDM note that the U023 has a narrow carriageway with blind bends (with forward visibility generally restricted by the vertical and horizontal geometry of the carriageway and high hedges) and agrees that 85%ile vehicle speeds would be significantly less than the required 3 metres x 210 metres. A speed survey should be carried out over a 1-week period to establish the actual 85%ile speed passing the proposed site access, which would very likely establish that junction visibility splays much less than the proposed 3 metres x 160 metres to the north and 3 metres x 210 metres to the south would be acceptable. A reduced y-distance would also require less of the existing hedgerow to be lowered/removed. This is a matter that can be secured through a condition of any planning permission that may be granted.

2.6.5 Paragraph 4.5 of the applicant's CTMP states that "the Applicant will conduct a pre- and post-construction condition survey of the unnamed road from Application Site access point and for 200m in each direction with the Applicant liable to repair any damage to the road attributed to the construction of the Proposed Development." TDM comments that the U023 carriageway between the proposed site access and Balsillie Avenue/Lomond Quarry access (some 930 metres) is narrow with little and no width for two vehicles (cars) to pass each other. Construction traffic encountering another vehicle travelling in the opposite direction would inevitably result in the carriageway edge and verges being overrun and damaged. This being the case, TDM welcomes the proposal to carry out a pre and post construction survey of the U023 to identify and make good damage done by construction traffic but recommends that the survey must cover the U023 between the proposed site access and Balsillie Avenue. This is a matter that can be secured through a condition of any planning permission that may be granted.

2.6.6 TDM also recommends that passing places are constructed on the U023 within the public road boundary and that a 1.2m wide, 70m length of footway is constructed on one side of the U023 carriageway between Balsillie Avenue and The Limekilns, to provide a safe route for pedestrian and wheeled trips on the core path. These are matters that can be secured through conditions of any planning permission that may be granted.

2.6.7 The proposed HGV traffic route between the A911 and the site, identified in Figure 1 of the CTMP, would be via Murray Place and the Lomond Quarry haul road, avoiding the U023/A911 junction. TDM agree that this routing is acceptable.

2.6.8 Assessing Section 6 – Mitigation – of the CTMP, TDM considers that the CTMP and wheel cleaning proposals are generally acceptable, noting that the distance between the site access and the U023 is such that it would be very unlikely that mud and debris from the site would be dragged onto the public road.

2.6.9 Overall, having considered the applicant's submitted CTMP, Fife Council's TDM team generally considers that the CTMP addresses the requirements of a Transport Statement and has no objections to approval being granted for the proposed development, subject to transportation related conditions. The proposal would, with conditions, therefore, have no significant impact on the site or surrounding area in terms of road safety and would comply with the Development Plan in this respect.

## **2.7 Community and Economic Benefits**

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

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

2.7.3 The project will provide valuable inward investment to the local community by providing local job opportunities during construction and decommissioning, either directly or down the supply chain; by enabling local clean energy production and by increased local economic activity from construction and maintenance workers. The proposal would also make a significant contribution towards meeting renewable energy targets by providing much needed grid support

to facilitate greater deployment of renewable energy. Based on the submitted information, it is considered, that the proposal would provide economic and community benefits as required by Policy 11 of NPF4. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

## **2.8 Water/Drainage/Flood Risk**

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

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

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

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

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

2.8.6 The applicant has submitted a Flood Risk and Drainage Assessment (FRDA). The FRDA concludes that overall, there are no overriding impediments to the development being granted planning permission on the grounds of flood risk or surface water drainage.

2.8.7 The FRA indicates that the topography of the site is such that the site slopes generally downhill from north to south. The total difference in elevation across the site is 8m.

2.8.8 The FRA notes that SEPA's Fluvial Flood Risk mapping indicates that the site presents no risk of fluvial flooding within the area surrounding the proposed development. The closest area of fluvial flooding is associated with the Lothrie Burn, approximately 40m to the south which is of no concern to the proposed BESS development. The flooding associated with the burn is restricted to the river valley within the woodland south of the site where SEPA flood maps suggest the water can rise to approximately 126m in the "low likelihood event" (0.1% chance per year). The proposed BESS development's lowest elevation is 133.5m resulting in an indicative 7.5m elevation above the SEPA modelled 1 in 200-year fluvial flood level. The FRDA therefore concludes that Fluvial flooding is assessed not to be a significant hazard and the proposed development is at little or no risk from that source. Similarly, according to the SEPA Flood Maps, the proposed development is not located within an area where groundwater could influence the duration and extent of flooding from other sources, therefore the site is considered to be at little or no risk from groundwater flooding.

2.8.9 In relation to Infrastructural Flood Risk, flooding from existing infrastructure such as reservoirs, drainage systems or flood defences can occur where capacity in the system is insufficient or when maintenance lapses. The proposed BESS facility is located adjacent and downstream to 4 reservoirs (Holl, Balgillie, Ballo & Drumain). Even though unlikely, flooding of the Lothrie Burn via dam breach is possible. However, to increase the water level by over 10m to meet the BESS facility would be unlikely unless there was a catastrophic failure releasing the reservoirs volume over a short period of time. A programme of inspection and maintenance is required to be carried out at all reservoirs, in line with the Reservoirs Act, in order to minimise this risk. Overall, the works are considered to be at little or no risk of flooding from infrastructural sources.

2.8.10 In relation to Surface Water Flood Risk, SEPA flood maps indicate that the site is not in an area at any risk of surface water flooding and the FRDA indicates that there are no topographic depressions within the proposed BESS facility area or the site in general, in which pluvial flows could accumulate or concentrate. SEPA flood maps indicate that there is a linear area of surface water flooding shown associated with a drainage ditch to the east of the proposed development site, suggesting flows may exceed the lower ditch capacity. This drainage ditch features a 900mm diameter culvert near the proposed development site's north-east corner and has over-sized ditch banks, within which SEPA flood maps indicate all surface water will remain inside. Flow pathways, along with topographic data, show surface water flows to be contained within an approximately 10m depression surrounding the immediate ditch which can account for any surface water flooding as a result of a surcharged or blocked culvert being captured and returned to the ditch. Any overland flows from higher elevations north of the site will also currently be intercepted by the site's northern drainage ditch. Given the topography, limited upslope catchment and oversized nature of the drainage ditch banks designed to contain any flooding, it is considered unlikely any out-of-bank flows could affect the proposed development.

2.8.11 Overall, the proposed BESS infrastructure is considered to be at a little or no risk of surface water flooding. However, the hardstanding associated with the BESS facility could increase existing runoff rates so mitigation measures will be required to attenuate this flow. Access to the BESS will be via a track formed from crushed aggregate along the site's northern and eastern boundaries. A formal drainage network has not been modelled for the access track, given the limited size of the feature and semi-pervious nature. However, it is recommended in

the FRDA that a grassed surface water channel is adopted alongside the southern edge of the northern track to capture, treat and attenuate runoff. This will then discharge into the drainage channel identified along the site's western boundary. Similarly, with the eastern track, a grassed surface water channel should be adopted which can drain into the eastern drainage ditch.

2.8.12 With respect to the BESS facility itself, drainage modelling has been undertaken using InfoDrainage software and the design criteria has been informed by Fife Council guidance. An unbound porous paving layer is proposed below the BESS hardstanding to provide the required attenuation and treatment. The fill would function similarly to permeable paving, storing stormwater within a porous subsurface layer prior to controlled discharge via hydrobrake on the downslope side of the feature to an open ditch. Over areas of uncompacted fill, rainwater would infiltrate naturally into the subsurface layer. Over compacted areas (accesses), porous asphalt or reinforced gravel/grass may be required to ensure infiltration. Underdrains can be installed to effectively drain the subsurface layer and prevent ponding. Outflows would be controlled via a vortex flow control set to 2.6l/s. The vortex flow control would then discharge into a new open ditch and a set-back outfall with erosion control down the north bank of the Lothrie Burn. The unbound porous paving layer has been designed in accordance with CIRIA C753 guidance on permeable paving.

2.8.13 The FRDA notes that any leakage of chemicals associated with battery units may present a risk to water quality and recommends that a shut-off valve at the porous paving outfall should be considered to contain any potential leakages. Furthermore, an emergency clean-up plan should be developed prior to installation. It is considered that these matters should be secured by a condition of any planning permission that may be granted for this proposed development.

2.8.14 Fife Council's Flooding, Shorelines and Harbours Team advise that they have no objections to the proposed development in terms of the flooding proposals or the surface water drainage proposals.

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

## **2.9 Natural Heritage**

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

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

presence, whilst the level of protection required by legislation must be factored into the design of the development.

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

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

2.9.5 A Preliminary Ecological Appraisal (PEA) was conducted by Gavia Environmental, dated December 2022, and submitted in support of this application. Fife Council's Natural Heritage officer has assessed the proposal and notes that Ancient Woodland Inventory (AWI) coupes are present and almost surround the site: the Den Plantation (2b Long-established [of plantation origin]) designation extends along the eastern boundary, across the southern and part of the northern site boundary. It is noted that the woodland and tree lines surrounding the application area are identified as part of the Fife Woodland Integrated Habitat Network (IHN), Broadleaved IHN and dispersal area of the Ancient Broadleaved IHN; the Lothrie Burn, to the south, is part of the Wetland IHN. A component of the Core Path network: R337 North Glenrothes Path Network (P337/05) is present to the east, on the other side of a forestry drain and tree line and within an area identified on FIFEplan as Protected Open Space.

2.9.6 The PEA identified habitats and the potential for protected species presence was deemed to be limited: three potential bat roost trees were recorded in the site boundaries, but no evidence of any protected mammal use of the area was noted. Bird nesting evidence was also identified within the boundary trees. A low ecological value was assigned to the site field, due to livestock grazing use. Recommendations for biodiversity enhancement were presented as part of the report, including use of a meadow seed mix (i.e. wildflowers for pollinator invertebrates, etc.) and planting of native broadleaves in open areas.

2.9.7 As required by policy and as detailed in Making Fife's Places Supplementary Guidance, biodiversity enhancement should be considered throughout the design process and details of this must be provided with the application. A proposed development will need to demonstrate an integrated approach to natural heritage and biodiversity, landscaping and Sustainable Drainage System (SuDS) design. To maximise biodiversity, native species of local or Scottish origin should be specified for landscaping. Making Fife's Places Supplementary Guidance covers the integration of biodiversity enhancement into design with the aim being to achieve biodiversity net gain (BNG) for all development.

2.9.8 Whilst considering that the ecological assessment submitted was appropriately robust, Fife Council's Natural Heritage officer expressed initial concerns with the original landscape planting and biodiversity enhancement proposals associated with the application (around both the



proposed mix of gorse/trees/shrubs, which was too gorse-orientated, and the proposed grass-seed mix, which was neither species-rich nor native to Scotland) and the applicant subsequently submitted an updated Landscape and Ecology Plan to address these concerns. Fife Council's Natural Heritage officer is content with the updated Landscape and Ecology Plan and the proposal therefore, subject to conditions would have no significant adverse ecological impact on protected species, wildlife habitats or birds. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

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

## **2.10 Contaminated Land/Land Stability/Land Quality**

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

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

2.10.3 Fife Council's Land and Air Quality team advises that they have no objections to the proposal. Whilst records indicate that the site of the proposed development has been the subject of long-term agricultural use, it appears to have been predominately used as fields for crops, grazing and woodland with no obvious signs of intensive farm use (e.g., previous structures, farm machinery/storage or use as a sheep wash). It is however advised that, if any unexpected conditions are encountered during any development work at this site (e.g., made ground / gassing / odours / asbestos or hydrocarbon staining), the Planning Authority should be informed, as a Site-Specific Risk Assessment may be required. Subject to the inclusion of an appropriate condition of any planning permission granted for this site therefore, the proposed development would have no significant impact on amenity in relation to contaminated land and would comply with the Development Plan in this respect.

2.10.4 The site is located within a coal mining low-risk area and the Coal Authority does not, therefore, require to be consulted.

2.10.5 As indicated in paragraph 2.3.13 of this Report of Handling, whilst the proposal makes use of 0.3 hectares of prime agricultural land, this is a temporary, modest land-take from a non-working farm and NPF4 Policy 5 Soils allows for development proposals on prime agricultural land where it is for essential infrastructure.

2.10.6 High-pressure gas transmission pipelines (B01/B02 and E76 Westfield/Balfarg), owned by Scotland Gas Networks (SGN), run just north of the application site. In an initial submission to the planning application, SGN submitted a holding objection pending discussion with the applicant on the proposed development. Following discussion with the applicant, SGN has agreed to remove its holding objection on the basis that a condition of any planning permission granted for this proposed development is included, which safeguards SGN's role in vetting a "phase-to-earth" study to determine potential interference levels on the pipelines, such that

safety is established prior to energisation of the BESS. The inclusion of such a condition is considered appropriate.

2.10.7 The proposal would, therefore, have no significant impact on amenity in relation to land stability or land quality, and would comply with the Development Plan in this respect, subject to conditions relating to unexpected contamination of the land being encountered and to safeguard the GN pipelines.

## **2.11 Impact on the Cultural Heritage (including Archaeology)**

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

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

2.11.3 The applicant has submitted a Cultural Heritage Impact Assessment (CHIA) in support of the proposed development. Designated heritage assets such as Scheduled Monuments, Historic Parks and Gardens, Listed Buildings, Conservation Areas, World Heritage Sites, Registered Battlefields and Heritage Coasts have been assessed for potential impacts within a 2km study area of the proposed development. Non-designated sites within the local Historic Environment Records were also identified within a 1km study area. The CHIA found that no designated or non-designated heritage assets are located within the extent of the Application Site, while no internal features of archaeological interest were identified through the site visit or analysis of historic maps, aerial imagery and lidar data. As such, the Proposed Development will not result in any direct impacts to known archaeology and heritage assets and will not require any mitigation measures.

2.11.4 Indirect effects upon the surrounding heritage assets have been assessed within the applicant's CHIA as "Low" for the category C listed Ballingall Farmhouse and "Negligible" for all other designated and non-designated assets. As a result, no specific mitigation is considered to be necessary for the reduction of any visual impacts. Views from the listed building to the proposed development site will only be possible from upper storeys, and even then only partial due to existing screening, and only from upper storeys of the building. Similarly, views back to the listed building from the proposed development would be at ground level from the access track, and of the roof of the listed building only from the BESS facility itself.

2.11.5 Fife Council's Built Heritage specialist initially expressed concerns (based on the submitted limited resolution photography) that there may be a more significant impact on the setting of the C-Listed Ballingall Farmstead. Further discussion with the applicant and the submission of improved visual materials mean that Fife Council agrees with the main findings of the CHIA; namely, that the proposed development will have a low impact on the setting of the listed building. There remains a question of whether additional planting on the western edge of the proposed development may be required to help screen the development further – this is an

issue that can be addressed in the detailed Landscaping Scheme that would be required by condition of any planning permission that may be granted for this proposal.

2.11.6 The significant reduction in the amount of acoustic fencing required, and its placement as part of the proposed development (as indicated previously in Paragraph 2.5.8 of this Report of Handling) also reduces the impact of the proposed development in the landscape, complementing the existing extent of natural screening, bolstered by additional planting as detailed in the submitted Landscape and Ecology Plan. The presence of a sand and gravel quarry, and existing significant energy infrastructure, in the general location (including a 400kW overhead electricity transmission line on steel pylons running immediately past the listed building and the proposed development site), also contribute to the conclusion that any new negative impact on the setting of the listed building arising from the proposed development would be low.

2.11.7 Fife Council's Archaeologist advises that, in line with the conclusion of the applicant's CHIA, the site is considered to be of low archaeological potential with no visible evidence of archaeology and no reason to suspect the presence of buried archaeology on site. Fife Council's Archaeologist consequently has no objections to the proposal. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

## **2.12 Air Quality**

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

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

2.12.3 Fife Council's Air Quality in Fife Advice for Developers advises that an air quality impact assessment (AQIA) may be required where the construction and occupation of a proposed development has the potential to significantly increase road traffic emissions and if the proposal would introduce ten new parking spaces or more and is for a commercial development of 1 hectare or more. This guidance further advises that a simple assessment should be carried out to determine if a more detailed air quality impact assessment is required. The guidance sets out several relevant criteria such as daily vehicle movements increasing by more than 500, daily H.G.V movement increasing by more than 100, the introduction of a roundabout and any other sources of air pollution. The guidance states that if these criteria are not breached then a more detailed air quality impact assessment would not be required.

2.12.4 An air quality impact assessment report would not be required, in this instance, as the proposal would not significantly increase road emissions and would not breach any of the relevant criteria where a more detailed assessment would be required. The battery storage

facility which is for the storage of electricity would also not result in any air pollution as there would be no emissions associated with the proposal. The proposal would therefore have no significant detrimental impact on air quality and would comply with the Development Plan in this respect.

### **2.13 Decommissioning of the Proposal**

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

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

## **3.0 CONSULTATIONS**

Archaeology Team, Planning Services	No objection.
Built Heritage, Planning Services	
Land And Air Quality, Protective Services	No objection.
Structural Services - Flooding, Shoreline And Harbours	No objection.
Natural Heritage, Planning Services	No objection.
Transportation And Environmental Services - Operations Team	No objection.
Environmental Health (Public Protection)	No objection.
Trees, Planning Services	No objection.
Scottish Environment Protection Agency	No objection.
Health And Safety Executive	No objection.
NatureScot	No objection.
Scottish Water	No objection.

## **4.0 REPRESENTATIONS SUMMARY**

4.1 No representations were received in relation to this application. A holding objection submitted by Scottish Gas Networks (SGN) was withdrawn subject to the inclusion of a condition of planning permission being attached to any approval granted by Committee (see Condition 17).

## **5.0 CONCLUSIONS**

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

## **6.0 RECOMMENDATION**

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

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

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

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

Reason: In the interests of visual amenity.

3. BEFORE ANY WORKS COMMENCE ON SITE; a scheme of landscaping, including a landscaping plan indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs, boundary treatments and hedges to be planted, and the extent and profile of any areas of earth mounding, shall be submitted to, and approved in writing by, Fife Council as Planning Authority. This scheme of landscaping shall also include details of the future management and aftercare of the proposed landscaping and planting and shall specify that any plants which are dead, damaged, missing, diseased or fail to establish within 5 years of the date of planting shall be replaced annually. The scheme of landscaping as approved shall be implemented within the first planting season following the completion of the development and thereafter be maintained, for the lifetime of the planning permission hereby granted, in accordance with the ecological mitigation and enhancements as set out in the amended Landscape and Ecology Plan hereby approved (approved plan 37A: Neo Environmental Drawing No. NEO01103\_021I\_B Figure 11; Revision B).

Reason: In the interests of biodiversity enhancement and in the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term, and to ensure a satisfactory standard of local environmental quality.

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

Reason: In the interests of safeguarding amenity.

5. BEFORE ANY WORKS COMMENCE ON SITE; a speed survey shall be carried out over a 1-week period to establish the actual 85%ile speed passing the proposed site access on the U023 road. The survey results shall then be submitted to the Planning Authority along with a detailed plan showing how the visibility requirements identified through the survey will be met. Thereafter the approved visibility splays shall be provided before construction works commence on site and be maintained clear of obstruction for the lifetime of the development.

Reason: In the interests of road safety, to establish appropriate sight lines at the site access.

6. BEFORE ANY WORKS COMMENCE ON SITE; a road condition survey of the U023 road between the site access and Balsillie Avenue shall be carried out. A second road condition survey shall be carried out at the end of the construction period to allow an assessment of any damage caused to the road, including its verges by construction traffic, and any such damage will subsequently be made good by the developer WITHIN 1 MONTH OF COMPLETION OF THE DEVELOPMENT AND BEFORE THE DEVELOPMENT IS BROUGHT INTO USE.

Reason: In the interests of road safety, to ensure damage is repaired at no cost to the public purse.

7. BEFORE ANY WORKS COMMENCE ON SITE; A plan and drawings of passing places (within the public road boundary) to allow two vehicles to pass safely on the U023 shall be submitted for the prior written approval of Fife Council as Planning Authority. The passing places shall preferably be intervisible and have a maximum spacing of 150 metres. Once approved in writing by Fife Council as planning authority, the passing places as agreed shall be constructed before the development commences.

Reason: In the interests of road safety.

8. BEFORE ANY WORKS COMMENCE ON SITE; a 1.2 metres wide footway on one side of the U023 carriageway shall be provided between Balsillie Avenue and The Limekilns (a length of some 70 metres) to provide a safe route for pedestrian and wheeled trips on the core path.

Reason: In the interests of road safety.

9. BEFORE ANY WORKS COMMENCE ON SITE; an Incident Plan shall be submitted for the prior written approval of Fife Council as planning authority. FOR THE AVOIDANCE OF DOUBT, this should detail actions to be taken to protect the quality of the water environment should leakage from battery units occur.

Reason: In the interests of the environment.

10. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; full details of the proposed lighting scheme shall be submitted to and approved in writing by Fife Council as Planning Authority. The submitted scheme shall indicate the measures to be taken for the control of any glare or stray light arising from the operation of any artificial lighting and shall demonstrate that this will have no detrimental impact on any neighbouring public roads, sensitive properties or adjacent sensitive habitats with regards to light spillage and glare. The lighting scheme shall

include lighting mitigation and shall utilise the methods recommended in the Institute of Lighting Professional's Bats and Artificial Lighting Guidance Note (ILP, 201833) or any subsequent revision. These methods shall include using directional and or baffled lighting, variable lighting regimes, avoidance of blue-white short wavelength lights and high UV content or creation of light barriers utilising hedgerows and tree planting. Thereafter, the lighting shall be installed and maintained in accordance with the manufacturer's specification and approved details.

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

11. Unless otherwise agreed in writing with the LPA, noise emitted from the site shall not exceed:

- NR 35 when measured in any amenity space of the houses on Pitkevy Gardens, Glenrothes; or
- NR25 in any bedroom of Pitkevy Gardens, Glenrothes.

WITHIN THREE MONTHS OF THE DEVELOPMENT BEING BROUGHT INTO USE; written evidence demonstrating that the aforementioned noise levels have been achieved shall be submitted to, and approved in writing by, Fife Council as Planning Authority.

Reason: In the interests of safeguarding residential amenity.

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

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

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

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

14. 12 months prior to the decommissioning of the battery storage facility, an ecological survey, carried out by a suitably qualified ecologist, shall be submitted for the prior written approval of Fife Council as Planning Authority, identifying any ecological constraints arising from decommissioning activities, any areas where new habitats that may have established need to be retained, and where any unavoidable loss of new habitat occasioned by decommissioning activities may need to be compensated for (on or off-site).

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

15. 6 months prior to the decommissioning of the battery storage facility, a decommissioning and site restoration scheme shall be submitted for the prior written approval of Fife Council as Planning Authority, detailing how plant and equipment located within the site of the development hereby approved would be decommissioned and removed, informed by the ecological survey required by condition 14 of the planning permission hereby approved.

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

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

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

17. ENERGISATION OF THE BESS SHALL NOT OCCUR until the applicant has undertaken a phase-to-earth study to determine the interference levels on the Scotland Gas Networks' adjacent pipelines B01/B02 and E76 from steady state and fault conditions of the electrical infrastructure associated with the proposed development, taking into consideration the nearby SGN pipeline(s) and associated equipment. If required, the applicant shall also design appropriate mitigation to ensure that any induced fault voltage is within appropriate limits (in accordance with BS EN 50122-1). The results of this modelling (and mitigation, if required) will be submitted for the prior written approval of Scotland Gas Networks and Fife Council as planning authority before energisation.

Reason: In order to ensure a mechanism is in place to assess and mitigate the effects of inducing unacceptable levels of electrical currents and voltage upon other utilities in the event they arise.

18. IN THE EVENT THAT CONTAMINATION NOT PREVIOUSLY IDENTIFIED by the developer prior to the grant of this planning permission is encountered during the development, all development works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures. Thereafter remedial action at the site shall be completed in accordance with the



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

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

## **7.0 STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS**

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

National Policy and Guidance

National Planning Framework 4

PAN1/2011 - Planning and Noise

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

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

Development Plan

Adopted FIFEplan (2017)

Making Fife's Places Supplementary Guidance (2018)

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

Other Guidance

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

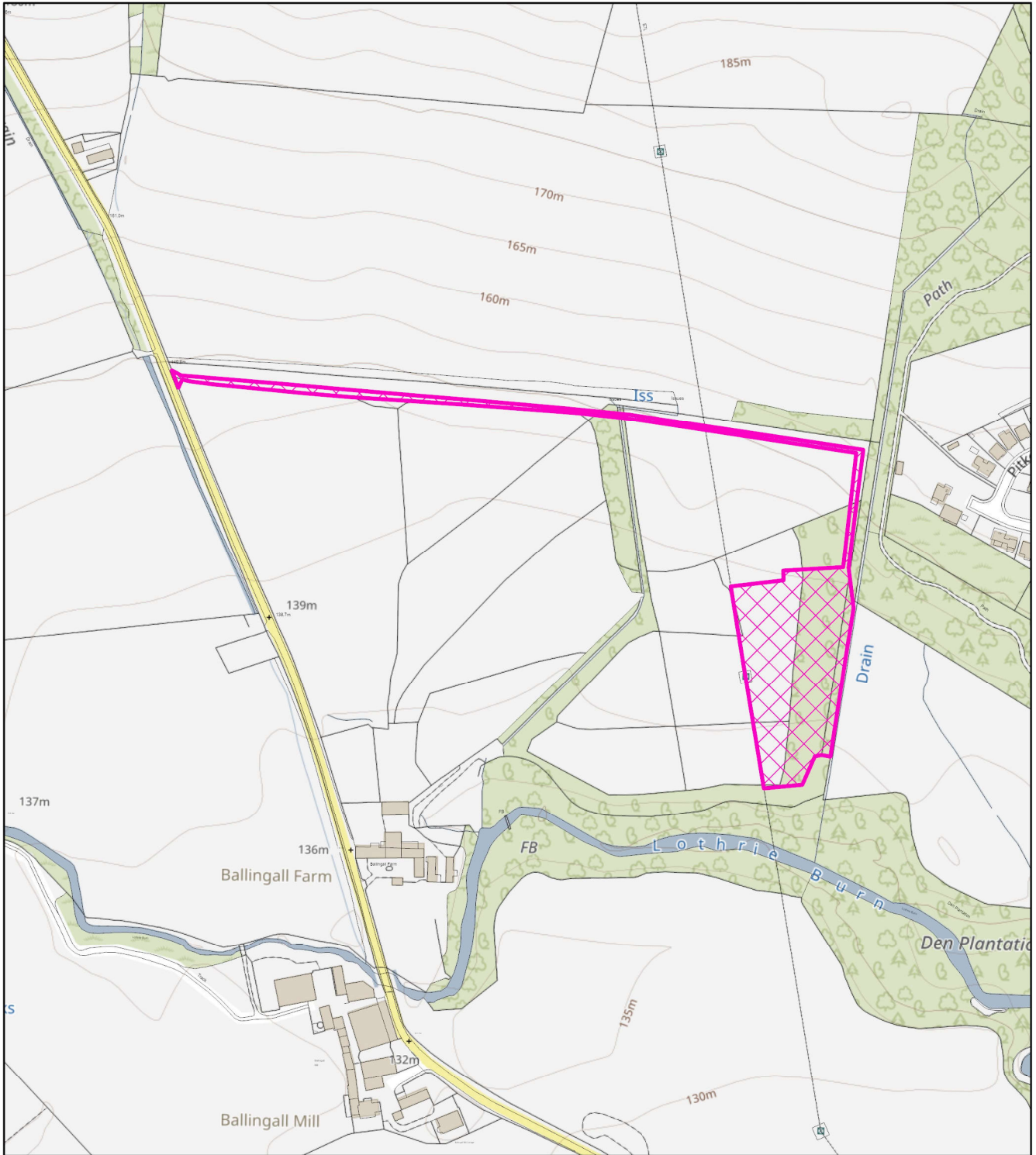
Report prepared by Martin McGroarty, Planner and Case Officer

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

Date Printed 1/9/2023

# 23/00971/FULL

## Ballingall Farm, Leslie



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<b>Legend</b>	
 Application Boundary	
	
 COUNCIL Planning Services	

13 September 2023

Agenda Item No. 5

**Revision to conditions schedule for 22/02635/FULL - Erection of 59 houses, formation of new access, provision of open space, related infrastructure including SUDs basin, with related works at Land to North of Kent Street, Dunfermline, Fife**

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Report by: Pam Ewen, Head of Planning Services

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Wards Affected: Dunfermline North

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**Purpose**

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This application was previously considered by Members at the West and Central Planning Committee meeting on the 15<sup>th</sup> March 2023. The application was approved subject to the conclusion of a planning obligation (i.e. a legal agreement under Section 75 of the Planning Act) and 30 planning conditions. These included 29 conditions as recommended in the Officers' report to committee and one additional condition added at the request of the Committee. It is this additional condition, Condition 30 which is the subject of this report.

Drafting of the planning obligation is nearing conclusion. At the same time, there has been a further review of the draft schedule of planning conditions with specific reference to draft Condition 30 and the ability to comply with the requirements of this condition. Following discussions with the applicant, this has resulted in a request to delete Condition 30 given that the land associated with this condition is not within the applicant's control and the condition cannot therefore be implemented. The purpose of this report is to seek Committee approval to amend the draft conditions as set out within this report.

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**Recommendation(s)**

To agree to conditional approval requiring a legal agreement, subject to the deletion of Condition 30 within the draft schedule of conditions as set out at Appendix 1.

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**Legal & Risk Implications**

There are no known direct or indirect legal implications affecting Fife Council as Planning Authority. In the event the recommendation is not accepted, the initial decision will remain unaffected and will retain the original conditions as worded within the report presented to, and amended by Committee on 15<sup>th</sup> March 2023.

As in all circumstances when a refusal of planning permission is agreed or conditions imposed on an approval, the applicant has a right of appeal within 3 months of the date of decision, to the Directorate of Planning and Environmental Appeals.

## Consultation

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Consultation was undertaken with the Fife Council Flooding, Shoreline and Harbours Team who raise no objection to the proposed amendment. They reaffirmed that they have no objection to the proposed development regarding flooding or drainage matters.

## Proposed Amendment

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This application was previously considered by Members at the meeting of the West and Central Planning Committee held on the 15<sup>th</sup> March 2023. The Officers' report recommended that application reference 22/02625/FULL be approved subject to the conclusion of a legal agreement and 29 conditions. Members adopted the position that the application should be approved subject to conclusion of the aforementioned legal agreement and the 29 conditions. In addition, they requested that one further condition be attached requiring the applicant to undertake a CCTV survey of a culverted watercourse and submit the findings of the survey to Fife Council. Any mitigation measures required would then have to be implemented prior to the occupation of the first residential unit.

As the draft conditions were agreed by the Central and West Planning Committee and in particular, the condition which is the subject of this report was specifically attached at the Committee's request, this report is before Members to request approval to delete the condition prior to the decision notice being issued.

Draft Condition 30 is as set out below:

*"30. Prior to the commencement of development, a CCTV survey of the culverted watercourse (as referred to in the approved Flood Risk Assessment by Millard Consulting (Revision B, dated August 2022) shall be undertaken, and the subsequent report on the survey shall be submitted to Fife Council as Planning Authority. Prior to the occupation of the first residential unit on the development, any mitigation measures outlined in the approved CCTV survey report shall be implemented in full.*

*Reason: In order to ensure that the site can be adequately drained and that no flood risk is created by the surface water drainage system."*

Since the Committee's decision, the applicant has submitted a letter from their Engineer outlining the current situation with the culverted watercourse noted in Condition 30. They have confirmed that it is not physically possible to undertake the required CCTV survey. In addition, in order to undertake the survey access would be required to land which is outwith the ownership of the applicant. The letter confirms that in their opinion, the proposed development would not be at risk from overtop flooding of the culvert. This would also be the case should a blockage occur. The letter sets out some key points regarding the level differences between the culvert and the surrounding area:

- "1. The field level at the culvert entrance is circa 130.04m.*
- 2. The road level (Townhill Road) is at a level of circa 132.3m at the lowest point adjacent to the field i.e. circa 2.0m higher than the culvert entry.*
- 3. Townhill Road rises further to the development entrance, at a level of circa 136.6m i.e. a further 4.3m higher than the road level closest to the culvert. This indicates any overtopping would therefore flow into the park access road."*

Taking the above into account it is evident that there is a very limited risk, if any, of the culvert overflowing into the application site should a flooding event occur. It should be noted

that the proposed development is not connecting into the culvert as part of the approved drainage solution. The development will not increase the risk of flooding within or outwith the site and as such is compliant with the requirements of NPF4 Policy 22 and FIFEplan Policy 12 without the need for Condition 30.

During the planning application process no concern was expressed from the Fife Council Flooding, Shoreline and Harbours Team regarding the potential flood risk from the development or any potential flood risk that the culvert could pose for the development. The Fife Council Flooding, Shoreline and Harbours Team have reviewed the submitted letter and have confirmed that they are content with the Engineer's findings. They have no objection to the deletion of Condition 30.

In conclusion, Condition 30 is not necessary in order to make the proposed development acceptable. It is not reasonable in that it requires the applicant to conduct a survey which physically cannot be undertaken and would require access to land which is outwith the applicant's control. Condition 30 therefore, fails to meet the tests as set out in Circular 4/1998 The Use of Conditions in Planning Permissions and should be deleted from the draft decision notice.

## **Conclusions**

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The proposed change can be agreed at this stage prior to the issue of the decision notice itself. Accordingly, Committee is respectfully asked to approve this amendment instead of having to consider a new planning application under Section 42 of the Planning Act. This amendment does not alter the purpose of the other 29 agreed conditions. Condition 30, as drafted, fails to meet the tests for conditions as set out in Circular 4/1998 The Use of Conditions in Planning Permissions. The removal of Condition 30 would still ensure that the development is in compliance with the Development Plan, would not result in unacceptable risks with regard to drainage or flooding and that the remaining conditions to be attached to the decision notice meet the aforementioned tests for conditions.

## **Background Papers**

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

Previous Committee Report 22/02635/FULL - West and Central Planning Committee - 15<sup>th</sup> March 2023

National Policy and Guidance:

Scottish Government Creating Places - A Policy Statement on Architecture and Place for Scotland (2013)

Scottish Government Designing Streets - A Policy Statement for Scotland (2010)

PAN 33 - Contaminated Land (Revised 2000)

PAN 1/2011 - Planning and Noise (2011)

Circular 4/1998 The Use of Conditions in Planning Permissions

Development Plan and Supplementary Guidance:

National Planning Framework 4 (2023)

FIFEplan Local Development Plan (2017)

Fife Council Making Fife's Places Supplementary Guidance (2018)

Fife Council Affordable Housing Supplementary Guidance (2018)

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

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

Fife Council Planning Customer Guidelines on Garden Ground (2016)

Fife Council Planning Obligations Framework Guidance (2017)

Fife Council Planning Low Carbon Supplementary Guidance (2019)

Other Material Considerations:

World Health Organisation (WHO) Guidelines for Community Noise (2015)

## **Report Contact**

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## APPENDIX 1

The application shall be approved subject to the conclusion of the Planning Obligation and the amended planning conditions and reasons (changes highlighted in **bold** and ~~strikethrough~~) as set out below:

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

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

2. **FOLLOWING THE COAL MINING REMEDIATION WORK REQUIRED BY CONDITION 5 BUT PRIOR TO COMMENCEMENT OF DEVELOPMENT**, an updated Intrusive Investigation (Phase II Investigation Report) shall be submitted by the developer for the written approval of Fife Council as planning authority. Where remedial action is recommended in the Phase II Intrusive Investigation Report, no development shall commence until a suitable Remedial Action Statement has been submitted by the developer to and approved in writing by the local planning authority. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures.

All land contamination reports shall be prepared in accordance with CLR11, PAN 33 and the Council's Advice for Developing Brownfield Sites in Fife documents or any subsequent revision of those documents.

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

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

Verification Report in respect of those remedial measures has been submitted to and approved in writing by the local planning authority.

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

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

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

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

5. PRIOR TO COMMENCEMENT OF DEVELOPMENT, an intrusive site investigation shall be undertaken to determine the location and condition of the mine entries associated with the site. A report of the site investigation shall be submitted for the written approval of Fife Council as planning authority in consultation with the Coal Authority. In the event that the site investigations confirm the need for remedial works to treat the mine entries to ensure the safety and stability of the area then details of the proposed remediation shall be provided within this report for written approval. The report shall also confirm the remedial works to treat the areas of shallow mine working within the site. The remediation measures shall be carried out prior to development starting on site and shall be carried out in accordance with the details agreed through this condition.

Reason: To ensure the site is free of risk from coal mining legacy.

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

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

7. PRIOR TO COMMENCEMENT OF DEVELOPMENT, final details of the biodiversity enhancement measures for the site as set out within the Updated Ecological Appraisal by Brindley Associates (June 2022) shall be submitted for the written approval of Fife Council as planning authority. For the avoidance of doubt, the enhancement measures shall include some of the enhancement measures relating to bats. The landscaping plans shall



be updated and resubmitted for written approval of Fife Council as planning authority if any of the biodiversity enhancement measures includes additional planting. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of providing ecological enhancement of the site in accordance with Making Fife's Places Supplementary Guidance (2018).

8. IF HEAVY ENGINEERING (SUCH AS BLASTING OR PILING) IS REQUIRED WITHIN 30m OF THE EXISTING PROPERTIES ON KENT STREET, then a further bat assessment shall be carried out on these properties. The assessment, with mitigation as necessary, shall be submitted for the written approval of Fife Council as planning authority and no heavy engineering shall take place within 30m of these properties until written approval has been given by the planning authority. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of protecting bats from disturbance from the construction works.

9. The development shall be implemented in accordance with the recommendations set out within the Updated Ecological Appraisal by Brindley Associates (June 2022) unless otherwise agreed in writing with Fife Council as planning authority.

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

10. PRIOR TO ANY WORKS STARTING ON SITE, a Scheme of Works designed to mitigate the effects on sensitive premises/ areas (i.e. neighbouring properties and road) of dust, noise and vibration from the proposed development shall be submitted and approved in writing by Fife Council as Planning Authority for written approval. The use of British Standard BS 5228: Part 1: 2009 (Noise and Vibration Control on Construction and Open Sites) and BRE Publication BR456 - February 2003 (Control of Dust from Construction and Demolition Activities) should be consulted. The dust control measures shall reflect the conclusions of the Air Quality Assessment submitted with the application. The Scheme of Works shall provide details of the proposed working times for the site during construction. Development shall take place in accordance with the details approved through this condition.

Reason: In the interests of residential amenity.

11. BEFORE THE CONSTRUCTION OF ANY RETAINING WALLS ON SITE, full details of the design, construction and facing materials to be used on each retaining wall shall be submitted for the written approval of Fife Council as planning authority. For the avoidance of doubt, it is expected that high quality materials shall be used on retaining walls which face onto public spaces. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of residential amenity.

12. PRIOR TO COMMENCEMENT OF DEVELOPMENT STARTS ON SITE a public art strategy including the details of the proposed items of work relating to this strategy shall be submitted for the written approval of Fife Council as Planning Authority. The strategy shall demonstrate that the value of the works contributing to the public art strategy shall meet the terms of the Council's Guidance on Public Art in terms of the financial value of the items of work. The strategy shall propose a scheme of public consultation which shall

involve Local Members and local community group or groups (if available) and shall include a phasing timescale for the implementation of the public art works. Thereafter the public art works shall be carried out entirely in accordance with the details and phasing approved under this condition.

Reason: To ensure the development contributes to the quality of the environment and meets the terms of the Council's guidance on public art.

13. The SUDs and drainage infrastructure shall be constructed contemporaneously with the construction of the residential units and infrastructure on site and shall be complete and fully operational before the completion of the last unit on site.

Reason: To ensure the site has adequate drainage infrastructure.

14. Within one week of the SUDs basin being installed, certification shall be submitted to Fife Council as planning authority from a chartered engineer that the SUDs basin has been constructed in compliance with the details approved through this application.

Reason: To ensure the SUDs basin is constructed in accordance with the self-certification process in the interests of ensuring adequate drainage for the site.

15. PRIOR TO THE OCCUPATION OF THE FIRST RESIDENTIAL UNIT ON SITE, details of the construction and delivery of the informal paths shall be submitted for the written approval of Fife Council as planning authority. The details shall specify when each informal path will be delivered in the development program. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of permeability in accordance with Making Fife's Places Supplementary Guidance (2018).

16. PRIOR TO THE COMPLETION OF THE FIRST RESIDENTIAL UNIT, full final details of the play equipment to be provided for the site shall be submitted and approved in writing by Fife Council as planning authority. This shall include a timetable for completion of the play equipment. For the avoidance of doubt this shall specify by which unit completion the play area will be provided. The play equipment shall equipment which support 'Play for All' where possible. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of providing adequate play provision for the site.

17. PRIOR TO THE COMMENCEMENT OF DEVELOPMENT, final details of the materials for the site shall be submitted for the written approval of Fife Council as planning authority. Variation shall be provided on site through the materials particularly in junction nodes. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interest of good design and visual amenity.

18. PRIOR TO THE COMMENCEMENT OF DEVELOPMENT, a scheme of tree protection measures to protect trees adjoining the site during construction shall be submitted and approved in writing by Fife Council as Planning Authority. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of protecting the trees neighbouring the site.

19. All planting carried out on site shall be maintained by the developer in accordance with good horticultural practice for a period of at least 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually.

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

20. The development shall be implemented in accordance with the recommendations set out within Flood Risk Assessment by Millard Consulting (Revision B, dated August 2022) unless otherwise agreed in writing with Fife Council as planning authority.

Reason: In the interests of protecting the site from significant flood risk.

21. The acoustic mitigation specified within the Noise Impact Assessment by ITP Energised (dated July 2022) approved through this application shall be provided prior to the occupation of the residential units at Plots 1 to 7. Before the occupation of the residential units at Plots 1 to 7 but after completion of the noise mitigation measures, a further noise survey shall be submitted to Fife Council as planning authority to demonstrate that the following internal sound levels can be achieved:

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

b The 8hr LAeq shall not exceed 30dB between 2300 and 0700 hours when readings are taken inside any bedroom in the development.

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

d The 16hr LAeq shall not exceed 50 dB between 0700 and 2300 hours when readings are taken in outdoor amenity areas.

None of the properties at Plots 1 to 7 shall be occupied until written confirmation from Fife Council as planning authority has been received that this report is acceptable.

Written evidence shall be submitted to Fife Council as planning authority to demonstrate that the above internal and external sound levels can be achieved. None of these properties shall be occupied until written confirmation Fife Council as planning authority has been received that they are satisfied that sufficient evidence has been provided.

If it cannot be demonstrated that the aforementioned sound levels have been achieved, a further scheme incorporating further measures to achieve those sound levels shall be submitted for the written approval of the Planning Authority.

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

22. PRIOR TO THE OCCUPATION OF THE FIRST RESIDENTIAL UNIT, a further noise assessment shall be undertaken and submitted to Fife Council as planning authority. This shall consider the potential noise from the route of the Northern Link Road and the Scottish National Water Ski Centre to the properties within the site. Mitigation shall be

proposed to protect residential amenity where necessary. The development shall be implemented in accordance with the details approved through this condition.

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

23. PRIOR TO ANY WORKS START ON SITE (INCLUDING VEGETATION REMOVAL), a Construction Environmental Management Plan shall be submitted for the written approval of Fife Council as planning authority. This shall include measures to protect the adjacent woodland and water course from pollution during the construction process and set out the locations for storage and compounds and provide the construction phasing within the site.

Reason: To protect the immediate environment during the construction phase.

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

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

25. All roads and associated works, including the reconstruction and relocation of the existing centre island on Townhill Road, visitor parking spaces, road serving the proposed development as shown on document 02A shall be constructed in accordance with the current Fife Council Transportation Development Guidelines.

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

26. Prior to occupation of the first house, visibility splays 2.4 metres x 43 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and Townhill Road, in accordance with the current Fife Council Transportation Development Guidelines.

Reason: To ensure the provision of adequate visibility at the junctions of the vehicular access and Townhill Road.

27. Prior to occupation of each house the off-street car parking within its plot as shown on document 02A shall be provided and subsequently retained through the lifetime of the development in accordance with the current Fife Council Parking Standards.

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

28. Before any works start on site, details of wheel cleaning facilities shall be submitted to, for the approval of, Fife Council as Planning Authority. The approved facilities shall be maintained and operational throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles onto the public roads.

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

29. The road through the site shall be constructed up to the western boundary of the site.

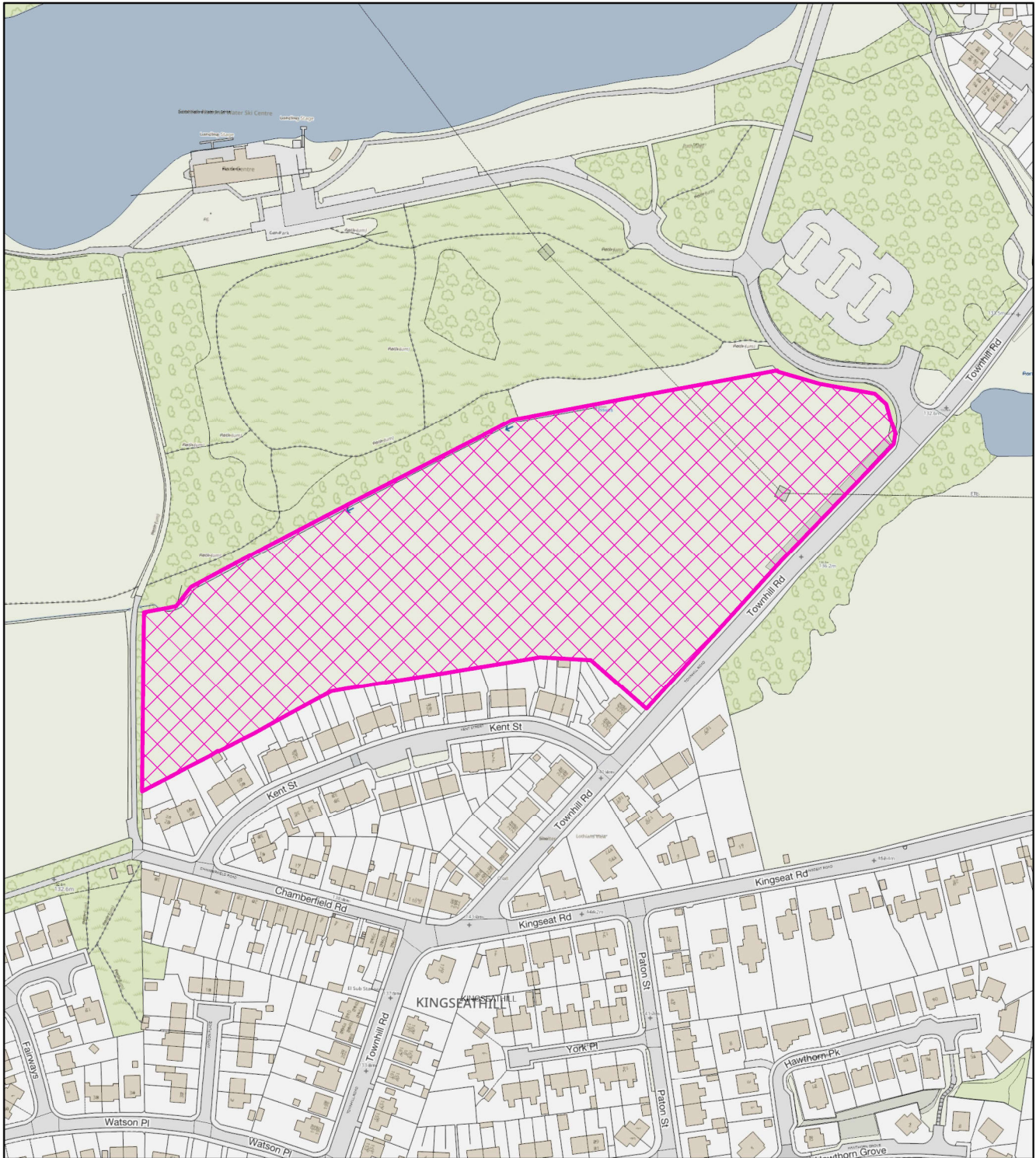
Reason: To comply with the Adopted FIFEplan Allocation Policy DUN038 in terms of delivering this site in conjunction with Chamberfield SDA (DUN046).

~~30. — Prior to the commencement of development, a CCTV survey of the culverted watercourse (as referred to in the approved Flood Risk Assessment by Millard Consulting (Revision B, dated August 2022) shall be undertaken, and the subsequent report on the survey shall be submitted to Fife Council as Planning Authority. Prior to the occupation of the first residential unit on the development, any mitigation measures outlined in the approved CCTV survey report shall be implemented in full.~~

~~— Reason: In order to ensure that the site can be adequately drained and that no flood risk is created by the surface water drainage system.~~

# 22/02635/FULL

Land To North Of Kent Street, Dunfermline



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<b>Legend</b>	
 Application Boundary	
	
 COUNCIL Planning Services	

**ITEM NO: 6**

**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE REF: 23/00868/PPP**

**SITE ADDRESS: LAND TO THE EAST OF LYDIARD HOUSE WINDYGATES ROAD FIFE**

**PROPOSAL: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT (CLASS 9) AND ASSOCIATED DEVELOPMENT, INCLUDING ALTERATION TO ACCESS ARRANGEMENTS**

**APPLICANT: MR C WILKIN  
LYDIARD HOUSE WINDYGATES ROAD GLENROTHES**

**WARD NO: W5R14  
Glenrothes North, Leslie and Markinch**

**CASE OFFICER: Brian Forsyth**

**DATE 27/04/2023**

**REGISTERED:**

**REASONS FOR REFERRAL TO COMMITTEE**

This application requires to be considered by the Committee because:

The application has attracted six or more separate individual representations which are contrary to the officer's recommendation.

**SUMMARY RECOMMENDATION**

The application is recommended for:

Refusal

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

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise. Under Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority should have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.

National Planning Framework 4 (NPF4) was formally adopted on the 13th of February 2023 and is now part of the statutory Development Plan. NPF4 provides the national planning policy context for the assessment of all planning applications. The Chief Planner has issued a formal letter providing further guidance on the interim arrangements relating to the application process and interpretation of NPF4, prior to the issuing of further guidance by Scottish Ministers.

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

Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is any incompatibility between a provision of the National Planning Framework and a provision of a Local Development Plan, whichever of them is the later in date is to prevail. The Chief Planner's letter adds that provisions that are contradictory or in conflict would likely be considered incompatible.

## 1.0 BACKGROUND

1.1 This application site relates to an approximately one hectare area of prime agricultural greenfield land comprising a paddock and incidental buildings, approximately 400 metres east of Milton of Balgonie. It adjoins and is accessed from the north side of the A911 via a private track running down its west side. To the west of the track, from which it also takes access, is the category 'B' listed Lydiard House and its grounds, within the same ownership as the application site. There is tree planting on the site's southern, eastern and western sides and extending into the site. Agricultural land surrounds, including across the A911.

1.2 Planning permission in principle is sought for an unspecified number of dwellings, to be accessed off the track at a new point nearer the A911. Indicative details show a cluster development of six detached one and three-quarter storey dwellinghouses, in part facilitated by the removal and cut back of some of the trees within the site.

1.3 The Council's electronic register of planning applications lists one relevant previous application, ref. 22/04287/PPP, being for planning permission in principle for the same development as currently proposed, withdrawn on 27 February 2023.

## 2.0 ASSESSMENT

2.1 The issues to be assessed against the development plan and other guidance are as follows:

- Principle of Development
- Design/Visual Impact
- Residential Amenity/Garden Ground
- Road Safety/Transportation



- Flood Risk and Water Management
- Natural Environment
- Building Sustainability

## 2.2 Principle of Development

2.2.1 NPF4 Policy 1 Tackling the Climate and Nature Crises states that significant weight will be given to the global climate crisis. NPF4 Policy 5 Soils states that proposals on prime agricultural land, such as is the case here, will only be supported where for: i. essential infrastructure with a specific locational need; ii. small-scale development directly linked to a rural business or farm, or for on-site accommodation for essential workers for the business; iii. development of production and processing facilities associated with the land produce where no other local site is suitable; and iv. renewable energy generation or mineral extraction. NPF4 Policy 9 Brownfield, Vacant and Derelict Land and Empty Buildings states that proposals on greenfield sites, such as is the case here, will not be supported unless the site has been allocated for development or explicitly supported by local development plan policies. NPF4 Policy 13 states that, where appropriate, proposals will be accessible by public transport, ideally supporting existing services. NPF4 Policy 14 Design, Quality and Place states that proposals will be designed to improve the quality of an area; and will be supported where they are consistent with the qualities of successful places, including access to local services and reducing car dependency, with proposals that are inconsistent with these qualities not supported. NPF4 Policies 15 Local Living and 20 Minute Neighbourhoods and 17 Rural Homes collectively state that proposals will contribute to local living including, where relevant, 20 minute neighbourhoods, taking into account settlement pattern and the level and quality of interconnectivity of the proposal with the surrounding area, including access to specific amenities. NPF4 Policy 16 Quality Homes states that proposals for new homes on land not allocated for housing in the local development plan, such as is the case here (see 2.2.2 below) will only be supported where, amongst other things, the proposal is consistent with the plan spatial strategy and other relevant policies, including local living and 20 minute neighbourhoods; and either delivery of sites is happening earlier than identified in the deliverable housing land pipeline (determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained), or the proposal is consistent with policies on rural homes, etc.

2.2.2 The site lies within an area of countryside in terms of FIFEplan. FIFEplan identifies controls over development in open countryside as a component of the plan's spatial strategy. FIFEplan Policies 1: Development Principles, 7: Development in the Countryside and 8: Houses in the Countryside collectively do not support development of houses in the countryside, except where (Policy 8 refers):

1. It is essential to support an existing rural business;
2. It is for a site within an established and clearly defined cluster of five houses or more;
3. It is for a new housing cluster that involves imaginative and sensitive re-use of previously used land and buildings, achieving significant visual and environmental benefits;
4. It is for the demolition and subsequent replacement of an existing house provided the following all apply:
  - a) the existing house is not listed or of architectural merit;
  - b) the existing house is not temporary and has a lawful use; or
  - c) the new house replaces one which is structurally unsound and the replacement is a better quality design, similar in size and scale as the existing building, and within the curtilage of the existing building.

5. It is for the rehabilitation and/or conversion of a complete or substantially complete existing building;
6. It is for small-scale affordable housing adjacent to a settlement boundary and is required to address a shortfall in local provision, all consistent with Policy 2: Homes;
7. A shortfall in the 5 year effective housing land supply is shown to exist and the proposal meets the terms of Policy 2: Homes;
8. It is a site for Gypsy/Travellers or Travelling Showpeople and complies with Policy 2: Homes;
- or
9. It is for an eco-demonstration project proposal that meets the strict requirements of size, scale, and operation set out in Figure 8.1 below.

In relation to criterion '7' above (shortfall in the effective housing land supply), FIFEplan Policy 2: Homes does provide for housing development on unallocated sites, such as is the case here, where this is to meet strategic housing land requirements and provide effective housing land supply and provided the proposal is compliant with the policies for the location. Where a shortfall in the effective housing land supply is shown to exist within the relevant Housing Market Area, housing proposals within this Housing Market Area are supported subject to satisfying the following:

1. the development is capable of delivering completions in the next five years;
2. the development would not have adverse impacts which would outweigh the benefits of addressing any shortfall when assessed against the wider policies of the plan;
3. the development would complement and not undermine the strategy of the plan; and
4. infrastructure constraints can be addressed.

Notwithstanding FIFEplan Policy 8: Houses in the Countryside, FIFEplan Policy 7: Development in the Countryside states that development on prime agricultural land is not supported, except in very limited circumstances, which circumstances are now superseded by those under NPF4 Policy 5 Soils (see 2.2.1 above), in the case of housing being limited to on-site accommodation for essential workers.

2.2.3 The submitted representations support the proposal, commending the excellent location and transport links, nearby shopping and amenities, availability of country walks, and the contribution to a balanced housing land supply.

#### Local Living and Sustainable Places

2.2.4 As indicated, NPF4 Policies 1 Tackling the Climate and Nature Crises, 13 Sustainable Transport, 14 Design, Quality and Place, 15 Local Living and 20 Minute Neighbourhoods, 16 Quality Homes and 17 Rural Homes collectively state that proposals will reduce car dependency; be accessible by public transport, ideally support existing services; and contribute to local living.

2.2.5 The site benefits from direct connections to the active travel network, with immediately adjacent access to the cycle network. Access to both bus services and very limited amenities in Milton of Balgonie (church, village hall, closed public house, mothballed primary school) are within a threshold 20-minute return walking period, however these are across the busy A911. Convenience shopping and other amenities in Windygates are considerably beyond that threshold.

2.2.6 Planning Services' Transportation Development Management (TDM) considers that sustainable modes of transport are not readily and safely available to allow people to access local facilities, amenities, shops, schools etc. by trips on public transport or by short walking trips and/or cycling trips, the development consequently not providing for non-car modes of transport and would be car dominant.

2.2.7 Taking into account the views of TDM, the dispersed and limited range of services within a reasonable threshold return walking period, and the physical separation of the site from Milton of Balgonie by the busy A911, it is not considered that residential development of this site would be consistent with the principles of local living and sustainable places, contrary to the above provisions of policy in relation to same.

#### Greenfield Land

2.2.8 As indicated, Policy 9 Brownfield, Vacant and Derelict Land and Empty Buildings states that proposals on greenfield land, such as is the case here, will not be supported unless explicitly supported by local development plan policies. As such, without support in terms of FIFEplan policies relating to houses in the countryside and housing land supply (see assessments in 2.2.11 – 2.2.12 below), the proposal stands to be considered contrary to the provisions of policy in relation to greenfield land.

#### Prime Agricultural Land

2.2.9 As indicated, NPF4 Policy 5 Soils and FIFEplan Policy 7: Development in the Countryside presume against development on prime agricultural land, such as proposed here, except in the circumstances set out in NPF4 Policy 5 Soils (see 2.2.1 above), none of which circumstances apply in this instance. Notwithstanding, the applicant points out that the land is not owned by a farmer, currently makes no contribution to the growing of crops, and contends it is not large enough to make growing crops viable. The applicant considers the loss of prime agricultural land in this instance would be 'de minimis', i.e. a minor matter.

2.2.10 In respect of these arguments in favour of an exception to prime agricultural land policy, it is not considered that any significant weight can be attached to the site not currently being farmed or owned by a farmer, as this could easily change. In respect of the viability of farming the site, a change in ownership or control, perhaps involving incorporation of the site into an adjacent agricultural unit or introduction of a small-holding, could serve to change the appeal of the site for farming. In any case, it will be noted that the policy concern is with the quality of the soil, not ownership or control of the land. It is not considered that loss of prime agricultural land to six detached dwellinghouses in relatively generous plots is 'de minimis' in the context of such a strong policy presumption against development of prime agricultural land. As such, it is considered that the proposal is contrary to the provisions of policy in relation to prime agricultural land, with no material considerations of sufficient weight to justify an exception to same.

#### Houses in the Countryside and Housing Land Supply

2.2.11 As indicated, criterion '7' of FIFEplan Policy 8: Houses in the Countryside is relevant here, supporting housing development on unallocated sites, such as is the case here, where this is to meet strategic housing land requirements and provide effective housing land supply, provided the proposal is compliant with the policies for the location. In the event of any shortfall in housing land supply which might justify housing development on unallocated/unsupported sites, FIFEplan Policy 2: Homes requires that proposals are compliant with FIFEplan "policies for

the location" and "would not have adverse impacts which would outweigh the benefits of addressing any shortfall when assessed against the wider policies of [FIFEplan]" (2.2.2 above refers).

2.2.12 With reference to the housing land supply approach in NPF4, the applicant contends that there is a significant shortfall of 10,998 homes assessed for the SESplan area of Fife over the period 2022 to 2026, and a significant shortfall of 2,876 homes assessed for the Central Fife Housing Market Area over the period 2022 to 2026, and that, consequently, this shortfall in the effective housing land supply requires to be remediated and should be addressed through the development management process by granting planning permission for unallocated housing developments on greenfield or brownfield sites in accordance with FIFEplan Policy 2: Homes. Contrary to the applicant's position, Planning Services' Policy and Place Team has confirmed that a generous housing land supply exists, advising that even before any small sites and windfall allowance is applied, the existing 2022 Housing Land Audit unconstrained supply is exceeding NPF4's Minimum All-Tenure Housing Land Requirement by 6,976 units for Fife (Central & South). In the absence of any shortfall in housing land supply, the proposal is contrary to the provisions of policy relating to houses in the countryside,

## Conclusion

2.2.14 Notwithstanding the above representations in support, the proposal is contrary to the above provisions of policy in relation to the principle of development, with no material considerations of sufficient weight to justify an exception to same. In particular, the proposal is contrary to NPF4 Policy 16 Quality Homes (see 2.2.1 above), there being no shortfall in housing land supply to justify supporting housing development on this unallocated site in terms of FIFEplan policies relating to houses in the countryside; in any event, such a proposal on an unallocated and unsupported site in the open countryside being inconsistent with FIFEplan's spatial strategy, which identifies control over development in the open countryside as a component, the proposal also being inconsistent with policy for local living and sustainable places and development of greenfield and prime agricultural land.

## 2.3 Design/Visual Impact

2.3.1 NPF4 Policy 14 Design, Quality and Place states that proposals that are detrimental to the amenity of the surrounding area, or inconsistent with the relevant qualities of successful places, including 'pleasant', will not be supported. NPF4 Policy 7: Historic Assets and Places states that development proposals affecting the setting of a listed building should preserve its character and its special architectural or historic interest. Historic Environment Scotland's Historic Environment Policy for Scotland (2019) and Managing Change in the Historic Environment series are also relevant.

2.3.2 FIFEplan Policies 1: Development Principles, 7: Development in the Countryside, 10: Amenity and 13: Natural Environment and Access collectively add that proposals must address their individual and cumulative impacts, being located and designed to protect the overall landscape and environmental quality of the area, with development only supported where it does not have a significant adverse visual impact on the surrounding area, with landscape character and views to be protected. Making Fife's Places Supplementary Guidance (2018) is also relevant here.

2.3.3 The submitted representations state the proposal will have minimal visual impact.

2.3.4 The submitted Design and Access Statement and Landscape Strategy indicate that a satisfactory internal layout and design of housing can be provided and which would be well-integrated into the landscape setting, in large part through retention of existing perimeter tree planting. Notwithstanding, Planning Services' Built Heritage Officer considers that the proposals would fail to preserve the more immediate setting of the adjacent listed building in its rural isolation, from which its interest is in part derived, resulting in a low-level detrimental impact to the setting of the building.

2.3.5 Taking the views of the Built Heritage Officer into particular account, whilst the proposal is considered to accord with the above provisions of policy in relation to wider landscape impacts, consistent with the submitted representations, it has not been demonstrated that residential development of the site could take place without adversely affecting the setting of the adjacent listed building, contrary to the above provisions of policy and guidance in relation to the setting of listed buildings. As such, the proposal is considered contrary to the above provisions of policy and guidance in relation to design/visual impact.

## 2.4 Residential Amenity/Garden Ground

2.4.1 NPF4 Policy 14 Design, Quality and Place states that proposals that are detrimental to the amenity of the surrounding area will not be supported. FIFEplan Policy 10: Amenity adds that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses; development proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to, amongst other things, the loss of privacy, sunlight and daylight. Planning Services' customer guidelines in relation to Minimum Distance Between Window Openings, Garden Ground (2016) and Daylight and Sunlight are also relevant here.

2.4.2 The submitted representations state that there would be no residential amenity implications.

2.4.3 The submitted indicative drawings show that the site could be satisfactorily developed, exceeding the minimum expectations in the above customer guidelines and otherwise according with the above provisions of policy in relation to residential amenity/garden ground. As such, and consistent with the submitted representations, it is considered that the proposal accords with the above provisions of policy and guidance in relation to residential amenity/garden ground.

## 2.5 Road Safety/Transportation

2.5.1 FIFEplan Policy 1: Development Principles states that the individual and cumulative impacts of development proposals are to be addressed by complying with relevant criteria and supporting policies, where relevant, including mitigating against the loss in infrastructure capacity caused by the development by providing additional capacity or otherwise improving existing infrastructure and complying with Policy 3: Infrastructure and Services. FIFEplan Policy 3 states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner; where necessary and appropriate as a direct consequence of the development or as a consequence of cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served by adequate infrastructure and services, including local transport and safe access routes. Appendix G Transportation Development Guidelines of Fife Council's Making Fife's Places Supplementary Guidance (2018) is also relevant here.

2.5.2 TDM objects to the proposal in the interests of pedestrian and road safety, noting that vehicular access is proposed to be taken into the development site from the A911 along what is proposed to be an improved existing access (currently serving Lydiard House), stating that access for a development of this size should not be taken from a private access road. TDM notes that the speed limit at this location on the A911 classified public road is 60mph, the proposed junction access situated at a point almost mid-way along a straight stretch of the road. TDM advises that, in line with the current Fife Council visibility splay standards in Making Fife's Places Supplementary Guidance (2018), the required visibility splays at a junction of this type serving the proposed residential development and the existing Lydiard House are 4.5m x 210m, whereas the maximum claimed visibility splay achievable to the west is 4.5m x 189.32m, with the remaining splay blocked by fences along the frontage; only the claimed splay to the east meeting the requirement. TDM notes that no evidence has been submitted to support a reduction of the required visibility splays. TDM also explains that it has a policy against the formation of new vehicular accesses or the increase in use of existing vehicular accesses and junctions on unrestricted distributor roads that are outwith established built up areas, from a transportation point of view a built-up area being defined as the area within a 30 or 40mph speed limit; it being clear to TDM that there would be an increase in trips and turning movements at this junction.

2.5.3 Taking the views of TDM into particular account, it is considered that the proposal is contrary to the above provisions of policy and guidance in relation to road safety.

## 2.6 Flood Risk and Water Management

2.6.1 NPF4 Policy 22 Flood Risk and Water Management states proposals at risk of flooding or in a flood risk area will only be supported in certain instances; will not increase the risk of surface water flooding to others, or itself be at risk, managing all rain and surface water through sustainable urban drainage systems (SuDS); should presume no surface water connection to the combined sewer; and seek to minimise the area of impermeable surface. Proposals will be supported if they can connect to the public water mains. NPF4 Policies 1 Tackling the Climate and Nature Crises and 2 Climate Mitigation and Adaptation are also relevant here.

2.6.2 FIFEplan Policy 1: Development Principles adds that development proposals must address their individual and cumulative impacts, complying with relevant criteria and supporting policies, including improving existing infrastructure capacity and complying with Policy 3: Infrastructure and Services. FIFEplan Policy 3 adds that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure; where necessary and appropriate as a direct consequence of the development or as a consequence of the cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served adequate infrastructure and services; such infrastructure and services may include, amongst other things, foul and surface water drainage, including SuDS. FIFEplan Policy 12: Flooding and the Water Environment adds that development proposals will only be supported where they can demonstrate that they will not, individually or cumulatively, amongst other things, detrimentally impact on ecological quality of the water environment. The Council's Surface Water Management Plan Design Criteria (2022) is also relevant here.

2.6.3 Scottish Water has no objection to the proposal. Fife Council's Flooding, Shoreline & Harbours (FSH) team raises no objection in relation to flooding but raises a holding objection in relation to surface water management. The applicant has not sought to address FSH concerns as to the ability to provide soakaway sufficiently clear of groundwater and in relation to ground porosity. FSH strongly recommends that these matters are not made conditions of any planning

permission in principle. In reply to a request for details of the proposed water supply, it is stated only that it would be via a connection to the Scottish Water network, subject to further applications.

2.6.4 In light of the failure to submit full details in relation to water supply and surface water management, it has not been demonstrated that the site could be satisfactorily developed in terms of flood risk and water management, contrary to the above provisions of policy and guidance in relation to same.

## 2.7 Natural Environment

2.7.1 NPF4 Policy 1: Tackling the Climate and Nature Crises states that significant weight will be given to the global nature crisis. NPF4 Policy 3: Biodiversity states that proposals for local development will include appropriate and proportionate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. NPF4 Policy 14: Liveable Places states that development proposals will be supported where they are compliant with the qualities of successful places, including integrating nature positive, biodiversity solutions.

2.7.2 FIFEplan Policy 1: Development Principles adds that development proposals must address their individual and cumulative impacts, complying with relevant criteria and supporting policies, including improving existing infrastructure capacity and complying with Policy 3: Infrastructure and Services. FIFEplan Policy 3 adds that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure; where necessary and appropriate as a direct consequence of the development or as a consequence of the cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served adequate infrastructure and services; such infrastructure and services may include, amongst other things, green infrastructure. Fife Council's Making Fife's Places Supplementary Guidance (2018) and its Trees and Development Planning Services customer guidelines are also relevant here.

2.7.3 Planning Services' Natural Heritage Officer advises that the ethos of the landscape proposals is appropriate and the inclusion of measures for faunal wildlife is welcomed.

2.7.4 Taking into particular account the views of the Natural Heritage Officer, it is considered demonstrated that the site can be developed in a manner that is acceptable in terms of natural environment, the proposal according with the above provisions of policy and guidance in relation to same.

## 2.8 Building Sustainability

2.8.1 NPF4 Policy 1 Tackling the Climate and Nature Crises states that significant weight will be given to the global climate crisis. NPF4 Policy 2 Climate Mitigation and Adaptation of NPF4 states that proposals will be sited and designed to minimise lifecycle greenhouse gases as far as possible. NPF4 Policy 14 Liveable Places states that development proposals will be supported where they are compliant with the qualities of successful places, including supporting the efficient use of resources, etc.

2.8.2 FIFEplan Policy 1: Development Principles adds that development proposals must address their individual and cumulative impacts, complying with relevant criteria and supporting policies, including improving existing infrastructure capacity and complying with Policy 3: Infrastructure and Services. FIFEplan Policy 3 adds that development must be designed and implemented in

a manner that ensures it delivers the required level of infrastructure; where necessary and appropriate as a direct consequence of the development or as a consequence of the cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served adequate infrastructure and services; such infrastructure and services may include, amongst other things, low and zero carbon generating technologies in accordance with Policy 11: Low Carbon Fife of FIFEplan. FIFEplan Policy 1: Development Principles states that development proposals must be supported by information requirements to demonstrate that they will comply with relevant criteria and supporting policies, including providing for energy conservation and generation in layout and design; contributing to national climate change targets; and complying with Policy 11: Low Carbon Fife. FIFEplan Policy 11 adds that planning permission will only be granted for new development where it has been demonstrated that the incorporation of low and zero carbon generating technologies will contribute to meeting the Building Standards Target Emissions rate, construction materials come from local or sustainable sources, water conservation measures are in place, acceptable SuDS measures are in place, and facilities are provided for the separate collection of dry recyclable waste and food waste. Fife Council's Low Carbon Fife Supplementary Guidance (2019) is also relevant here.

2.8.3 Subject to a condition of any permission, building sustainability can be addressed at the approval of matters specified in condition stage. It is considered that the proposal accords with the above provisions of policy and guidance in relation to building sustainability.

## CONSULTATIONS

Policy And Place Team (Central Area) TDM, Planning Services	Advises no housing land supply issue. Objection on road safety and local living grounds.
Structural Services - Flooding, Shoreline and Harbours Scottish Water	Holding objection in relation to surface water management. No objection.
Built Heritage, Planning Services Trees, Planning Services	Objection. No objection subject to condition.
Natural Heritage, Planning Services	No objection subject to condition.

## REPRESENTATIONS

Six individual representations have been submitted, raising the following in support of the proposal:

- Excellent location and transport links;
- Nearby shopping and other amenities;
- Availability of country walks;
- Minimal visual impact;
- A contribution to a balanced housing land supply;
- No residential amenity implications.

Officer response: These matters are dealt with above in the main body of the report.



## CONCLUSIONS

Subject to conditions, the development accords with the provisions of policy and guidance in relation to residential amenity/garden ground, natural environment and building sustainability; however, it is contrary to those provisions relating to the principle of development, design/visual impact, road safety/transportation and flood risk and water management. In particular, the proposal is contrary to NPF4 Policy 16 Quality Homes (see 2.2.1 above), there being no shortfall in housing land supply to justify supporting housing development on this unallocated site in terms of FIFEplan policies relating to houses in the countryside; in any event, such a proposal on an unallocated and unsupported site in the open countryside being inconsistent with FIFEplan's spatial strategy, which identifies control over development in the open countryside as a component, the proposal also being inconsistent with policy for local living and sustainable places and development of greenfield and prime agricultural land. Overall, the development is contrary to the development plan, with no material considerations of sufficient weight to justify departing therefrom.

## RECOMMENDATION

The application be refused for the following reason(s)

1. In the interests of local living and sustainable places, by avoiding ad hoc housing development in the countryside divorced from services, which development is not justified on the grounds of a shortfall in housing land supply or otherwise; consistent with adopted National Planning Framework 4 (2023) Policies 1 Tackling the Climate and Nature Crises, 2 Climate Mitigation and Adaptation, 13 Sustainable Travel, 14 Design, Quality and Place, 15 Local Living and 20 Minute Neighbourhoods, 16 Quality Homes and 17 Rural Homes; and the adopted FIFEplan Fife Local Development Plan (2017) spatial strategy and its Policies 1: Development Principles, 2: Homes, 7: Development in the Countryside and 8: Houses in the Countryside.
2. In the interests of protecting valued soils, by avoiding development on prime agricultural land, consistent with adopted National Planning Framework 4 (2023) Policy 5 Soils.
3. In the interests of protecting greenfield land, its development here not supported in terms of adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles, 2: Homes, 7: Development in the Countryside and 8: Houses in the Countryside, being in turn contrary to adopted National Planning Framework 4 (2023) Policy 9 Brownfield, Vacant and Derelict Land and Empty Buildings.
4. In the interests of protecting the historic environment, it not having been demonstrated that the development would preserve the setting of the adjacent category 'B' listed Lydiard House in its rural isolation, from which isolation its interest as a listed building is partly derived, so as to avoid low-level but significant detrimental impact to its setting; consistent with adopted National Planning Framework 4 (2023) Policy 7 Historic Assets and Places, Historic Environment Scotland's Historic Environment Policy for Scotland (2019) and Historic Environment Scotland's Managing Change in the Historic Environment series.
5. In the interests of pedestrian and road safety, the development expected to give rise to a significant intensification of vehicle movements onto and from an unrestricted distributor road

outwith an established built-up area at a point with substandard visibility and by means of a substandard access road, contrary to adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles, 3: Infrastructure and Service and Appendix G of the adopted Making Fife's Places Supplementary Guidance (2018).

6. In the interests of ensuring a sustainable water supply to the development and resilience of the area to flood risk, the applicant having failed to submit sufficient information to conclude that this would be the case; consistent with adopted National Planning Framework 4 (2023) Policies 1 Tackling the Climate and Nature Crises, 2 Climate Mitigation and Adaptation, 22 Flood Risk and Water Management and adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles, 3: Infrastructure and Services and 12: Flooding and the Water Environment.

## **STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS**

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

### Development Plan

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

### Other

Fife Council Surface Water Management Plan Design Criteria (2022)  
Fife Council Planning Services Trees and Development, Minimum Distance Between Window Openings, Garden Ground, and Daylight and Sunlight customer guidelines

Report prepared by Brian Forsyth, Planner  
Rep[ort reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 21/08/2023

# 23/00868/PPP

Land To The East Of Lydiard House, Windygates Rd, Milton Of Balgonie



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<b>Legend</b>			
	Application Boundary		

**ITEM NO: 7**

**APPLICATION FOR FULL PLANNING PERMISSION REF: 22/02475/FULL**

**SITE ADDRESS: THE FOUNDRY CHARLESTOWN DUNFERMLINE**

**PROPOSAL: MIXED-USE (SUI GENERIS) DEVELOPMENT (PART-RETROSPECTIVE) COMPRISING: SITING OF YURT FOR DELIVERY OF YOGA CLASSES; ERECTION OF OUTBUILDING/PART-USE OF GROUNDS FOR DELIVERY OF THERAPY SERVICES; AND ERECTION OF SHED FOR PURPOSES INCIDENTAL TO DELIVERY OF THE THERAPY SERVICES**

**APPLICANT: MS LISA MULUBE  
THE FOUNDRY CHARLESTOWN DUNFERMLINE**

**WARD NO: W5R05  
Rosyth**

**CASE OFFICER: Brian Forsyth**

**DATE REGISTERED: 10/02/2023**

**REASONS FOR REFERRAL TO COMMITTEE**

This application requires to be considered by the Committee because:

The application has attracted six or more separate individual representations which are contrary to the officer's recommendation.

**SUMMARY RECOMMENDATION**

The application is recommended for:

Refusal

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

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

National Planning Framework 4 (NPF4) was formally adopted on the 13th of February 2023 and is now part of the statutory Development Plan. NPF4 provides the national planning policy context for the assessment of all planning applications. The Chief Planner has issued a formal letter providing further guidance on the interim arrangements relating to the application process and interpretation of NPF4, prior to the issuing of further guidance by Scottish Ministers.

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

Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is any incompatibility between a provision of the National Planning Framework and a provision of a Local Development Plan, whichever of them is the later in date is to prevail. The Chief Planner's letter adds that provisions that are contradictory or in conflict would likely be considered incompatible.

## 1.0 BACKGROUND

1.1 This application site extends to approximately 980 square metres and relates to an existing dwellinghouse and its grounds, the house having been completed in 2019. The site is located approximately 800 metres north-west of Charlestown, off a private road/claimed right of way off the west side of the C7 West Road between the village and the A985. The private road is shared with two other dwellinghouses and a Scottish Water wastewater treatment works, all to the north of the site. The site is otherwise bounded to the west by an access track, with the Lyne Burn over; to the north-west by a wooded area, with the remains of an iron mill foundry on the Lyne Burn; and to the south-east by a disused railway line. Trees along the western and eastern boundaries are on the SNH Scottish Semi-Natural Woodland Inventory. Landform and tree cover are such that the site is generally enclosed. The site is not visible from the public road network. The areas shown for development fall within Health and Safety Executive hazardous pipeline consultation zones.

1.2 Full planning permission is sought for a mixed-use (sui generis) development of the site, comprising siting of a yurt for delivery of yoga classes (retrospective), erection of an outbuilding/part-use of the grounds for delivery of therapy services, and erection of a shed for purposes incidental to delivery of those therapy services. The agent explains that the applicant commissioned the yurt in 2021, providing yoga classes from it from August that year. It is stated that yoga classes are kept to a maximum of eight participants, with four to five classes held per week. Mixed therapy sessions are planned from the outbuilding, including talking, art and sound therapies, with sessions for a mixture of individuals and small groups. The part-use of the grounds for delivery of therapy services is by way of a mindfulness labyrinth and edible garden. No other information has been provided in relation to the scale of the therapy services use or whether there would be employees. An identical outbuilding is approved as a domestic store only under ref. 23/00560/FULL (see 1.3 below).

1.3 The following site history in the Council's electronic register is relevant here:

- 11/04765/PPP Planning permission in principle for erection of dwellinghouse and garage. Withdrawn 24 November 2021.
- 12/03388/PPP Planning permission in principle for erection of dwellinghouse and garage. Approved by Fife Planning Review Body (FPRB) on 10 October 2012, FPRB considering that replacement of a then ruinous building within the site would result in an overriding benefit in terms of visual and environmental improvement, consistent with then local plan policy.
- 16/00668/FULL Erection of dwellinghouse with associated parking, landscaping and erection of detached store. Approved 8 June 2016. Condition 12 states: "PRIOR TO THE OCCUPATION OF THE DWELLINGHOUSE, the store building shall be completed in accordance with the approved plans. Reason: In the interests of visual amenity; in order to secure the replacement of the existing ruinous building on site." Completion of the store necessitated removal of the abovementioned ruinous cottage, which ruin has been removed; however, the development was completed and the dwellinghouse occupied without erection of the store having commenced. Condition 14 states: "The store building as hereby approved shall only be ancillary to the use of the dwellinghouse. No part of the dwellinghouse, its curtilage or outbuildings shall be used for any form of commercial activity. Reason: To enable the Planning Authority to retain proper control of the use of the land and buildings; to avoid the intensification of use of the residential access track and junction with the C7."
- 16/00668/NMV1 Erection of dwellinghouse with associated parking, landscaping and erection of detached store (Non-material variation for roof material on house and store, relocation of MVHR and ASHP, arched window to be omitted and reduce footprint of house and store on application 16/00668/FULL). Agreed 2 December 2016.
- 22/00155/ENF Allegation of breach of planning control received 6 May 2022: Siting of yurt for purposes of delivery of yoga classes. Case closed 25 July 2022 following receipt of below applications.
- 16/00668/CND001/CND002/CND003/CND004/CND005/CND007/CND0010/CND0011. Breaches of these conditions excused 5 October 2022 to 5 April 2023.
- 23/00560/FULL Section 42 application for erection of dwellinghouse, etc. (Class 9) the subject of planning permission 16/00668/FULL (as varied) (part-retrospective) without compliance with the terms of that permission's Conditions 12 and 14. Approved 27 June 2023. As the ruinous building within the site had been removed, the objective of Condition 12 had been achieved without having to meet its terms; as such, it was no longer considered that the terms of Condition 12 were reasonable. In relation to Condition 14, it was not considered the condition was necessary as commercial activity amounting to a material change of use still required planning permission in the absence of such a condition; as such, it was no longer considered that the terms of Condition 14 were reasonable.

1.4 A site visit was undertaken by the case officer on 26 May 2023.

## 2.0 ASSESSMENT

2.1 The issues to be assessed against the development plan and other guidance are as follows:

- Principle of Development

- Design/Visual Impact
- Residential Amenity/Garden Ground
- Road Safety/Transportation
- Health and Safety

## 2.2 Principle of Development

2.2.1 NPF4 states that a plan-led approach is central to supporting the delivery of Scotland's national outcomes and broader sustainable development goals, reinforcing the provisions of Section 25 of the Act.

2.2.2 NPF4 Policy 1 Tackling the Climate and Nature Crises states that significant weight will be given to the global climate crisis. NPF4 Policy 14 Design, Quality and Place states that proposals will be designed to improve the quality of an area and will be supported where they are consistent with the qualities of successful places, including reducing car dependency.

2.2.3 FIFEplan Policy 1: Development Principles supports the principle of development in countryside areas, such as here, where the proposed use is otherwise supported by FIFEplan. FIFEplan Policy 7: Development in the Countryside states that development in the countryside will only be supported where it:

1. is required for agricultural, horticultural, woodland, or forestry operations;
2. will diversify or add to the above land-based businesses to bring economic support to the existing business;
3. is for the extension of established businesses;
4. is for small-scale employment land adjacent to settlement boundaries, excluding green belt areas, and no alternative site is available within a settlement boundary which contributes to the Council's employment land supply requirements;
5. is for facilities for access to the countryside;
6. is for facilities for outdoor recreation, tourism, or other development which demonstrates a proven need for a countryside location; or
7. is for housing in line with Policy 8 (Houses in the Countryside).

2.2.4 The application has attracted eight representations in support of the proposals, the representees noting in particular the benefit to their personal well-being from having attended yoga classes on site.

2.2.5 Criterion 6 of FIFEplan Policy 7: Development in the Countryside is relevant in this case, supporting development in the countryside for facilities which demonstrate a proven need for a countryside location. Whilst it is accepted that such a quiet, semi-natural countryside location is conducive to yoga practice, such a use does not need a countryside location, with no attempt having been made by the applicant to demonstrate that it does; indeed, the agent states that from 2017 until introduction of the current arrangements, the applicant operated her yoga classes from various local public venues. In relation to the proposed therapy services, aside from the proposed land-based therapies (mindfulness labyrinth and edible garden), these do not require a countryside location either, again with no attempt having been made to demonstrate that they do. Moreover, and notwithstanding the availability of a bus service along the West Road, the somewhat isolated nature of the site is such that the proposed uses are likely to remain particularly car dependent, inconsistent with NPF4 Policies 1 Tackling the Climate and Nature Crises and 14 Design, Quality and Place relating to sustainable places.

2.2.6 Notwithstanding the views expressed in the above representations, the proposals are considered contrary to the provisions of policy in relation to the principle of development.

## 2.3 Design/Visual Impact

2.3.1 NPF4 Policy 14 Design, Quality and Place states that proposals that are detrimental to the amenity of the surrounding area, or inconsistent with the relevant qualities of successful places, including 'pleasant', will not be supported. FIFEplan Policies 1: Development Principles, 7: Development in the Countryside, 10: Amenity and 13: Natural Environment and Access collectively state that proposals must address their individual and cumulative impacts, being located and designed to protect the overall landscape and environmental quality of the area, with development only supported where it does not have a significant adverse visual impact on the surrounding area and landscape character and views are protected.

2.3.2 As the site is generally enclosed and is not visible from the public road network, it is considered that the proposals are acceptable in landscape, environmental quality and general visual amenity terms, according with the above provisions of policy in relation to design/visual impact.

## 2.4 Residential Amenity/Garden Ground

2.4.1 NPF4 Policy 14 Design, Quality and Place states that proposals that are detrimental to the amenity of the surrounding area, or inconsistent with the relevant qualities of successful places, including 'pleasant', will not be supported. Annex D of NPF4 extends this concern with pleasantness to cover noise. NPF4 Policy 23 Health and Safety states that development proposals that are likely to raise unacceptable noise issues will not be supported. FIFEplan Policies 1: Development Principles and 10: Amenity collectively state that development proposals must address their individual and cumulative impacts, development only being supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses, it requiring to be demonstrated that proposals will not lead to a significant detrimental impact on amenity in relation to, amongst other things, noise. Fife Council Policy for Development and Noise 2021 and Planning Services Garden Ground customer guidelines (2016) are also relevant here.

2.4.2 The one objector, the householder to the north of the site, raises objection in relation to residential amenity, stating that the carrying out of business activity does and would affect the quiet residential character of the area and enjoyment of their garden.

2.4.3 In relation to noise arising directly from the uses, it is considered that the location and nature of the uses, and the level of physical separation between these uses and third-party residential property, is such that impacts arising cannot be considered significant. In relation to associated vehicle noise, it is also considered that the layout of the site and environs is such that impacts arising cannot be considered significant either. In relation to garden ground, the subjects benefit from extensive residential grounds; after completion of the development proposed there would remain garden ground considerably in excess of the minimum provision expected in terms of the above customer guidelines. As such, and notwithstanding the objector's concerns, it is considered that the proposals are acceptable in terms of noise and garden ground, according with the above provisions of policy and guidance in relation to residential amenity.

## 2.5 Road Safety/Transportation



2.5.1 FIFEplan Policy 1: Development Principles of FIFEplan states that the individual and cumulative impacts of development proposals are to be addressed by complying with relevant criteria and supporting policies, where relevant, including mitigating against the loss in infrastructure capacity caused by the development by providing additional capacity or otherwise improving existing infrastructure and complying with Policy 3: Infrastructure and Services. FIFEplan Policy 3 states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner; where necessary and appropriate as a direct consequence of the development or as a consequence of cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served by adequate infrastructure and services, including local transport and safe access routes. Appendix G Transportation Development Guidelines of Fife Council's Making Fife's Places Supplementary Guidance (2018) is also relevant here.

2.5.2 The one objector raises concerns in relation to road safety, particularly as a consequence of the increase in vehicle movements from the development, adding that they have met, on many occasions, traffic travelling at speed along the C7 West Road. It is stated that the opening times proposed suggest a total of 67 hours of commercial activity per week, every one hour class with eight people equating to 536 cars per week. It is contended that the private road is unsuitable for the use, being regularly used by dog walkers, cyclists, hikers, and families heading to the beach.

2.5.3 Planning Services' Transportation Development Management team (TDM) explains that it has a presumption against the formation of new vehicular accesses or the intensification in use of existing accesses on unrestricted distributor roads outwith established built-up areas. For clarification purposes, the built-up area from a transportation point of view is defined by TDM as the area within a 20, 30 or 40mph speed limit. The reason for this policy is that such vehicular accesses introduce, or increase, traffic turning manoeuvres which conflict with through traffic movements and so increase the probability of accidents occurring, to the detriment of road safety. TDM can relax this policy if a proposed rural development is deemed as having planning merit by the case officer. This relaxation is only possible when either the junction of the access to the site and the public road has acceptable visibility splays or if the proposals include acceptable improvements being undertaken to existing sub-standard visibility splays.

2.5.4 TDM advises that according to Making Fife's Places Supplementary Guidance (2013) Appendix G Transportation Development Guidelines, 3m x 210m visibility splays must be provided and maintained clear of all obstructions exceeding one metre in height above the adjoining road channel level, at the junction of the private road to the site and the C7 West Road. At the suggestion of TDM, the applicant was invited to commission and submit a speed survey on the C7 West Road in the vicinity of the existing junction. The speed survey was recently undertaken, with the recorded 85th percentile of traffic speeds being 40.6mph northbound and 37.9mph southbound. The submitted speed survey results permit the visibility splays to be reduced to 3m x 140m at the junction of the private road and the C7 West Road.

2.5.5 The applicant submitted a letter with accompanying photos detailing their assessment of the junction visibility splays. However, it should be noted that visibility splays must be available to all points to the nearside and far side channel lines of the public road to satisfy TDM. In addition, it appears that the photographs were taken from a standing position which does not reflect the height of a driver in a car. TDM advises that the actual visibility splays that are available to the nearside road channel line (west side of the road) at the junction of the private

road to the site and the C7 West Road are approximately 3m x 67m in the oncoming direction (south direction), as visibility is obscured by large bushes that are within the adjacent field, and an approximate 3m x 65m visibility splay available in the other direction (north) due to a large mature tree obscuring visibility to the nearside road channel line (western side of the public road) beyond this point. TDM advises that the proposed yurt for the yoga business would increase the number of vehicle turning manoeuvres at a junction which has substandard visibility splays in both directions, to the detriment of road safety.

2.5.6 It is unlikely that the objector's estimate of vehicle movements associated with the yoga classes would be realised, but also taking into account likely vehicle movements associated with the proposed therapy uses, the balance of probability is that vehicle movements associated with the proposals as a whole would be significantly in excess of those associated with use as a house only. As such, it is considered that considerable weight must be attached to road safety concerns. Taking into particular account TDM's views in relation to visibility and intensification of use of the private road, and recognising the likelihood of significant increased conflict between vehicles and others on the claimed right of way/private road, it is not considered that the proposals accord with the above provisions of policy and guidance in relation to road safety/transportation.

## 2.6 Health and Safety

2.6.1 NPF4 Policy 23 Health and Safety states that development proposals within the vicinity of a major accident hazard pipeline (because of the presence of toxic, highly reactive, explosive or inflammable substances) will consider the associated risks and potential impacts of the proposal and the major accident hazard site/pipeline of being located in proximity to one another; and that any advice from the Health and Safety Executive that planning permission or hazardous substances consent should be refused should not be overridden by the decision maker without the most careful consideration.

2.6.2 The Health and Safety Executive is a statutory consultee in this case as hazardous pipeline consultation zones cross the site. The Executive does not advise against the grant of planning permission on safety grounds.

2.6.3 Taking the views of the Executive into account, it is considered that the proposals accord with the above provisions of policy in relation to health and safety.

## CONSULTATIONS

Network Rail	No objection.
TDM, Planning Services	Objection.
Health and Safety Executive	No objection.
National Grid Email	No response received.
INEOS FPS Limited	No response received.

## REPRESENTATIONS

Two representations have been received from the householder immediately to the north of the site, raising objection in relation to the following:

- Road safety, particularly as a consequence of the increase in vehicle movements from the development, adding that they have met, on many occasions, traffic travelling at speed along the C7 West Road. It is stated that the opening times proposed suggest a total of 67 hours of commercial activity per week, every one hour class with eight people equating to 536 cars per week. It is contended that the private road is unsuitable for the use, being regularly used by dog walkers, cyclists, hikers, and families heading to the beach.

Officer response: Road safety is dealt with in 2.5 above.

- Residential amenity, the carrying out of business activity affecting the quiet residential character of the area and enjoyment of one's garden.

Officer response: Residential amenity is dealt with in 2.4 above.

- The proposal is in breach of Condition 14 of planning permission 16/00668/FULL, which restricts commercial use of the site.

Officer response: The dwellinghouse, etc. originally the subject of planning permission 16/00668/FULL is now the subject of planning permission 23/00560/FULL, which contains no such restriction.

- Unauthorised use, stating that they do not understand how this business has been allowed to operate or not been halted without the necessary planning permission.

Officer response: This is not a material planning consideration in this instance.

- The applicant is advertising the yurt for hire and there has already been a wellness festival carried out on the site.

Officer response: This is not material planning consideration relevant to consideration of this application, no such uses being proposed as part of this application. Any further alleged unauthorised use of the site should be reported to Planning Services through the usual channels.

## **CONCLUSIONS**

The development accords with or is acceptable in terms of the provisions of policy and guidance relating to design/visual impact and residential amenity/garden ground. The development does not accord with the provisions of policy and guidance relating to: the principle of development, the applicant having failed to demonstrate a proven need for a countryside location for the yoga classes and non-land-based therapy uses, the proposals also likely to be particularly car dependent; and road safety/transportation, there being substandard visibility and access to the public road, and with vehicular traffic likely to come into increased conflict with other users of the claimed right of way/private road. Overall, the development is contrary to the development plan, with no material circumstances of sufficient weight to justify departing therefrom.

## **RECOMMENDATION**

The application be refused for the following reason(s)

1. In the interests of sustainable places, by avoiding ad hoc commercial development of a site in the countryside, which development has not been justified in terms of adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles and 7: Development in the Countryside, the applicant having failed to demonstrate a proven need for a countryside location, contrary in turn to National Planning Framework 4 (2023) Policies 1 Tackling the Climate and Nature Crises and 14 Design, Quality and Place.

2. In the interests of sustainable places, by avoiding development of an isolated site in the countryside for car dependent commercial uses, consistent with National Planning Framework 4 (2023) Policies 1 Tackling the Climate and Nature Crises and 14 Design, Quality and Place.

3. In the interests of road safety; the development to be served by substandard access arrangements and visibility onto the C7 West Road, also bringing vehicles into increased conflict with others on the claimed right of way/private road leading to the site; contrary to adopted FIFEplan Fife Local Development Plan (2017) Policies 1: Development Principles and 3: Infrastructure and Services and the adopted Making Fife's Places Supplementary Guidance (2018).

## **STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS**

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

### Development Plan

Adopted National Planning Framework 4 (2013)  
Adopted FIFEplan Fife Local Development Plan (2017)  
Adopted Making Fife's Places Supplementary Guidance (2018)

### Other

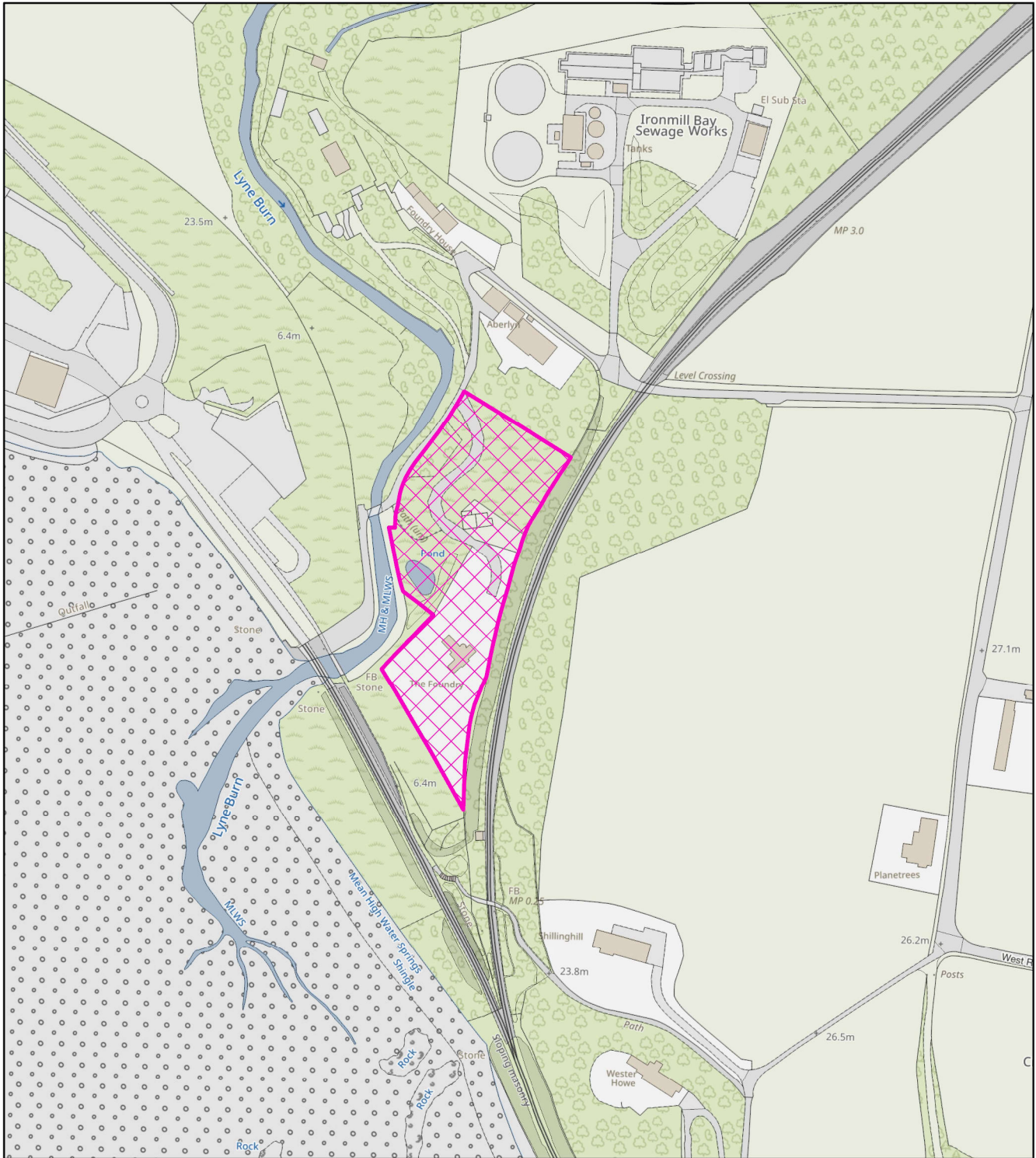
Fife Council Policy for Development and Noise 2021  
Fife Council Planning Services Garden Ground customer guidelines (2016)

Report prepared by Brian Forsyth, Planner and Case Officer  
Report reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 18/08/2023

# 22/02475/FULL

## The Foundry, Charlestown



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<b>Legend</b>	
	Application Boundary
	
 Fife COUNCIL Planning Services	

**ITEM NO: 8**

**APPLICATION FOR FULL PLANNING PERMISSION REF: 23/01030/FULL**

**SITE ADDRESS: 17 TOWNSEND CRESCENT KIRKCALDY FIFE**

**PROPOSAL: ERECTION OF 1.6 METRE HIGH BOUNDARY FENCE AND GATE TO FRONT OF DWELLINGHOUSE (IN RETROSPECT)**

**APPLICANT: MRS PAMELA RENWICK  
17 TOWNSEND CRESCENT KIRKCALDY FIFE**

**WARD NO: W5R11  
Kirkcaldy Central**

**CASE OFFICER: Gary Horne**

**DATE REGISTERED: 04/05/2023**

**REASONS FOR REFERRAL TO COMMITTEE**

This application requires to be considered by the Committee because:

Twenty four representations have been submitted which are contrary to the officer recommendation.

**SUMMARY RECOMMENDATION**

The application is recommended for:

Unconditional Approval

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

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

**1.0 BACKGROUND**

1.1 This application relates to a traditional two storey semi-detached dwellinghouse situated within the Kirkcaldy settlement boundary but outwith the Abbotshall & Central Kirkcaldy Conservation Area, the northern boundary for which is sited approximately 35m to the south-east of the development site. The property, which includes a domestic garage to the side and a single storey extension to the rear, is externally finished with dressed stone, a hipped slated roof and timber sash and case windows. The development site is located within an established residential area, set amongst properties of a similar traditional architectural form and scale.

1.2 This application seeks retrospective planning permission for the erection of fence and gate to the front of the dwellinghouse.

1.3 The proposed fence measures approximately 1600mm at its highest point and extends along a shared boundary to the front of the dwellinghouse, approximately 10m from the front of the house to the front boundary. Additionally, a 1750mm high gate has been installed along an established vehicular access between two existing gate piers on the front boundary. Both the fence and the gate are finished with matching black painted metal frames and horizontally aligned 'wood effect' polymer panels.

1.4 There is no relevant planning history associated with this site.

## 2.0 POLICY ASSESSMENT

2.1 The issues to be assessed against the development plan and other guidance are as follows:

- a) Design and Visual Impact
- b) Residential Amenity Impact

## 2.2 DESIGN AND VISUAL IMPACT

2.2.1 Policies 14 and 16 of the Adopted National Planning Framework 4 (NPF4) (2023) and Policies 1 and 10 of the Adopted FIFEplan Local Development Plan (2017) apply in this respect.

2.2.2 National Planning Framework 4 (NPF4) Policy 14 focuses on design, quality, and place, and supports development that is consistent with the Six Qualities of Successful Places: healthy, pleasant, connected, distinctive, sustainable and adaptable. NPF4 Policy 16 supports development that will not have a detrimental impact on the character or environmental quality of the home, and the surrounding area in terms of size, design, and materials. FIFEplan 2017 Policy 10 also requires that development must not lead to a detrimental visual impact on the surrounding area.

2.2.3 The surrounding area includes a variety of high boundary treatments including traditional high stone walls and high hedges and therefore it is considered that the principle of 'high' boundary treatments along a publicly visible boundaries to the front of the dwellinghouse has been established in this area and the respective heights of the fence and gate are considered to be acceptable. It should also be noted that, as the development site is not within the Conservation Area, that a 1m high fence and gate could have been installed without the requirement of Planning Permission.

2.2.4 The proposed fence and gate are modern in appearance, style and choice of materials and do not reflect the traditional style of the dwellinghouse or the prevailing pattern of the dwellings

within the surrounding streetscene. However the property is not a Listed Building and is not situated within a Conservation Area and therefore the usual protections offered to dwellings within the historic environment are not generally relevant in this instance, albeit the surrounding area does benefit from the traditional character of the area having been well preserved. Had this application been submitted prior to works commencing, then the applicant may have been encouraged to use a more traditional material or colour palette. It was suggested to the applicant following this submission, that the fence would be more in keeping with the surrounds were it to be painted to match the existing stonework however it was confirmed that the application should be assessed in its current form.

2.2.5 The applicant has included a supporting statement which confirms the presence of several other modern style panel fences and gates within the surrounding area, some of which are within the Conservation Area. The officer site visit confirmed that whilst there is a well preserved uniformity to the surrounding dwellinghouses, there is a wide variety of boundary treatments in the area including similar style panelled fencing and gates. Indeed the neighbouring property at No.19 has a 1.8m high vertically aligned timber fence sited to the front of the dwellinghouse. There are no consents for this fence on record, or any enforcement complaints regarding its installation, however the fence has been in situ for at least fourteen years and is now beyond the scope of enforcement action. It is also noted that the Windsor Hotel at the north-western end of the street has a prominent timber clad façade and high fence to the front, retrospective consent for which was granted by the West and Central Fife Planning Committee in March 2023 (21/02406/FULL). Prior to the installation of the fence and gate on this site, historic photos show the boundaries screened by 3m high unkempt high hedges.

2.2.6 It is therefore considered that the proposed fence and gate have no significant impact upon the surrounding streetscene. The proposals are considered to be acceptable in terms of scale, height, choice of materials and form; reflect similar developments within the immediate surrounding area and are considered to be a visual improvement on the previous boundary treatments in situ.

2.2.7 Thirty two representations have been received in this instance, twenty four of which raised various concerns including the following issues in relation to visual amenity;

- Design/not in keeping with the surrounds

As detailed above, it is accepted that the modern style of the fence and gate are not strictly in keeping with the architectural style of the surrounding dwellings, however the development site is not within the Conservation Area and it considered that the proposal offers no significant visual harm to the area given that similar materials have been used within the area and that a 1m high fence could be installed without consent.

- Fence above 1m in height

Several of the received representations note that the fence and gate 'clearly breaks the planning guidelines from Fife Council and the Scottish Government'. Fife Council nor the Scottish Government have published any detailed Planning Guidance which advise on fence heights. It is presumed these representations have misunderstood The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, which stipulates that Planning Permission is required for boundary treatments above 1m in height to the front of the principle elevation of a property. However, the legislation does not advise on the acceptability of any subsequent development proposed through the submission of a Planning Application.



Eight further representations, in support of the application highlighted that the fence;

- is in keeping with surrounds
- is an improvement on previous boundary hedges
- is consistent with other developments within the area

2.2.7 In light of the above, the proposal is considered acceptable and is in compliance with the Development Plan and its related guidance.

## 2.3 RESIDENTIAL AMENITY

2.3.1 Policy 16 of National Planning Framework 4 (NPF4) (2023), Policies 1 and 10 of FIFEplan Local Development Plan (2017) and Fife Council Customer Guidelines on Daylight and Sunlight (2015) apply in this respect.

2.3.2 National Planning Framework 4 (NPF4) Policy 16 supports development that will not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing, or overlooking. Policy 10 of FIFEplan specifically requires development to address the potential loss of privacy and sunlight and daylight.

2.3.3 Given the orientation of the development site in relation to the surrounding curtilages, it is considered that there is no significant impact upon the daylight enjoyed within the neighbouring property or the sunlight enjoyed within the neighbouring amenity spaces. Those amenity spaces would still enjoy at least two hours of direct sunlight in accordance with the recommendations set out in the relevant BRE guidance.

2.3.4 Thirty two representations have been made in this instance, one of which raised the following issue in relation to residential amenity;

- Loss of Sunlight

As detailed above, it is considered that the proposed fence would have no significant impact upon any neighbouring properties given the orientation of the site. At 1.6m in height the fence is unlikely to cast any significantly extensive shadows, given the heights of surrounding properties. It is also sited to the north of the adjoining property and therefore, given the path of the sun, would have negligible impact upon the sunlight enjoyed within the neighbouring amenity space.

2.3.5 The proposal is considered acceptable in this respect in terms of overshadowing, would be compatible with its surrounds in terms of land use and would be in compliance with the Development Plan and relevant guidance.

## CONSULTATIONS

None

## REPRESENTATIONS

32 representations have been made in this instance, 24 raising concerns and 8 in support, details of which have been outlined in paragraphs 2.2.7 and 2.3.4 of this report.

## **CONCLUSIONS**

The proposal is considered to be acceptable in meeting the terms of the Development Plan and relevant Fife Council Customer Guidelines. The proposal is compatible with the area in terms of land use, design and scale and will not cause any significant additional detriment to the amenity of the surrounding area, and is therefore considered to be acceptable.

## **RECOMMENDATION**

It is accordingly recommended that the application be approved unconditionally.

## **STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS**

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

Development Plan:

National Planning Framework 4 - Adopted (February 2023)

FIFEplan Local Development Plan (2017)

Other Guidance:

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

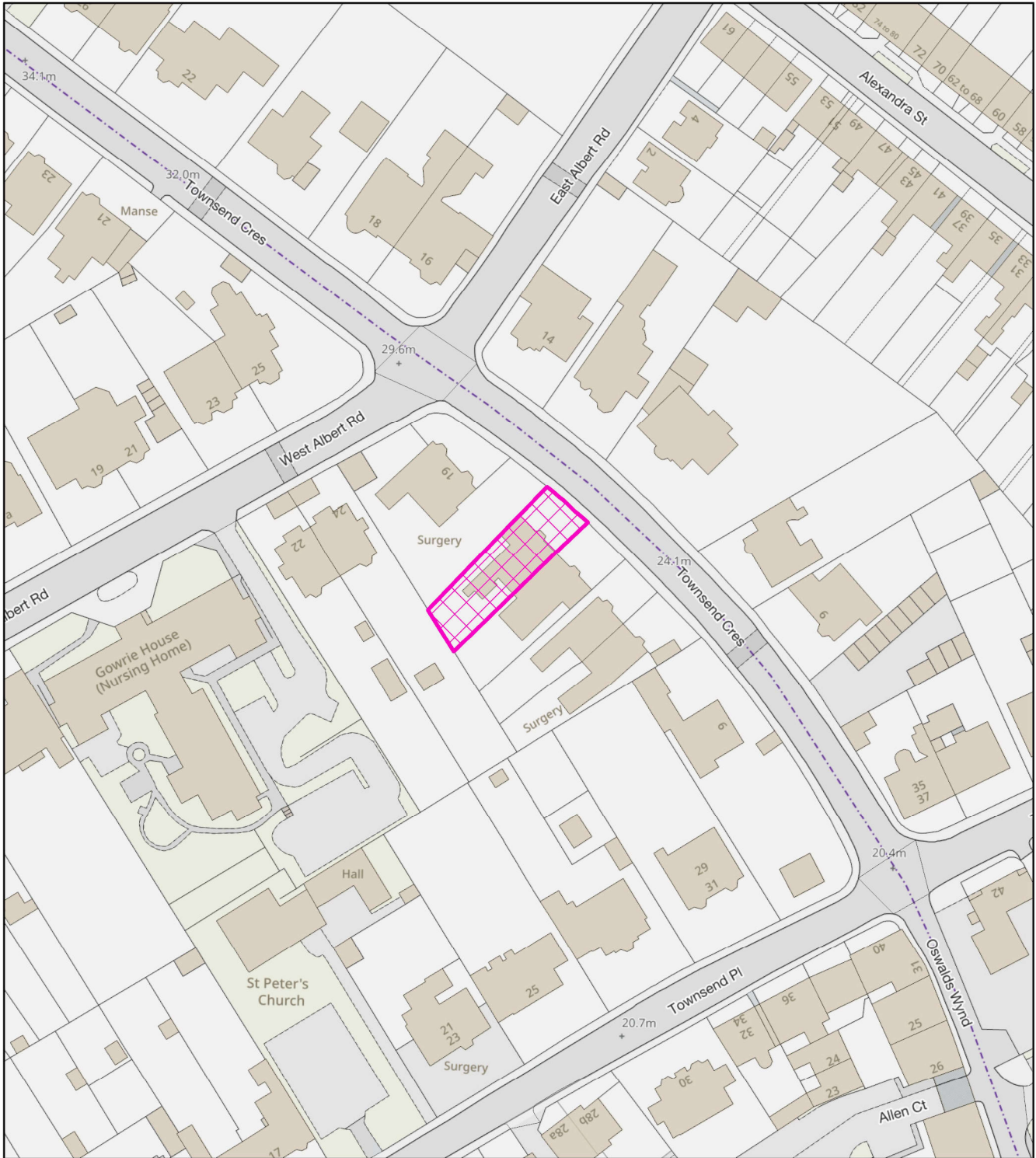
Report prepared by Gary Horne, Planning Assistant and Case Officer

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

Date Printed 21/08/2023

# 23/01030/FULL

17 Townsend Crescent, Kirkcaldy



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