

West and Central Planning Committee

This meeting will be held remotely

Wednesday, 14th December, 2022 - 2.00 p.m.



AGENDA

Page Nos.

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**

In terms of Section 5 of the Code of Conduct, members are asked to declare any interest in particular items on the agenda and the nature of the interest(s) at this stage.
3. **MINUTE** – Minute of the meeting of West and Central Planning Committee, 16th November, 2022. 3 – 6
4. **22/01074/FULL - BENARTY COMMUNITY CENTRE, HILL ROAD, BALLINGRY** 7 – 24

Erection of 6 no. units (3 x Class 1, 2 x Class 2 and 1 x Sui Generis) and associated works.
5. **21/02186/FULL - KITTY MCGINTY'S, AULD POST HOTEL, 1 HUNTER STREET, KIRKCALDY** 25 – 41

Change of use from nightclub (Class 11) to form 19 flatted dwellings, including erection of three storey extension, installation of replacement windows and doors and partial demolition of listed building.
6. **21/02187/LBC - KITTY MCGINTY'S, AULD POST HOTEL, 1 HUNTER STREET, KIRKCALDY** 42 – 50

Listed building consent for external and internal alterations, part demolition and extension with associated works.
7. **22/02907/FULL - LAND TO WEST OF LOW ROAD, THORNTON** 51 – 57

Erection of boundary fence (retrospective).
8. **APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS**

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

Note – these lists are available to view with the committee papers on the Fife.gov.uk website.

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

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Head of Legal and Democratic Services
Finance and Corporate Services

Fife House
North Street
Glenrothes
Fife, KY7 5LT

7th December, 2022

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2022 WCPC 18

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

16th November, 2022

2.00 p.m. – 4.35 p.m.

PRESENT: Councillors David Barratt (Convener), David Alexander, Lesley Backhouse, Alistair Bain, John Beare, Dave Dempsey, Derek Glen, James Leslie, Julie MacDougall, Lea McLelland, Derek Noble, Gordon Pryde, Sam Steele and Andrew Verrecchia.

ATTENDING: Declan Semple, Lead Officer, Jamie Penman, Planner and Bryan Reid, Lead Professional, Natasha Cockburn, Lead Professional, Planning Services; Christopher Glendinning, Solicitor and Emma Whyte, Committee Officer, Legal and Democratic Services.

APOLOGIES FOR ABSENCE: Councillors James Calder and Colin Davidson.

49. DECLARATIONS OF INTEREST

No Declarations of Interest were made in terms of Standing Order 7(1).

50. MINUTE

The Committee considered the minute of the meeting of West and Central Planning Committee of 19th October, 2022.

Decision

The Committee agreed to approve the minute.

51. 22/01040/FULL - KATHELLAN HOME FARM, KELTY

The Committee considered a report by the Head of Planning Services relating to an application for Roadside services development comprising of erection of a petrol filling station and associated retail kiosk (Class 1), jet washes, restaurant with drive thru facility (Class 3), site access arrangements, parking provision, electric vehicle charging points, landscaping and ancillary works.

Decision

The Committee agreed to refuse the application for the six reasons detailed in the report.

52. 22/00222/FULL - LAND AT ASTRO SOCCER, VIEWFIELD, GLENROTHES

The Committee considered a report by the Head of Planning Services relating to an application for the erection of 58 affordable housing units including associated access, landscaping, infrastructure and formation of hardstanding.

Decision/

Decision

The Committee agreed to approve the application subject to:-

- (1) the nineteen conditions and for the reasons detailed in the report; and
- (2) the addition of the following condition:-

Unless otherwise approved in writing by Fife Council as Planning Authority, the normal working hours for construction activities within the site shall be restricted to Monday to Friday between 8.00am to 6.00pm, 8.00am to 1.00pm on a Saturday and at no time on a Sunday or a Bank Holiday. No commercial vehicles associated with construction work shall enter or leave the site before 8.00am and after 6.00pm Monday to Friday; before 8.00am and after 1.00pm on a Saturday and at any time on a Sunday or a Bank Holiday. Out with these hours, development at the site shall be limited to maintenance, emergency works, or construction work that is not audible from any noise sensitive property out with the site.

Reason: In the interests of safeguarding the amenity of adjoining and nearby residents; to ensure construction activities are not undertaken at times that are likely to result in significant noise and vibration disturbance or dust generating nuisance to neighbouring occupiers.

The meeting adjourned at 3.20 p.m. and reconvened at 3.30 p.m.

53. 22/01125/FULL - FREESCALE SITE, DUNLIN DRIVE, DUNFERMLINE

The Committee considered a report by the Head of Planning Services relating to an application for the provision of an active travel link between Greenshanks Drive and the Dunfermline Learning Campus.

Decision

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

Councillor Backhouse left the meeting following consideration of the above item.

54. 22/01748/FULL - UNIT 1, CROSSHILL BUSINESS CENTRE, MAIN STREET, CROSSHILL

The Committee considered a report by the Head of Planning Services relating to an application for the change of use of part of training/business land (Sui Generis) to land for siting of self-storage containers (Class 6), erection of fencing and associated development.

Decision

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

55./

55. 21/03397/PPP - LAND 900M WEST OF SHEARDRUM, BALGONAR, SALINE

The Committee considered a report by the Head of Planning Services relating to an application for planning permission in principle for erection of dwellinghouse (Class 9) and associated development.

Motion

Councillor Steele, seconded by Councillor Glen, moved that the application be approved as the proposal was acceptable and in accordance with the Development Plan. A proven need for a countryside location had been demonstrated, in that the dwellinghouse was essential to support an existing rural business, and the proposal therefore complied with Policies 1, 7 and 8 of the Adopted FIFEplan (2017). In addition, the proposed dwelling could be delivered in such a way so as not to give rise to a detrimental impact on the visual amenity and road safety of the surrounding area. In light of the above, the proposal is deemed acceptable, subject to conditions.

Amendment

Councillor Beare, seconded by Councillor Alexander, moved that the application be refused for the reasons set out in the report.

Roll Call

For the Motion – 10 votes

Councillors Alistair Bain, David Barratt, Dave Dempsey, Derek Glen, James Leslie, Julie MacDougall, Lea McLelland, Derek Noble, Sam Steele and Andrew Verrecchia.

For the Amendment – 3 votes

Councillors David Alexander, John Beare and Gordon Pryde.

The motion was accordingly carried.

Decision

The Committee agreed to:-

- (1) approve the application subject to appropriate conditions; and
- (2) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to finalise the proposed conditions to ensure that a decision on the application was not unduly delayed.

56. 21/03396/PPP - LAND 100M WEST OF MEADOW VIEW, HILLEND, SALINE

The Committee considered a report by the Head of Planning Services relating to an application for planning permission in principle for erection of dwellinghouse (Class 9) and associated development.

Motion/

Motion

Councillor Steele, seconded by Councillor Glen, moved that the application be approved as the proposal was acceptable and in accordance with the Development Plan. A proven need for a countryside location had been demonstrated, in that the dwellinghouse was essential to support an existing rural business, and the proposal therefore complied with Policies 1, 7 and 8 of the Adopted FIFEplan (2017). In addition, the proposed dwelling could be delivered in such a way so as not to give rise to a detrimental impact on the visual amenity and road safety of the surrounding area. In light of the above, the proposal is deemed acceptable, subject to conditions.

Amendment

Councillor Beare, seconded by Councillor Alexander, moved that the application be refused for the reasons set out in the report.

Roll Call

For the Motion – 10 votes

Councillors Alistair Bain, David Barratt, Dave Dempsey, Derek Glen, James Leslie, Julie MacDougall, Lea McLelland, Derek Noble, Sam Steele and Andrew Verrecchia.

For the Amendment – 3 votes

Councillors David Alexander, John Beare and Gordon Pryde.

The motion was accordingly carried.

Decision

The Committee agreed to:-

- (1) approve the application subject to appropriate conditions; and
- (2) delegate to the Head of Planning, in consultation with the Head of Legal and Democratic Services, to finalise the proposed conditions to ensure that a decision on the application is not unduly delayed.

57. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS

Decision

The Committee noted the lists of applications dealt with under delegated powers for the period 3rd October to 31st October, 2022.

ITEM NO: 4

APPLICATION FOR FULL PLANNING PERMISSION REF: 22/01074/FULL

SITE ADDRESS: BENARTY COMMUNITY CENTRE, HILL ROAD, BALLINGRY

PROPOSAL : ERECTION OF 6 UNITS (3 X CLASS 1, 2 X CLASS 2 AND 1 X HOT FOOD TAKEAWAY (SUI GENERIS)) AND ASSOCIATED WORKS

**APPLICANT: ZFA GROUP
971 ROMFORD ROAD LONDON UNITED KINGDOM**

**WARD NO: W5R08
Lochgelly, Cardenden And Benarty**

CASE OFFICER: Sarah Purves

DATE REGISTERED: 25/04/2022

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 letters of representation have been received which are contrary to the officers recommendation.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

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

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

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

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

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

1.0 Background

1.0.1 This application relates to an area of land measuring approximately 0.64 hectares, which is located to the north of Ballingry. The wider site was formerly occupied by a community centre; however, this has been demolished and the site now comprises of grassland, hardstanding and a few trees and shrubs. The site is classified as 'vacant' (site BEN100) on the Fife Council 'Vacant and Derelict Land Register'. Vehicular access is currently taken from Navitie Park to the east of the site, which continues on and bounds the wider site to the north and west. Hill Road separates the site from the existing Ballingry Local Centre to the south. The remainder of the surrounding area is residential in nature.

1.0.2 The site is within the Ballingry, Lochore, Crosshill & Glenraig Settlement Boundary and is allocated as a 'Development Opportunity Site' (Former Benarty Centre, BGY004), as per the Adopted FIFEplan Local Development Plan (2017).

1.1 Proposal

1.1.1 This application seeks planning permission for the erection of three Class 1, two Class 2 and one Hot Food (Sui Generis) unit and associated works on the southern part of the wider site. The units would form a single building and would be centrally located within the site boundary, set back from Hill Road. Parking areas would be located to the front (south) and rear (north) of the proposed building, with vehicular access formed from Hill Road for customers and a separate access from Navitie Park to the west of the site for deliveries. The existing vehicular access to the east of the site would also be utilised. Pedestrian access would be formed from the west of the site and from the south of the site, with ramps for accessibility.

1.1.2 The building would be single storey in height, with a stepped-up feature corner unit where Navitie Park and Hill Road meet to the west of the site. The remainder of the units would be recessed towards the east of the site. The finishing materials would comprise of anthracite grey composite wall cladding, light grey roof panels and white feature panels.

1.2 Planning History

1.2.1 In regard to the planning history of the site, the following is relevant:

- In 2013, a Demolition Prior Notification was approved for the demolition of the community centre which formerly occupied the site (13/01117/DPN)
- In 2001, Planning Permission was granted for the formation of a racetrack (radio controlled cars) and erection of temporary building/viewing platform (in retrospect) to the east of the site (01/02886/WFULL)

1.3 Procedural Matters

1.3.1 The application was advertised in The Courier newspaper on 12.05.2022.

1.3.2 The application was screened and Fife Council concluded that the proposal would not require an EIA.

1.3.3 A physical site visit has not been undertaken in relation to the assessment of this application. All necessary information has been collated digitally to allow the full consideration and assessment of the application, and it is considered, given the evidence and information available to the case officer, that this is sufficient to determine the proposal.

1.3.4 The layout of the site was revised during the determination period, to enhance the urban design and to encourage active travel. A Sequential Test was also submitted later in the application process, to supplement the information already provided. Given the scale and nature of the alterations, and that the Sequential Test did not impact the proposal, readvertisements and renotifications were not necessary in this instance.

1.3.5 Fife Council currently owns the site. Circular 3/2009: Notification of Planning Applications advises that in certain circumstances where an authority has a financial interest in the development, notification to Scottish Ministers must be made prior to the grant of planning permission. As this proposed development is not significantly contrary to the Local Development Plan, in that an approval would not undermine the land use strategy of the plan, there is no requirement for notification of the application to Scottish Ministers. PAN82: Local Authority Interest Developments also applies. The PAN advises that notwithstanding the Council's interest in the development, the Planning Authority must still carry out its statutory planning functions without interference. Furthermore, the Committee must carry out a thorough planning assessment, following all necessary procedures, and reach a decision in accordance with the development plan, unless material considerations indicate otherwise. It must be noted that the Council's support for the development must not take precedence over the need for a proper and fair planning assessment.

2.0 Assessment

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

- Principle of Development
- Retail Impact
- Design/Visual Impact
- Residential Amenity Impact
- Transport, Access and Parking
- Natural Heritage
- Flooding/Drainage
- Land/Air Quality and Land Stability
- Low Carbon

2.2 Principle of Development

2.2.1 Scottish Planning Policy (2014) (SPP) promotes the use of the plan-led system to provide a practical framework for decision making on planning applications, thus reinforcing the provisions of Section 25 of the Act.

2.2.2 Policy 1, Part A, of the Adopted FIFEplan (2017) stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan.

2.2.3 Given that the site is within the settlement boundary of Ballingry, Lochore, Crosshill & Glencraig, and is allocated within the FIFEplan Local Development Plan as a 'Development Opportunity Site' (BGY004- Former Benarty Centre), the general principle of development is acceptable.

2.2.4 As such, the development complies with Policy 1 of the Adopted FIFEplan (2017) and is therefore acceptable in principle.

2.3 Retail Impact

2.3.1 Policy 6 Town Centres First supports proposals that comply with the sequential approach (taking into account catchment areas), comply with the respective uses and roles of the defined network of centres, will have no significant adverse effect on the vitality and viability of town centres and are appropriate for the location in scale and character. Outwith town centres, retail and leisure developments with a gross floorspace of over 2,500 square metres will require a retail impact analysis to be carried out to demonstrate that it will address a deficiency in the quantity and quality of retail floorspace when assessed against the latest Fife Retail Capacity Study.

2.3.2 Policy 6 requires a sequential test to be undertaken when use classes exceed a specified floor area. In this instance, none of the units would individually exceed these thresholds, however the 500sqm limit for Class 1 use would be exceeded with the cumulative impact of units 1, 2 and 6. The sequential approach is the preferred order of priority of locations for retail and leisure proposals. The order of preference is first – town centres – followed by edge-of-town centres – followed by local centres - followed by out-of-centre commercial centres. A sequential test has therefore been submitted (RPS Group, 2022), which reviewed 33 sites overall. In line

with Policy 6 of FIFEplan, the nearest town centre, Lochgelly, was analysed, followed by the edge of this centre and the local centres of Lochore and Balingry. Finally, the next nearest town centre within the Mid Fife Retail Catchment Zone, Glenrothes, was also considered. Of all the sites which were taken into consideration, none were suitable for various reasons including the size of the units (both too large and too small), availability, suitability and viability. The report goes on to note that localised convenience shopping trips have become more common in recent years, as a result of changing lifestyles including working from home and opportunities for active travel. The location of the application site, on land formerly used as a community centre, is well connected to the surrounding area through a network of footways and footpaths and public transport. The local street network is also conducive to cycling, with a number of destinations within acceptable cycling distance. The report concludes that the proposed development would complement the existing network of centres identified in the Local Development Plan and would have no significant economic impact or negative displacement effects.

2.3.3 Fife Councils Town Centres team has been consulted on this application and noted that the site is classified as 'vacant' (site BEN001) in the Fife Council 'Vacant and Derelict Land Register', therefore redevelopment in this context is welcomed. Further to this, the location of the site, in proximity to a variety of services including primary schools, the local post office as well as residential properties, will also help contribute to a 20-minute neighbourhood.

2.3.4 Objections have been submitted, on the basis of the potential detrimental impact that the proposed development could have on existing businesses in the surrounding area. Whilst business competition is not a material planning consideration, the development must not have a significant adverse impact on the vitality and viability of existing local centres, and the proposed land uses should be compatible with the Local Development Plan allocation. In this instance, it is considered that the proposal would encourage new and additional footfall which could help revitalise the existing units, given the proximity between them. In addition, the provision of local services and creation of local employment opportunities would constitute a positive addition to the area.

2.3.5 Although the site is outwith the Balingry Local Shopping Centre, it is located adjacent to the local shopping centre, within close proximity. The proposal presents an opportunity to expand the existing local shopping centre and enhance the offering it provides, whilst regenerating an allocated vacant site. The proposed development therefore complies with Policies 1 and 6 of the Adopted FIFEplan (2017) and acceptable in this respect.

2.4 Design and Visual Impact

2.4.1 Scottish Planning Policy (2014) (Placemaking) advises that planning should take every opportunity to create high quality places by taking a design-led approach and planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place. These six qualities are distinctive; safe and pleasant; welcoming; adaptable; resource efficient and easy to move around and beyond. This is further expanded upon within the Scottish Government Policy document Designing Streets which states that an emphasis should be placed on design providing a sense of place and taking cognisance of the history and context of the surrounding area and design should connect and relate to the surrounding environment.

2.4.2 FIFEplan Policy 14 and Making Fife's Places requires new development to demonstrate good design and show how the proposals adhere to the principles of good placemaking. Fife Council will apply the six qualities of successful places in order to assess a proposals adherence

to these principles. FIFEplan Policy 10: Amenity states that development proposals must demonstrate that they will not have a significant detrimental impact on amenity in relation to the visual impact on the surrounding area.

2.4.3 A Design and Access Statement (DAS) has been provided in support of this application, which provides a contextual analysis of the proposal in relation to the six qualities of successful places. The proposed building would be centrally located within the site (to the south of the wider site) and set back from Hill Road by approximately 18 metres. The building would comprise of a single storey, with a stepped-up feature corner (unit 1) which would create a focal point where Navitie Park and Hill Road meet to the west of the site. The remainder of the units would be recessed by approximately 8 metres towards the east of the site. Given the topography of the site, which slopes down from the roadside, the proposed building would sit comfortably within the streetscape.

2.4.4 The finishing materials would comprise of anthracite grey composite wall cladding, light grey roof panels, white feature panels and expansive glazing. This would create a simple, modern frontage which would complement the surrounding area. The proposed planting and landscaping to the south (front) and west (side) of the site would also improve the area by establishing a green street frontage. These additions would enhance the quality of the public realm along this route through Ballingry, as required by the LDP allocation (BGY 004). To the rear of the development, a timber post and wire fence is proposed with hedgerow planting, which would lessen the visual impact of the development from the north. The plant and service area to the west of the building would be screened by a timber fence, which would also reduce the visual impact of this element.

2.4.5 The submitted scheme has been amended through the application process to reduce the prominence of car parking with the addition of soft landscaping to provide a green corridor to the front of the site and improve the attractiveness of the public realm. Pedestrian access points are included to south and west of the site to support active travel and provide connectivity to the wider area.

2.4.6 As such, the proposed design and layout would make a positive contribution to the street and would be in accordance with the six qualities of successful place, FIFEplan (2017) and Making Fife's Places. The proposal is therefore acceptable in regard to design and visual impact.

2.5 Residential Amenity Impact

2.5.1 Policy 10 of the Adopted FIFEplan states that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. The policy sets out the considerations in this regard which includes impact from noise, traffic movements, construction impacts and loss of privacy, sunlight and daylight.

2.5.2 PAN 1/2011 (Planning and Noise) establishes the best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It states that it promotes a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected, and that new development continues to support sustainable economic growth. The WHO Guidelines (2015) are referred to as the standards which should be achieved for environmental noise. These

include 50dB for external space with 55dB being considered an upper limit, 35dB for internal space through the day and 30dB for internal space through the night.

2.5.3 A Noise Impact Assessment (RMP, 2022) has been submitted in support of this application, which concluded that noise from deliveries associated with the commercial operations have been assessed and in context of the limited number of deliveries anticipated, the delivery noise is unlikely to have a significant impact on residential properties. In addition, the plant noise has been considered, in line with the requirements of Fife Council.

2.5.4 Fife Council's Environmental Health (Public Protection) Team has been consulted and has noted that the noise from the deliveries is likely to have a significant adverse impact if residential development is proposed on the remaining part of the site allocation. To safeguard the delivery of the wider allocation, a condition has been recommended to limit the deliveries to/dispatches from the premises to the hours of 08:00 - 18:00 Monday to Friday and 09:00 - 13:00 on Saturdays, with no deliveries on Sundays or Bank Holidays. Given the nature of hot foot takeaways, the opening hours would be extended for Unit 4 accordingly.

2.5.5 Public Protection have also commented on the potential noise from fixed plant, stating that 'noise from all plant, machinery or equipment shall be such so that any associated noise complies with NR25 in bedrooms during the night; and NR30 during the day in all habitable rooms when measured within any noise sensitive property with windows open for ventilation'. This would be secured by condition.

2.5.6 Unit 4 would comprise of a hot food takeaway therefore, a condition has been added to ensure that details of any future extraction/ventilation are provided prior to installation. This would control any potential odour as a result of the development.

2.5.7 Given the distance between the proposed building and existing residential properties, and that the unit would be centrally located within the site, there would be no significant impact in terms of loss of sunlight or daylight to neighbouring properties. Similarly, due to the distance between the proposal and neighbouring properties, there would be no loss of privacy for residents of these properties.

2.5.8 Overall, the development would have no detrimental impact in terms of loss of residential amenity and would be in accordance with the Development Plan and National Guidance in this regard, subject to the aforementioned conditions.

2.6 Transport, Access and Parking

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

2.6.2 Policy 1 Part C (2) of the Adopted FIFEplan states that the site must provide required on-site infrastructure or facilities, including transport measures to minimise and manage future levels of traffic generated by the proposal. Policy 3 (Infrastructure and Services) states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner. The Transportation Development Guidelines within the Making Fife's Places Supplementary Guidance (2018) provide details of expected standards to be applied to roads and parking etc.

2.6.3 A Transport Statement (RPS, 2022) has been submitted with this application, which notes that the site 'currently benefits from an excellent level of accessibility to a wide range of local facilities' and 'the local street network is conducive to encouraging cycling and a number of destinations are within acceptable cycling distance'. The Transport Statement also notes that 'the site is well served by public transport, with opportunities for frequent connection to surrounding residential areas, employment, retail, education and leisure destinations in the local area'. As such, the general conclusion is that the site is well served by public transport and well located to allow for sustainable transport methods such as walking and cycling.

2.6.4 Fife Councils Transportation Development Management (TDM) team was consulted on the application and noted that the off-street parking requirement for this development would be 65 spaces in total (49 for Class 1, 11 for Class 2 and 5 for Sui Generis). As the development is within reasonable walking distance of the majority of Ballingry and is promoting use by more sustainable modes of travel with the provision of a 3 metre wide cycleway/footway and cycle parking spaces, the originally proposed 61 spaces was considered to be acceptable to TDM, subject to conditions to secure the provision of these elements.

2.6.5 Following discussions with the agent in relation to the visual impacts of parking and hardstanding to the front of the site and the promotion of sustainable transport methods, however, the parking spaces have been reduced to 47 in total (26 to the front and 21 to the back). TDM was reconsulted following the revision of the site layout and has subsequently recommended refusal of the application. The submitted Transport Statement states that many visitors to the site will be linked trips from existing visitors to the Local Shopping Centre and reduce the need for all car parking to be delivered on this site. Reducing the number of private car parking spaces is likely to support active travel and provides significant public realm benefits. Whilst the parking provision would be less than recommended by Transportation Development Management, the level of proposed parking is considered acceptable in this instance, given the accessible location of the site and the opportunities for sustainable transport methods to be utilised. Therefore, the removal of hardstanding is considered to outweigh the requirement for additional parking on this site.

2.6.6 As such, the proposal is acceptable in regard to transport, access and parking, subject to conditions in the interest of road safety and to ensure the provision of adequate off-street parking facilities.

2.7 Natural Heritage

2.7.1 Policies 1 and 13 of the Adopted FIFEplan only supports proposals where they protect or enhance natural heritage and access assets, including 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 Sites, and Local Landscape Areas; woodlands (including native and other long established woods), and trees and hedgerows that have a landscape, amenity, or nature

conservation value; biodiversity in the wider environment; protected and priority habitats and species; landscape character and views; carbon rich soils (including peat); green networks and greenspaces; and core paths, cycleways, bridleways, existing rights of way, established footpaths and access to water-based recreation.

2.7.2 An Arboricultural Impact Assessment (RPS, 2022) has been provided, which confirmed that the trees to be removed as a result of this development would include individual Trees 16, 17, 19, 20 and 21 as well as Group 4 to 10. Tree 16 is category U, Tree 17 is category B2, Tree 19 is category C1, Trees 20 and 21 are both category U. Category B trees are of moderate quality and value, Category C trees are of low quality and value and Category U trees are those which have been assessed as having no retention value. All but one of the trees to be removed are of low or no quality and value, therefore it is considered acceptable to remove these, given that replacement tree planting is proposed to the front of the site.

2.7.3 A Landscape and Ecological Management Plan (RPS, 2022) has been submitted with this application, which noted that the site is of low ecological value, however the scattered trees and shrubs are considered to be suitable for nesting birds and roosting bats. The likelihood of protected species within the site is generally considered to be low or negligible, however the recommendations within this document have been secured by condition, to ensure that ecological mitigation is carried out before, during and after construction, as applicable. Future maintenance details have also been provided as part of this document, which have also been secured.

2.7.4 A Tree Inspection Report (RPS, 2022) was provided, which identified three trees in and around the site with bat roosting potential. The trees were inspected, and all were considered to have negligible suitability for bats. The report recommended that further pre-construction surveys will be required to confirm that the status of the trees within the application site is unchanged, which has been secured by condition.

2.7.5 Subject to the aforementioned conditions, the proposals is acceptable in terms of natural heritage, and would be in accordance with the Development Plan and National Guidance in this regard.

2.8 Flooding/Drainage

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

2.8.2 Part B (8) and Part C (5) requires flooding and impacts on the water environment to be avoided and sites to provide sustainable urban drainage systems with relevant drainage strategies. Policy 12 of the Adopted Local Development Plan states that development proposals will only be supported where they can demonstrate that they will not increase flooding or flood risk; will not reduce the water conveyance and storage capacity of a functional flood plain; will not detrimentally impact on ecological quality of the water environment; will not detrimentally impact on future options for flood management; will not require new defences against coastal erosion or coastal flooding; and will not increase coastal erosion on the site or elsewhere.

2.8.3 A Drainage Strategy Report (Goodson Associates, 2022) and a Flood Risk Assessment (FRA) (Kaya Consulting Limited, 2022) have been submitted in support of the proposal. The Drainage Strategy Report notes that a traditional drainage system will collect the foul water from each unit and discharge into a carrier pipe to be conveyed to the Scottish Water combined sewer. The surface water will be treated and attenuated before discharging into the existing culverted watercourse (Lochty Burn) at the eastern boundary of the site. The FRA notes that there is a risk of flooding within the site, due to surface water runoff and/or water unable to enter the Scottish Water sewer system. As the flooding is due to surface water, it is recommended that flow pathways and flood storage within the site is maintained post-development. The FRA concludes that the development is not predicted to increase flood levels elsewhere.

2.8.4 Fife Councils Structural Services team has reviewed the information provided and have no comments to make. Scottish Water has also reviewed the application and has confirmed that there are no objections. In addition, it was confirmed that there is currently sufficient capacity in the Glenfarg Water Treatment works and capacity for a foul only connection in the Levenmouth Waste Water Treatment works to service the development.

2.8.5 Concerns were raised in representations about flooding and drainage, however these matters have been accepted by Scottish Water and Fife Councils Structural Services team, as outlined above. As such, the development would comply with the aforementioned policies in regard to flooding and drainage.

2.9 Land/Air Quality and Unstable Land

2.9.1 FIFEplan policies 1 and 10 apply in this instance. Development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. In this instance this policy will be applied to assess the impact the proposed development would have on contaminated/unstable land. PAN33 advises that suspected and actual contamination and instability should be investigated and, if necessary, remediated to ensure that sites are suitable for their proposed end use.

2.9.2 A Geo-Environmental Desk Study Report (Mason Evans, 2021) has been submitted with this application, which concluded that further investigations would be required. It was also recommended that a capping layer for areas of landscaping and that the treatment of invasive species is required for selected parts of the site.

2.9.3 Fife Council's Land & Air Quality Team has been consulted on this application and has noted the findings of the report. The team has recommended that a Remedial Action Statement is submitted for comment/approval before any development work begins on-site. This document should include details of the capping material to be used and the treatment methods to be used for the invasive species. The document should also include a verification plan specifying when, how and by whom the remedial measures will be inspected/verified. In addition, the Remedial Action Statement should confirm that the monitoring boreholes at the site will be suitably decommissioned, and confirmation of their decommissioning should be provided within the Verification Report which will be required on completion of the development works.

2.9.4 In regard to air quality, the Land and Air Quality team have noted that given the open nature of the site and the immediate surrounding area, an Air Quality Assessment is not necessary in this case.

2.9.5 Subject to the aforementioned conditions, the proposals is acceptable in terms of contaminated land and air quality and would be in accordance with the Development Plan and National Guidance in this regard.

2.10 Low Carbon

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

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

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

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

2.10.3 All development should encourage and facilitate the use of sustainable transport appropriate to the development, promoting in the following order of priority: walking, cycling, public transport, cars.

2.10.4 Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) notes that small and local applications will be expected to provide information on the energy efficiency measures and energy generating technologies which will be incorporated into their proposal. In addition, planning application applicants are expected to submit a completed sustainability development checklist.

2.10.5 A Low Carbon Checklist has been provided, which states that the development would be constructed in compliance with low carbon energy/efficient principles promoting a highly thermal efficient building envelope where all walls, floors, roofs, windows, and doors would be highly insulated to limit carbon dioxide omissions. The proposed curtain wall glazing to the shop fronts would incorporate solar glazing which would mitigate solar gain and glare, along with the

incorporation of canopy feature band details running over the glazed areas to aid in reducing solar glare. In addition, all lighting would be low energy LED fittings. Specific construction methods would be utilised to increase recycling and reduce waste, including minimising transportation of such goods. Waste recycling would be promoted with the incorporation of a secure bin storage compound with separate storage of dry recyclable waste and food waste. Vehicle charging points would be incorporated to encourage low energy travel to enhance the wellbeing economy and zero emissions target. In addition, sustainable transport methods would be encouraged with the provision of cycle parking space and pedestrian connections.

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

CONSULTATIONS

Town Centre Development Unit	Development of vacant land is welcomed and the proposal would help contribute towards a 20-minute-neighbourhood. The development would be an improvement over maintaining the status quo in regard to the existing retail offering.
Land And Air Quality, Protective Services	Conditions have been recommended.
Scottish Water	No objections.
Community Council	No response.
TDM, Planning Services	Not supported on pedestrian and road safety grounds. After discussions with the agent, the case officer has accepted, on balance, that a reduction in car parking spaces would be beneficial, to allow for an enhanced public realm in this instance.
Structural Services - Flooding, Shoreline And Harbours	No further comments to make.
Transportation And Environmental Services - Operations Team	No response.
Environmental Health (Public Protection)	Conditions have been recommended, to limit the impact of the development on nearby sensitive receptors.

REPRESENTATIONS

Twelve objections have been submitted (including one petition from Benarty local shopkeepers, as petitions are not considered as individual representations), which raise the following issues:

- impact on the existing businesses; this has been addressed in section 2.3 of this report.
- existing units are empty and can be used - only the current proposal can be assessed at this stage.

- drainage/flooding; this has been addressed in section 2.8 of this report.

Nine support comments have been submitted, which noted:

- positive community impacts including investment, regeneration, job creation and provision of services - This has been addressed in section 2.3 of this report.
- development of vacant land; this has been addressed in section 2.3 of this report.
- additional parking would help alleviate existing parking issues; this has been addressed in section 2.6 of this report.

One general comment has been received which requested the distance of the proposal to their property, which has been responded to.

CONCLUSIONS

The proposal is acceptable in meeting the terms of National Guidance, the Development Plan and other relevant guidance. The proposal is compatible with the area in terms of land use, design and scale and will not cause any significant detrimental impact to amenity, road safety, natural heritage, drainage or contaminated land and air quality.

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. Unless otherwise agreed in writing, there shall be no deliveries to or dispatches from the Class 1 and Class 2 premises outside the hours of 08:00 and 18:00 Monday to Friday and 09:00 and 13:00 Saturdays (excluding the Sui Generis Unit). No deliveries shall take place on Sundays or Bank Holidays.

Reason: In order to safeguard the amenity of adjacent residential properties..

3. Unless otherwise agreed in writing, there shall be no deliveries to or dispatches from the Sui Generis premises outside the hours of 08:00 and 22:00.

Reason: In order to safeguard the amenity of adjacent residential properties.

4. The total noise from all plant, machinery or equipment shall be such so that any associated noise complies with NR25 in bedrooms during the night; and NR30 during the day in all habitable rooms when measured within any noise sensitive property with windows open for ventilation.

For the avoidance of doubt, day-time shall be 07:00-23:00hrs and night time shall be 23:00-07:00hrs

Reason: In the interests of residential amenity and the quiet enjoyment of the neighbourhood.

5. Prior to the occupation of the first unit, all works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Making Fife's Places Appendix G and the SCOTS National Roads Guide. These works shall include the provision and construction of the new 3 metre wide cycleway/footway along the Hill Road frontage of the site and the two vehicular crossings of the footway at the new junctions on Navitie Park.

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

6. Within 3 months of approval being granted and prior to any works commencing on site, detailed plans showing the design and specification of the new raised junction speed table on Hill Road at the proposed new vehicular access shall be submitted for approval by Fife Council as Planning Authority. Once approved, the raised junction speed table and ancillary works shall be constructed in accordance with the current Fife Council Making Fife's Places Appendix G and the SCOTS National Roads Guide. These works along with the removal of the existing speed cushions shall be completed and operational, prior to the occupation of the first unit.

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

7. Prior to the occupation of the first unit, there shall be provided within the curtilage of the site 6 covered and secure cycle parking spaces, in accordance with the current Fife Council Making Fife's Places Appendix G . The cycle parking spaces shall be retained for the lifetime of the development.

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

8. Prior to the commencement of construction operations on site, adequate wheel cleaning facilities approved by Fife Council as Planning Authority shall be provided and maintained in an operational manner throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles on to the public roads.

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

9. Prior to the occupation of the first unit, there shall be provided within the curtilage of the site 47 parking spaces for vehicles. The parking spaces shall be retained for the lifetime of the development

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

10. Before, during and after construction, the mitigation measures and management actions as outlined in the Landscape and Ecological Management Plan by RPS Group Plc (dated February 2022) shall be implemented in full, unless otherwise agreed by this Planning Authority.

Reason: In the interests of ecology and habitat protection; to ensure that the development does not have an unacceptable impact on natural heritage assets.

11. NO DEVELOPMENT SHALL COMMENCE ON SITE until the recommendations outlined in the Tree Inspection Report by RPS Group Plc (dated February 2022) have been implemented in full, unless otherwise agreed by this Planning Authority.

Reason: In the interests of biodiversity and habitat protection; to ensure the development does not have an unacceptable impact on natural heritage assets.

12. NO DEVELOPMENT SHALL COMMENCE ON SITE until a suitable Remedial Action Statement has been submitted to and approved in writing by the planning authority. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures.

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

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

13. 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. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement — or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site — all work on site (save for site investigation work) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the local planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement — or any approved revised Remedial Action Statement — a Verification Report shall be submitted by the developer to the local planning authority.

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

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

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

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

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

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

15. BEFORE THE SUI GENERIS UNIT IS OCCUPIED, a scheme designed to prevent fumes, smoke, or odours causing a nuisance shall be submitted for the prior written approval of Fife Council as Planning Authority. Upon approval all matters detailed in the scheme shall be carried out in accordance with the scheme, prior to the use commencing, unless otherwise agreed in writing by the Planning Authority.

Reason: In order to protect the amenity of nearby residents.

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 - Revised Draft (2022)

SPP - Scottish Planning Policy (2014)

PAN 1/2011 Planning and Noise (2011)

PAN 82: Local Authority Interest Developments

Development Plan and Supplementary Guidance:

Adopted FIFEplan (Fife Local Development Plan) (2017)

Fife Councils Transportation Development Guidelines as an appendix to Making Fife's Places Supplementary Guidance (2018)

Making Fife's Places Supplementary Guidance (2018)

Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2009)

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

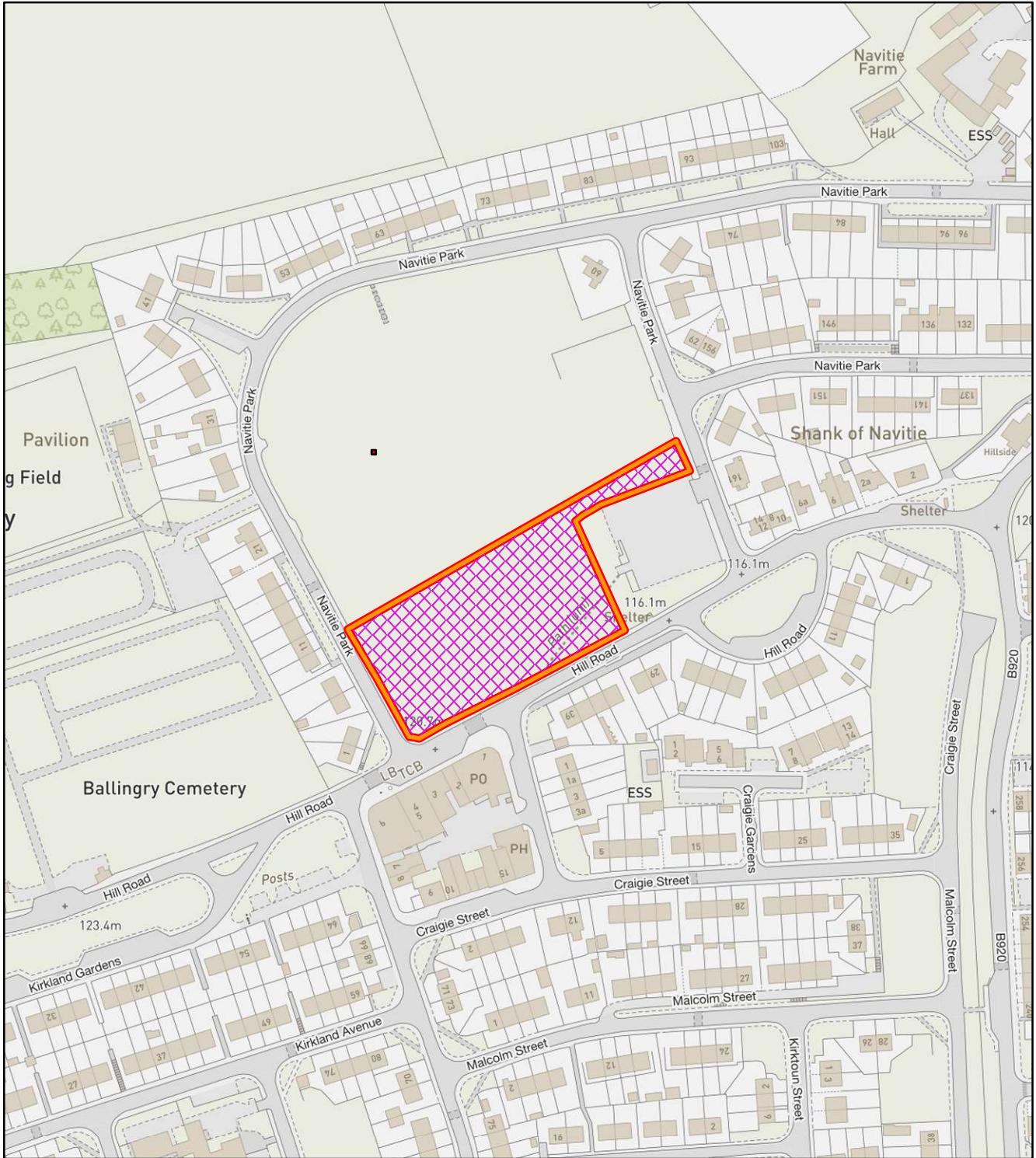
Report prepared by Sarah Purves, Planner and Case Officer.

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

Date Printed 17/11/2022

22/01074/FULL

Benarty Community Centre Hill Road Ballingry



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 5

APPLICATION FOR FULL PLANNING PERMISSION REF: 21/02186/FULL

**SITE ADDRESS: KITTY MCGINTY'S AULD POST HOTEL 1 HUNTER STREET,
KIRKCALDY, FIFE, KY1 1ED**

**PROPOSAL: CHANGE OF USE FROM NIGHTCLUB (CLASS 11) TO FORM 19
FLATTED DWELLINGS, INCLUDING ERECTION OF THREE
STOREY EXTENSION, INSTALLATION OF REPLACEMENT
WINDOWS AND DOORS AND PARTIAL DEMOLITION OF
LISTED BUILDING**

**APPLICANT: HUNTER STREET PROPERTIES LTD
4A GLENFINLAS STREET EDINBURGH UK**

**WARD NO: W5R11
Kirkcaldy Central**

CASE OFFICER: Scott McInroy

DATE REGISTERED: 05/08/2021

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 representations have been submitted which are contrary to officer's recommendation

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional approval requiring a legal agreement

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise. Under Section 64(1) and Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, in determining the application the planning authority should pay special attention to the desirability of preserving or enhancing the character or appearance of the relevant designated building and area.

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

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

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

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

1.0 Background

1.1 The application site relates to the former Kitty's nightclub and Kandy's bar which sits on the corner of Hunter Street and Wemyssfield in the centre of Kirkcaldy. The site lies within the wider central town centre area of Kirkcaldy as well as the defined Abbotshall and Central Kirkcaldy Conservation Area and is a Category B Listed Building. The main building on the site was originally a post office. It is partly single storey and partly two storeys with attic. The site also includes a number of non-original outbuildings and the former Church to the northeast of the post office building which has been incorporated into the former Kandys bar property. To the northeast of the site on Hunter Street there is a one and a half storey commercial property. To the east of the site on Wemyssfield, there is a large office building. A small part of the site to the northeast faces the rear gardens of the residential properties on St Brycedale Road. Opposite the site to the southeast on Hunter Street there is a terrace of traditional 2 storey with attic buildings with retail units at ground floor and residential flats above. Opposite the site to the south on Wemyssfield is the three storey Kirkcaldy Town House which houses Fife Council facilities. There is a public open space to the west of the Town House. The site is accessed from Hunter Street.

1.2 Planning permission is sought to convert the existing disused former nightclub building to form a residential development of nineteen dwellings which will ensure the long-term future of the listed building. A new first floor would be introduced to the single storey west wing element of the existing building facing on to Wemyssfield to form four two-storey houses. (Plots 1 to 4). These would be accessed from the communal garden area to the rear of the building. The rear wall in this area which had previously been removed would be reinstated. The large two storey windows to the front of the property would be retained and would serve the proposed double height living space areas. Dormer windows and rooflights would also be proposed to the rear elevation,

Six flats would be formed within the east wing of the existing building facing on to Hunter Street. Three main door flats at ground floor level, two flats at first floor level, and a small one-bedroom flat to the attic storey. The existing stair to the north corner of this wing would be removed. A new stair would also be proposed which would serve the upper storey flats in the east wing and the new extension.

The former church building on site is also proposed to be demolished and replaced with a new three storey extension which would contain nine flats in total. The building is constructed of sandstone with a slate roof. Only the gable head of the church is visible to the front above the later frontage added in 1960. The gable has a pedimented design with a circular window with segmented surround. The east elevation has two round arched windows with ashlar surrounds, with a similar window to a later extension to the east. The building stopped being used as a church in 1920 and has since been a telephone exchange, a sorting office, a suite for a hotel, and its most recent use as part of a bar/diner. The front of the new extension facing Hunter Street would be set back from the existing building in line with the adjacent Tinto Cottage. The extension would also be subservient to the existing building in terms of its proposed scale and mass. A vertical slate top storey would further reduce the visual scale of the building. The extension would be accessed via the existing stone pedestrian archway to the east of the existing building which would be retained. There will also be access from the parking and communal garden to the rear.

1.3 The previous planning history for this site is as follows:

- 01/00677/CADV - Display of illuminated sign and painting of mural (in retrospect) - approved 16.05.2001
- 01/00716/CFULL - Installation of one external awning, floodlighting of building and painting of mural (part retrospective) - approved 16.05.2001
- 01/00718/CLBC - Listed building consent for installation of one external awning, external floodlighting and display of illuminated sign and painting of mural (part retrospective) - approved 28.05.2001
- 06/02362/CLBC - Listed building consent for display of 1 internally illuminated box sign - refused 30.03.2007
- 06/02363/CLBC - Listed Building Consent for erection of single storey extension and emergency fire escape - approved 26.01.2007
- 06/02364/CADV - Display of 1 internally illuminated box sign - refused 30.03.2007

- 06/02408/CFULL - Alterations and rear extension including formation of new fire escape - approved 13.12.2006
- 06/04351/CFULL - Formation of beer garden, smoking area and alterations to building to form access - approved 05.07.2007
- 07/00309/CLBC - Listed building consent for external alterations to create doors - approved 06.07.2007
- 07/01906/CLBC - Listed building consent for the erection of shelter with timber screen fence and mesh screen and erection of metal railings to existing wall (in retrospect) - refused 31.10.2008
- 07/01908/CFULL - Erection of a shelter with timber screen fence and mesh screen and erection of metal railings to existing wall (in retrospect) - refused 31.10.2008
- 07/03558/CFULL - Change of use from staff accommodation (class 7) to office premises (class 2) - approved 16.01.2008
- 08/00409/CFULL - Partial change of use from bar diner and hotel (Class 7) to nightclub diner (Class 3) and internal alterations to hotel to form - approved 25.04.2008
- 09/02987/FULL - Installation of smoking shelter (in retrospect) - approved 27.09.2010
- 11/02029/FULL - Change of use of first floor hotel to nightclub and formation of new main entrance - approved 13.06.2011
- 11/02037/LBC - Listed building consent for formation of new main entrance and internal refurbishment - approved 05.08.2011
- 14/02045/FULL - External alterations to nightclub to create smoking shelter - approved 20.11.2014
- 14/02049/LBC - Listed Building Consent for alterations to nightclub to create smoking shelter - approved 15.12.2014
- 16/04018/FULL - External alterations to nightclub/diner (Class 3) including re-painting and installation of new windows/door - approved 18.05.2017
- 16/04019/LBC - Listed Building Consent for external alterations including re-painting and installation of new windows/door and sign - approved 18.05.2017
- 17/03996/FULL - Change of use of part of ground floor (cloakroom) to form barber shop (Class 1) - approved 18.04.2018
- 17/04001/LBC - Listed building consent for internal alterations - approved 13.04.2018

1.4 Application Process

1.4.1 The application, due to the size of the site and the overall scale of proposals, constitutes a "Local" application as defined by the Hierarchy of Developments Regulations and as such did not require to be subject of a Proposal of Application Notice.

1.4.2 A site visit was carried out on 17.11.2022

1.4.3 The application was advertised in The Courier newspaper on 05.08.2021 and 04.08.2022

2.0 PLANNING ASSESSMENT

2.1 The determination of this application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The issues to be assessed against the development plan and other guidance are as follows:-

- Principle of Development
- Residential Amenity
- Design/Visual Impact on Conservation Area/Listed Building
- Garden Ground
- Road Safety
- Flooding/Drainage
- Affordable Housing
- Strategic Transport Interventions
- Education
- Low Carbon
- HMO

2.2 Principle of Development

2.2.1 The national context for new development is set out within the Scottish Planning Policy (2014). This document emphasises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place.

2.2.2 Policy 1, Part A, of the Adopted FIFEplan stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan. Policy 1, Part B, of FIFEplan requires development to comply with relevant town centre spatial frameworks. Policy 6 of the adopted FIFEplan states that development proposals will be supported where they comply with the respective uses and roles of the defined network of centres as shown in Figure 6.2 and the Spatial Frameworks referenced in Figure 6.5, in a core retail area, for a change of use to be considered, the premises must have been vacant for more than two years. Figure 6.5 of Policy 6 states that in the wider central area of Kirkcaldy, Use Classes 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and sui generis will be supported.

2.2.3 Objections have been raised regarding the principle of development. In this instance, the application is for the change of use of the ground and first floors (Class 11 nightclub) to 19 flatted dwelling (sui generis). Figure 6.5 states that Use Classes 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and sui generis will be supported in wider central area of Kirkcaldy. As the application site is within

the wider central area of Kirkcaldy and the proposed use for this site is sui generis, they comply with Figure 6.5 of policy 6.

2.2.4 It is therefore considered that the proposal complies with Policy 1, part b criterion 4 and Policy 6 criterion 2 and Figure 6.5 of policy 6 of the Adopted FIFEplan in this regard in that the proposed use is acceptable in the wider central area of Kirkcaldy. The overall acceptability of such a development must however also meet other policy criteria and these issues are considered in detail below.

2.3 Residential Amenity

2.3.1 Policy 1 and 10 of the adopted FIFEplan supports development proposals where they are compatible with neighbouring uses and protect personal privacy and amenity.

2.3.2 Fife Council's Planning Customer Guidelines on Daylight and Sunlight seeks to ensure that adequate levels of natural light are achieved in new developments and unacceptable impacts on light to nearby properties are avoided.

2.3.3 PAN 1/2011 promotes the principle of how noise issues should be taken into consideration with determining an application. The above FIFEplan Policies set out the importance of encouraging appropriate forms of development in the interests of residential amenity. They generally advise that development proposals should be compatible with their surroundings in terms of their relationship to existing dwellings, and that they should not adversely affect the privacy and amenity of neighbours.

2.3.4 The REHIS Briefing Note 017 Noise Guidance for New Developments advises that only in exceptional circumstances should satisfactory internal noise levels only be achievable with windows closed and other means of ventilation provided. Predictions of internal noise levels within noise sensitive premises must be calculated based on an open window scenario. For the purposes of this guidance exceptional circumstances are considered to be proposals which aim to promote sustainable development and transport within the local authority area, and which would provide benefits such as:

- (a) reducing urban sprawl
- (b) reducing uptake of greenfield sites
- (c) promoting higher levels of density near transport hubs, town and local centres
- (d) meeting specific needs identified in the local development plan

2.3.5 The application site is located on Hunter Street and has commercial premises to the north and east, commercial/residential properties to the south and public building/public square to the west. The applicant has submitted a noise report which takes into account the impact of the primary surrounding noise sources which are road traffic from Hunter Street and bus activity from the nearby bus station. The noise report concluded that suitable glazing would have to be provided for the bedroom areas that front onto Hunter Street to reduce noise impacts.

2.3.6 The mitigation measures proposed include closed windows with façade glazing and ventilation specifications for the rear façade to achieve recognised standards of comfort for indoor ambient noise. Fife Council's Public and Environmental Protection Team (PEPT) has assessed the proposal and associated noise report and concur with the conclusions; therefore, they have no objections to the proposed development. A draft condition has been included for Member's consideration requiring these mitigation measures should be provided prior to occupation should they resolve to approve the application in line with the Service

recommendation. As the proposed development would promote higher levels of density near transport hubs in the town centre, it is considered to satisfy the exceptional circumstances, and as such, is deemed to be acceptable. Thus, it is concluded that the proposal is deemed to meet the terms of residential amenity as set out through Development Plan policy and PAN 1/2011 respectively

2.3.7 Objections have been raised regarding potential overlooking into the garden area and residential properties which sit to the northeast of the application site. The rear garden wall of these properties sits over 18m away from the new build element, while the properties themselves sit over 35m away, therefore there will not be a significant impact on the residential amenity of these properties. The front elevation of the new build element of the proposal is set back from Hunter Street and is over 20m from the first-floor flats on the opposite side of Hunter Street, therefore this elevation would not create any impact on the residential amenity of the premises on the opposite side of Hunter Street. The rear elevation of the new build element looks onto the communal car park area and is over 18m away from the adjacent commercial premises so there would be no impact on the residential amenity of the proposed dwellings. The northwest elevation of the new build would look onto the communal garden area and sit at acute angle to the existing building; therefore, this elevation would not create any residential impact on the surrounding area. The northeast elevation would look onto the rear area of the adjacent commercial premises so therefore this elevation would not impact on the residential amenity of the surrounding area.

2.3.8 The ground floor windows of the front of the existing building would not impact on the residential amenity of the surrounding area as they front onto busy public roads and face onto commercial premises, a public building (Town House) and public square. The first-floor windows of the existing building that front onto Hunter Street would be less than 18m away from the first-floor property of those on the opposite side of the road but given the angle of the building, it is considered that these windows would not create any significant impact on the privacy of those on the opposite side of the street. The first-floor windows of the existing building that front onto Hunter Street would not create any impact on the residential amenity as they would look onto the public square. The rear windows of the existing building would look onto the communal garden and car park area and are over 18m away from the adjacent commercial premises so therefore would be no impact on the residential amenity of the proposed flats.

2.3.9 It is considered that the proposed change of use and proposed extension comply with policy 10 criterion 3 in that adjacent existing properties would not have a significant detrimental impact on the amenity of the proposed residential properties, nor would there be a detrimental impact on surrounding residential or commercial premises arising from the proposed dwellings. The proposal therefore complies with the adopted FIFEplan (2017) in this respect.

2.4 Design/Visual Impact on Conservation Area/Listed Building

2.4.1 A new first floor would be introduced to the single storey west wing of the existing building facing on to Wemyssfield to form four two-storey houses. (Plots 1 to 4). These would be accessed from the communal garden area to the rear of the building. The rear wall in this area has previously been removed to form the large dance hall of the night club and would be reinstated. The large two storey windows to the front of the property would be retained with a double height living space. Dormer windows and rooflights would be introduced to the rear elevation.

2.4.2 Six flats would be formed within the east wing of the existing building facing on to Hunter Street. Three main door flats at ground floor level, two flats at first floor level, and a small one-bedroom flat to the attic storey. The existing stair to the north corner of this wing would be removed. A new stair will serve the upper storey flats in the east wing and the new extension. The new stair would comply with the building regulation requirements for accessibility and fire safety.

2.4.3 A number of external alterations to the existing building are to be made. Two original windows at ground floor level on the eastern part of the Hunter Street elevation have been altered at some time in the past to form door openings. These two openings are proposed to be built up in stone reclaimed from downtakings and where possible to reinstate the original window pattern with replacement stone transoms, mullions and sills to match existing. Similarly, an original door on the circular corner of the building with a pediment over has been altered in the past to form a window opening. The window and nonoriginal stonework below would be removed to reinstate a door opening in this location. The original main entrance to the Post Office currently has a non-original pair of modern flush panel fire escape doors with a signage panel above. These doors would be replaced with new fixed timber panelled 'dummy' doors with an arched fixed light above more in keeping with the character of the building.

2.4.4 The applicant has commissioned a window condition survey which concluded that the existing windows are beyond repair and in need of replacement. To meet noise requirements, it was concluded that bedrooms facing on to Hunter Street would require an enhanced double-glazing specification. Windows to Living Rooms and Bedrooms not facing onto Hunter Street would require standard double-glazed units. All trickle ventilators would also require an enhanced level of acoustic performance. To meet the required sound reduction, and provide a high level of thermal performance, it is proposed that the existing windows will be replaced with timber sash and case windows with double glazed units. Where existing windows have been altered and do not currently have the original glazing pattern, the replacement windows will reinstate the original glazing pattern. The existing windows are currently covered in advertising at ground floor level and blacked out at first floor level. The applicant has provided sufficient information to show that the existing windows are beyond repair and the proposed replacement windows are acceptable in this context.

2.4.5 The roof is proposed to be re-slatted using existing slates where possible. Any shortfall on the front elevations being made up with slate from the rear elevations. Any reclaimed slate to be used on the existing building to match the existing slate as closely as possible for colour size and thickness. All existing leadwork is proposed to be repaired or replaced like for like.

2.4.6 Internally the existing building would be reconfigured to create 9 flats. Fife Council's Built Heritage officers have also commented that the existing building still maintains areas of internal significance including the existing staircase. The existing staircase to the northeast corner of the building is to be removed as it would not comply with current building regulations requirements for accessibility and fire safety in a residential building. Given the layout of the existing stair with the number of risers between landings and that there are currently doors which opening across landings in an unsafe manner it would be unviable to keep the existing stairwell in any new development. A new stair will be provided within the proposed extension which will be able to serve the upper storey flats to both the extension and the existing building. This will allow the stair to be fully compliant with the current Building Regulations and provide ventilated protected lobbies without compromising the layout of the flats. It is considered that the proposed extension and proposed finishing materials on this elevation is acceptable and enhances the design of the building here as the existing ground floor elevation with its upvc windows and dry dash render

has no architectural value. Although the existing stairwell is of significance in terms of the buildings listing, its retention would not support bringing the building back into beneficial use. Given that this proposal would bring a prime town centre vacant building back into use, it is considered that the internal alterations are acceptable.

2.4.7 Objections have been raised regarding the proposed demolition of the existing church on site. The existing church has been extended and altered over time, with little of the original building remaining. Consequently, Built Heritage officers advised that the remains of the former church are of limited heritage significance and the proposed demolition would have little impact on the conservation area. The new extension would be three storeys high and would contain nine flats in total. The front of the extension facing Hunter Street would be set back from the existing building in line with the adjacent Tinto Cottage. The extension would be subservient to the existing building in scale and mass. A vertical slate top storey would further reduce the visual scale of the building. The extension would be accessed via the existing stone pedestrian archway to the east of the existing building which would be retained. There would also be access from the parking and communal garden to the rear.

2.4.8 It is considered that the design of the alterations and extension, are suitable in terms of proportion and scale, would use appropriate external traditional materials and overall would respect the character and appearance of the building and its setting, the streetscene and wider conservation area whilst securing the long-term future of this vacant town centre B Listed Building.

2.5 Garden Ground

2.5.1 Fife Council's Planning Customer Guidelines on Garden Ground advises that new flats should have at least 50m² of private garden ground. In this case, no private garden ground are proposed.

2.5.2 Objections have been made with regard to the lack of sufficient garden ground. Whilst no private garden ground is proposed, there would be over 100sqm of communal garden area provided in the courtyard of the development. Fife Council's Planning Customer Guidelines on Garden Ground, allows for relaxation of the garden ground standards where environmental improvements would occur within conservation areas and in sites in town centre locations where higher densities and limited outdoor amenity areas are part of the existing characteristics of the area. The nearest outdoor amenity area is 180m to the northwest of the site and is accessible by footpath and pedestrian crossing. This application is considered to meet all the relaxation criteria and therefore is supportable in this regard.

2.6 Road Safety

2.6.1 Policies 3 and 10 of the Adopted FIFEplan (2017) and Fife Council Making Fife Places Supplementary Guidance (2018) apply with regard to this proposal.

2.6.2 Objections have been raised regarding insufficient parking provision and road safety. A Parking Overview Statement has been submitted in support of the planning application. The POS carries out an assessment of the off-street parking required by the proposed flats and notes that the site is located within the Outer Core of Kirkcaldy, but on the boundary of the Inner Zone. The POS contends that given that the site is within a short walking distance of the bus station, railway station and the town centre that the Inner Core reduction would be appropriate. On this basis the parking requirement for the development would be 19 unallocated car parking

spaces within the curtilage of the site. The proposed site plan shows the provision of 18 parking spaces, a shortfall of 1 parking space. The POS notes that "the parking spaces would be allocated to specific flats" which is not acceptable as this would restrict the use of the car park - a resident would have the use of 1 dedicated parking space rather than a choice of available parking spaces. However, a condition can be added requiring that the parking spaces remain communal. .

2.6.3. The proposed provision of 20 cycle parking spaces is considered acceptable. Fife Councils TDM has no objections to this proposal subject to conditions regarding construction, driveway gradient, parking provision, cycle spaces and wheel cleaning facilities. As the existing property is located within the town centre close to local amenities and is within close proximity to sustainable modes of transport (local train station and multiple bus stops on the High Street) and would bring a long-term vacant building within the town centre back into use, the proposal is considered to be acceptable in this regard.

2.7 Contaminated Land/Land Stability

2.7.1 Policy 1 and 10 of the Adopted FIFEplan advises 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.

2.7.2 Fife Council's Contaminated Land team has been consulted and has advised that it has no objections to the proposed development subject to a condition advising the Local Authority that if any unexpected materials or conditions such as made-ground, gassing, odours, asbestos, hydrocarbon staining, or other apparent contamination are encountered during the development work. Conditions regarding this matter have, therefore, been attached to this recommendation. The proposal would, therefore, be acceptable subject to this condition being complied with and would comply with Development Plan Policy in this respect.

2.7.3 As the development falls within a defined Development High Risk Area, the Coal Authority were consulted. The Coal Authority concurred with the findings of the submitted Coal Mine Risk Assessment and have no objections to this proposal.

2.8 Water/Drainage/Flood Risk

2.8.1 Policy 1 and 3 of the FIFEplan 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. Such measures will include foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS).

2.8.2 Policy 1 and 12 of the FIFEplan advises that development proposals will only be supported where they can demonstrate that they will not, individually or cumulatively increase flooding or flood risk from all sources (including surface water drainage measures) on the site or elsewhere, that they will not reduce the water conveyance and storage capacity of a functional flood plain or detrimentally impact on future options for flood management and that they will not detrimentally impact on ecological quality of the water environment, including its natural characteristics, river engineering works, or recreational use.

2.8.3 Fife Council's Harbours, Flood and Coast team have been consulted on this application and have confirmed that sufficient drainage information has been provided and certified. Scottish Water have also confirmed acceptance of the proposed surface water discharge rate. The proposed development would, therefore, have no detrimental impact on future options for flood management and would incorporate adequate measures and services to manage surface water runoff.

2.8.4 The proposed development would be connected to the public drainage and public water supply network and Scottish Water have offered no objections. It is considered that the proposed units could be connected to the existing water supply and it should be noted that the applicant would also need to make an application to Scottish Water before proceeding with the development. The proposal would therefore be acceptable and would comply with Development Plan Policy in this respect.

2.9 Affordable Housing

2.9.1 Policy 1, Part C, Criterion 1 of the Adopted FIFEplan states that development proposals must meet the requirements for affordable housing. Policy 2 of the Adopted FIFEplan states that open market housing development must provide affordable housing at the levels for each Housing Market Area (HMA), consistent with the Affordable Housing Supplementary Guidance. This should be fully integrated into new development and be indistinguishable from other forms of housing. In order to achieve mixed and balanced communities, mixed tenure developments will be promoted. Policy 4 of Adopted FIFEplan advises that developer contributions will be required from development if it will have an adverse impact on strategic infrastructure capacity or have an adverse community impact. Fife Council's Affordable Housing Supplementary Guidance (2018) considers that housing proposals must accord with the Development Plan housing land requirement. The guidance also sets out a number of exemptions, whereby the Affordable Housing Policy would apply or not. It states that a development would be exempt from the requirement to provide affordable housing where the development involves the re-use of long term vacant or derelict land (sites on the Scottish Vacant and Derelict Land Register) within a defined settlement.

2.9.2 Fife Council's Affordable Housing team has been consulted and has advised that in line with the Affordable Housing supplementary guidance, Fife Council would require that 15% of the total units on this part of the site be made available as affordable. As the affordable housing requirement would equate to less than 3 units, the developer is required to provide serviced land on another site or pay a commuted sum in lieu of on-site provision in accordance with Section 5.3 of the Supplementary Guidance. In this instance Fife council would require a commuted sum of £17,100 towards affordable housing provision. This matter would be secured through a planning obligation. Therefore, the proposal would be acceptable and would comply with the Development Plan in this respect subject to a planning obligation.

2.10 Strategic Transport Interventions

2.10.1 Fife Council's Planning Obligation Framework advises that Fife Council undertook an assessment of traffic impacts of the new development proposed within the Local Development Plan. The focus of these studies was the cumulative impact on the strategic road network. The studies identified or confirmed a requirement for various strategic transport improvements. The Draft Guidance then considers the spatial relationship between contributing proposed development types and the identified strategic transport interventions. The greater the distance

a development site is from an identified strategic infrastructure type the less it pays. The obligation costs per house for contributing development within the defined zones of Dunfermline, Kirkcaldy and Glenrothes is set out in figure 3 of the Draft Guidance.

2.10.2 As this application is for the renovation of an existing listed building and for the re-use of brownfield land, this application is exempt from Strategic Transport intervention contributions as set out in paragraph 3.7 of Fife Council's Planning Obligations Framework Guidance (2022).

2.11 Education

2.11.1 Fife Council's Planning Obligations Framework Guidance (2022) advises that new residential developments across Fife will have an impact on the school estate and certain types of development will be required to provide education contributions where there is a shortfall in local school capacity. These contributions will only be required when the need for additional school capacity is brought about directly through the impact of the development and these obligations will take the form of either direct school and nursery provision or financial contributions towards the cost of creating additional capacity for increased pupil numbers.

2.11.2 Objections have been raised regarding the lack of education provision. Fife Council's Education Services has been consulted on this application and has advised the development is within the catchment area of Kirkcaldy West Primary School, St Marie's Roman Catholic Primary School, Balwearie High School and St Andrews Roman Catholic High School. Education Services advise that there is a capacity issue at Kirkcaldy West Primary School and Balwearie High School, however, there is no capacity risk expected at St Marie's Roman Catholic Primary School or St Andrews Roman Catholic High School. Fife Council's Education Services has, therefore requested a contribution to address the capacity risk at Kirkcaldy West Primary School and Balwearie High School. This consultation response was received in September 2021, advising that in order to support the proposal in terms of education capacity availability for the Kirkcaldy West Primary School catchment, the development should be phased over a two-year period. Given that there has already been one academic year passed since the application was lodged and factoring in the likelihood of this development commencing halfway through another academic year, should it be approved by Members, then this recommended two-year period would be met. Subsequently there would be anticipated projected spare capacity for this school catchment and so no developer contribution would be required, and the proposal would meet policy requirements in this regard.

2.11.3 Fife Council's Education Services has also advised that as per the Guidance (paragraph 5.33, Figure 12), a Kirkcaldy wide approach will be utilised to address secondary school capacity issues in a cumulative manner to meet the cost of development-related education improvements. As there is a Kirkcaldy wide strategic approach, as detailed in the Obligations Framework to address school capacities across all the secondary schools in Kirkcaldy and as there is currently no critical capacity issues across Kirkcaldy as a whole when taking account of all the secondary schools it is considered that this development would not result in a critical impact on secondary school provision. As such and given that this site is exempt from education contributions unless there is a critical capacity issue there is no requirement for this development to pay secondary school contributions. The proposal would, therefore, comply with the Development Plan in this respect and would be acceptable in this instance.

2.12 Houses in Multiple Occupation

2.12.1 Policy 2 of the Adopted FIFEplan states that the Council supports the future development of purpose-built residential accommodation which can specifically serve the needs of those who may benefit from this type of accommodation. At the same time there is a need to protect new development from being priced out of the market for general needs and affordable homes. The policy therefore prohibits the use of new houses and flats as HMOs and seeks to control the changes in use of existing property for use as HMOs. A draft condition has, therefore, been attached to this recommendation regarding this matter. The proposal would, therefore, be acceptable in principle and would comply with Development Plan Policy in this respect.

2.13 Low Carbon

2.13.1 Collectively, Policies 1:Development Principles (Part B), 3: Infrastructure and Services and 11: Low Carbon Fife of FIFEplan state that planning permission will only be granted for new development where it has been demonstrated, amongst other things, that: low and zero carbon generating technologies will contribute to meeting the current carbon dioxide emissions reduction target (as set out by Scottish Building Standards); construction materials come from local or sustainable sources; and water conservation measures are in place. The Council's Low Carbon Fife Supplementary Guidance (2019) notes that small and local applications will be expected to provide information on the energy efficiency measures and energy generating technologies which will be incorporated into their proposal.

2.13.2 Applicants are expected to submit a Low Carbon Sustainability Checklist in support. The applicant has submitted an energy strategy which states the development will focus on reduction of energy through passive means to ensure each dwelling has reduced overall heating requirements.

2.13.3 As such, it is considered that the proposed development accords with the above provisions of policy and guidance in relation to low carbon.

CONSULTATIONS

TDM, Planning Services	No objection subject to conditions
Structural Services - Flooding, Shoreline And Harbours	No objection subject to conditions
The Coal Authority	No objection
Built Heritage, Planning Services	Object
Historic Environment Scotland	No objection
Education (Directorate)	No objection subject to contributions
Environmental Health (Public Protection)	No objection subject to conditions
Scottish Water	
Housing And Neighbourhood Services	No objection subject to affordable housing contribution
Land And Air Quality, Protective Services	No objection

REPRESENTATIONS

10 objections have been received with one objection being withdrawn. The material considerations relating to these concerns have been addressed under sections 2.2 (Principle of Development), 2.3 (Residential Amenity), 2.4 (Design/Visual Impact on the Conservation Area/Impact on Setting of Listed Buildings), 2.5 (Garden Ground) 2.6 (Road Safety) and (2.11 Education) of this report of handling.

Comments raised regarding servicing of adjacent commercial premises, access arrangements and land ownership/title deeds are not a material planning consideration in the assessment of this application.

CONCLUSIONS

It is therefore considered that the proposed extension and alterations of the Auld Post Hotel is acceptable and results in a suitable scheme in terms of use and design, that would secure the long-term future of the building whilst being sympathetic to the character of the B listed building. As such, the proposal is considered to be in compliance with the relevant policies of the Development Plan and relevant guidelines.

RECOMMENDATION

It is accordingly recommended that the application be approved subject to:

The conclusion of a legal agreement relating to a contribution of £17,100 towards affordable housing

and 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. Prior to the occupation of the first flatted dwelling, the construction of the vehicular crossing of the footway (using matching granite setts) shall be carried out in accordance with the current Fife Council Making Fifes Places Appendix G.

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

3. Prior to the occupation of the first flatted dwelling, the access driveway shall be constructed at a gradient not exceeding 1 in 10 (10%) and shall have appropriate vertical curves to ensure adequate ground clearance for vehicles. The layout of the shared private access and parking spaces shall be as shown on approved Drawing No 2B.

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

4. Prior to the occupation of the first flatted dwelling, the 18 parking spaces as shown on approved Drawing No 2B, shall be provided in accordance with the current Fife Council Making Fifes Places Appendix G. The parking spaces shall be for communal use only and be retained for the lifetime of the development. A minimum of 2 Electric Vehicle charging points spaces shall be provided.

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

5. Prior to the occupation of the first flatted dwelling, 20 cycle parking spaces as shown on approved Drawing No 2B shall be provided in accordance with the current Fife Council Making Fifes Places Appendix G. The cycle parking spaces shall be retained for the lifetime of the development.

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

6. Prior to the commencement of any site clearance or construction works, adequate wheel cleaning facilities approved by Fife Council as Planning Authority shall be provided and maintained in an operational manner throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles on to the public roads.

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

7. BEFORE ANY PART OF THE DEVELOPMENT IS OCCUPIED, the proposed sound insulation measures as specified within the approved noise impact assessment report (Plan Reference 49) dated 29 September 2022 shall be carried out in full

Reason: In the interests of safeguarding residential amenity

8. BEFORE ANY PART OF THE DEVELOPMENT IS OCCUPIED, a report confirming the required noise levels set out in the approved noise impact assessment report (Plan Reference 49) dated 29 September 2022 have been met shall be submitted to the Planning Authority for approval.

Reason: In the interests of safeguarding residential amenity

9 BEFORE ANY WORKS COMMENCE ON SITE, details of the future management and aftercare arrangements of the proposed SuDS and any related drainage arrangements shall be submitted to and agreed in writing with Fife Council as Planning Authority. For the avoidance of doubt, the submitted details shall include any factoring or management regimes proposed including timescales; and, once agreed, those arrangements shall be complied with in full to agreed timescales and maintained as such in perpetuity unless otherwise agreed in written with this Planning Authority.

Reason: In the interests of protecting the site and surrounds from flooding and drainage; to ensure that adequate measures are put in place to protect to ensure the site is adequately drained.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Guidance

National Planning Framework 4 - Revised Draft (2022)

Scottish Planning Policy (2014)

Historic Environment Policy for Scotland (2019)

Section 64 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997

Historic Environment Scotland - Policy Statement (2016)

Planning Advice Note 1/2011: Planning and Noise

REHIS Briefing Note 017 Noise Guidance for New Developments

Development Plan

Adopted FIFEplan - Fife Local Development Plan (2017)

Other Guidance

Fife Council Planning Obligations Framework Guidance (2022)

Fife Council's Customer Guidelines on Windows in Listed Buildings and Conservation Areas (2014)

Fife Council Planning Customer Guidelines - Garden Ground (2016)

Making Fife's Places Supplementary Guidance Document (2018)

Abbotshall and Central Kirkcaldy Conservation Area Appraisal and Management Plan

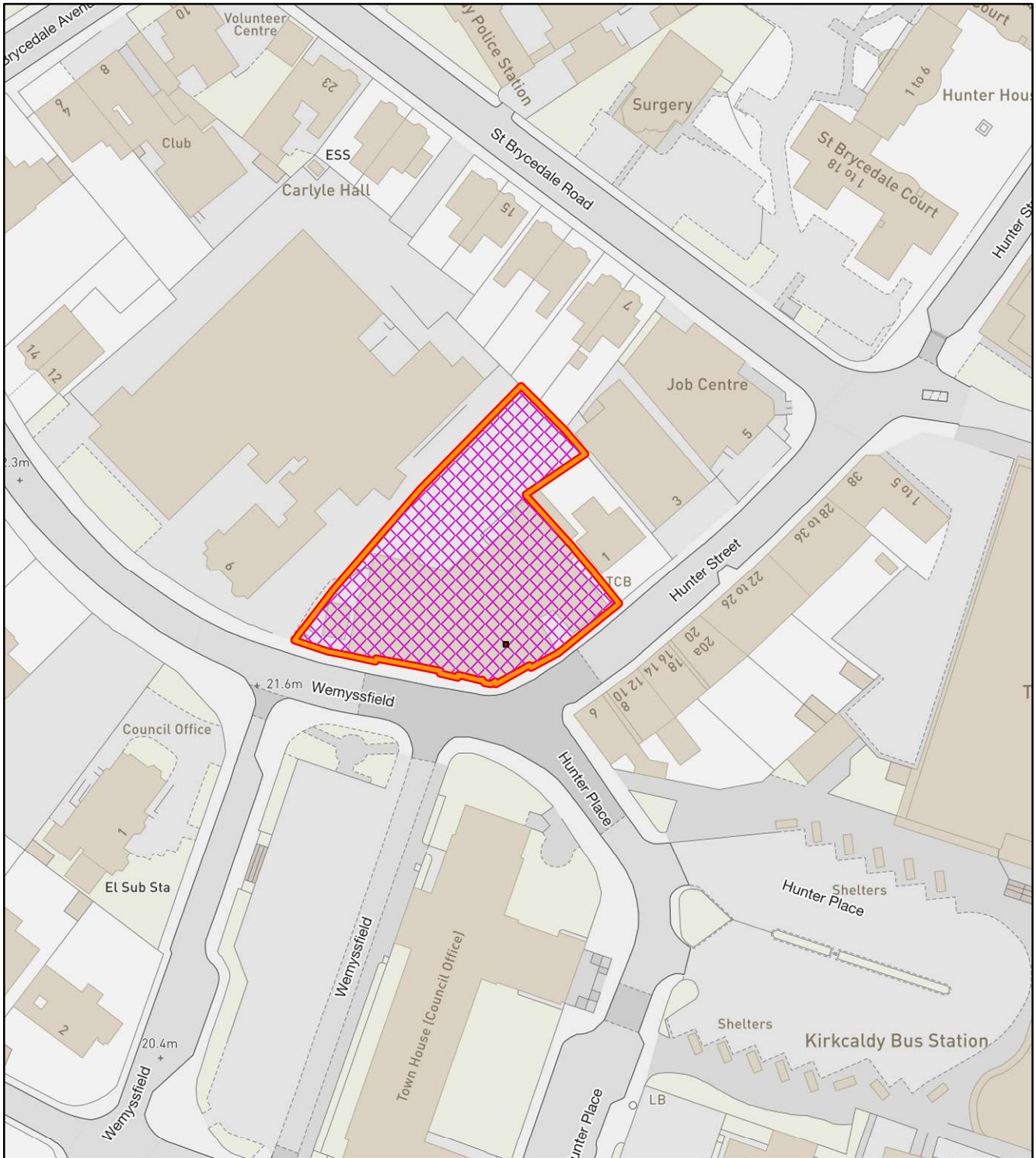
Report prepared by Scott McInroy, Planner Development Management

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

Date Printed 18/11/2022

21/02186/FULL

Kitty McGinty's Auld Post Hotel 1 Hunter Street Kirkcaldy



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Legend			
	Application Boundary		

0 5 10 20 30 m

ITEM NO: 6**APPLICATION FOR LISTED BUILDING CONSENT REF: 21/02187/LBC**

SITE ADDRESS: KITTY MCGINTY'S AULD POST HOTEL, 1 HUNTER STREET,
KIRKCALDY, FIFE, KY1 1ED

PROPOSAL: LISTED BUILDING CONSENT FOR EXTERNAL AND INTERNAL
ALTERATIONS, PART DEMOLITION AND EXTENSION WITH
ASSOCIATED WORKS

APPLICANT: HUNTER STREET PROPERTIES LTD
4A GLENFINLAS STREET EDINBURGH UK

WARD NO: W5R11
Kirkcaldy Central

CASE OFFICER: Scott McInroy

DATE 30/07/2021

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

It is considered expedient to determine this application together with the associated application for planning permission.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Section 64(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.

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

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

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

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

1.0 Background

1.1 The application site relates to the former Kitty's nightclub and Kandy's bar which sits on the corner of Hunter Street and Wemyssfield in the centre of Kirkcaldy. The site lies within the wider central town centre area of Kirkcaldy as well as the defined Abbotshall and Central Kirkcaldy Conservation Area and is a Category B Listed Building. The main building on the site was originally a post office. It is partly single storey and partly two storeys with attic. The site also includes a number of non-original outbuildings and the former Church to the northeast of the post office building which has been incorporated into the former Kandys bar property. To the northeast of the site on Hunter Street there is the one and a half storey commercial property. To the east of the site on Wemyssfield, there is a large office building. A small part of the site to the northeast faces the rear gardens of the residential properties on St Brycedale Road. Opposite the site to the southeast on Hunter Street there is a terrace of traditional 2 storey with attic buildings with retail units at ground floor and residential flats above. Opposite the site to the south on Wemyssfield is the three storey Kirkcaldy Town House which houses Fife Council facilities. There is a public open space to the west of the Town House. The site is accessed from Hunter Street.

1.2 Planning permission is sought to convert the existing disused former nightclub building to form a residential development of nineteen dwellings which will ensure the long-term future of the listed building. A new first floor would be introduced to the single storey west wing element of the existing building facing on to Wemyssfield to form four two-storey houses. (Plots 1 to 4). These would be accessed from the communal garden area to the rear of the building. The rear wall in this area which had previously been removed would be reinstated. The large two storey windows to the front of the property would be retained and would serve the proposed double

height living space areas. Dormer windows and rooflights would also be proposed to the rear elevation.

Six flats would be formed within the east wing of the existing building facing on to Hunter Street. Three main door flats at ground floor level, two flats at first floor level, and a small one-bedroom flat to the attic storey. The existing stair to the north corner of this wing would be removed. A new stair would also be proposed which would serve the upper storey flats in the east wing and the new extension.

The former church building on site is also proposed to be demolished and replaced with a new three storey extension which will contain nine flats in total. The building is constructed of sandstone with a slate roof. Only the gable head of the church is visible to the front above the later frontage added in 1960. The gable has a pedimented design with a circular window with segmented surround. The east elevation has two round arched windows with ashlar surrounds, with a similar window to a later extension to the east. The building stopped being used as a church in 1920 and has since been a telephone exchange, a sorting office, a suite for a hotel, and its most recent use as part of a bar/diner. The front of the new extension facing Hunter Street would be set back from the existing building in line with the adjacent Tinto Cottage. The extension would also be subservient to the existing building in terms of its proposed scale and mass. A vertical slate top storey would further reduce the visual scale of the building. The extension would be accessed via the existing stone pedestrian archway to the east of the existing building which will be retained. There will also be access from the parking and communal garden to the rear.

1.3 The previous planning history for this site is as follows:

- 01/00677/CADV - Display of illuminated sign and painting of mural (in retrospect) - approved 16.05.2001
- 01/00716/CFULL - Installation of one external awning, floodlighting of building and painting of mural (part retrospective) - approved 16.05.2001
- 01/00718/CLBC - Listed building consent for installation of one external awning, external floodlighting and display of illuminated sign and painting of mural (part retrospective) - approved 28.05.2001
- 06/02362/CLBC - Listed building consent for display of 1 internally illuminated box sign - refused 30.03.2007
- 06/02363/CLBC - Listed Building Consent for erection of single storey extension and emergency fire escape - approved 26.01.2007
- 06/02364/CADV - Display of 1 internally illuminated box sign - refused 30.03.2007
- 06/02408/CFULL - Alterations and rear extension including formation of new fire escape - approved 13.12.2006
- 06/04351/CFULL - Formation of beer garden, smoking area and alterations to building to form access - approved 05.07.2007

- 07/00309/CLBC - Listed building consent for external alterations to create doors - approved 06.07.2007
- 07/01906/CLBC - Listed building consent for the erection of shelter with timber screen fence and mesh screen and erection of metal railings to existing wall (in retrospect) - refused 31.10.2008
- 07/01908/CFULL - Erection of a shelter with timber screen fence and mesh screen and erection of metal railings to existing wall (in retrospect) - refused 31.10.2008
- 07/03558/CFULL - Change of use from staff accommodation (class 7) to office premises (class 2) - approved 16.01.2008
- 08/00409/CFULL - Partial change of use from bar diner and hotel (Class 7) to nightclub diner (Class 3) and internal alterations to hotel to form - approved 25.04.2008
- 09/02987/FULL - Installation of smoking shelter (in retrospect) - approved 27.09.2010
- 11/02029/FULL - Change of use of first floor hotel to nightclub and formation of new main entrance - approved 13.06.2011
- 11/02037/LBC - Listed building consent for formation of new main entrance and internal refurbishment - approved 05.08.2011
- 14/02045/FULL - External alterations to nightclub to create smoking shelter - approved 20.11.2014
- 14/02049/LBC - Listed Building Consent for alterations to nightclub to create smoking shelter - approved 15.12.2014
- 16/04018/FULL - External alterations to nightclub/diner (Class 3) including re-painting and installation of new windows/door - approved 18.05.2017
- 16/04019/LBC - Listed Building Consent for external alterations including re-painting and installation of new windows/door and sign - approved 18.05.2017
- 17/03996/FULL - Change of use of part of ground floor (cloakroom) to form barber shop (Class 1) - approved 18.04.2018
- 17/04001/LBC - Listed building consent for internal alterations - approved 13.04.2018

1.4 Application Process

1.4.1 An associated application for planning permission (Ref: 21/02186/FULL) is also on this committee agenda for determination

1.4.2 A site visit was carried out on 17.11.2022

1.4.3 The application was advertised in The Courier newspaper on 05.08.2021 and 04.08.2022

2.0 PLANNING ASSESSMENT

2.1 The key issue in the assessment of this application is the impact on the Character and Setting of the category B-Listed listed building.

2.2 IMPACT ON THE LISTED BUILDING

2.2.1 HES Policy Statement (June 2016), Adopted FIFEplan (2017) Policies 1, 10 and 14 apply with regards to the design and visual impact of the development.

2.2.2 Policy 1 of the Adopted FIFEplan Local Development Plan (2017) advises that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Policy 10 of FIFEplan (2017) advises 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 proposal must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to traffic movements and visual impact. Policy 14 of FIFEplan (2017) advises that development which protects or enhances buildings or other built heritage of special architectural or historic interest will be supported.

2.2.3 The application site is B listed building located on the corner of Hunter Street and Wemyssfield in the town centre of Kirkcaldy, within the Abbotshall and Central Kirkcaldy conservation area. A new first floor would be introduced to the single storey west wing of the existing building facing on to Wemyssfield to form four two-storey houses. (Plots 1 to 4). These would be accessed from the communal garden area to the rear of the building. The rear wall in this area has previously been removed to form the large dance hall of the night club and would be reinstated. The large two storey windows to the front of the property would be retained with a double height living space. Dormer windows and rooflights would be introduced to the rear elevation.

2.2.4. Six flats would be formed within the east wing of the existing building facing on to Hunter Street. Three main door flats at ground floor level, two flats at first floor level, and a small one-bedroom flat to the attic storey. The existing stair to the north corner of this wing would be removed. A new stair will serve the upper storey flats in the east wing and the new extension. The new stair would comply with the building regulation requirements for accessibility and fire safety.

2.2.5 Objections have been raised regarding the loss of exterior doors. A number of external alterations to the existing building are to be made. Two original windows at ground floor level on the eastern part of the Hunter Street elevation have been altered at some time in the past to form door openings. These two openings are proposed to be built up in stone reclaimed from downtakings and where possible to reinstate the original window pattern with replacement stone transoms, mullions and sills to match existing. Similarly, an original door on the circular corner of the building with a pediment over has been altered in the past to form a window opening. The window and nonoriginal stonework below would be removed to reinstate a door opening in this location. The original main entrance to the Post Office currently has a non-original pair of modern flush panel fire escape doors with a signage panel above. These doors would be replaced with new fixed timber panelled 'dummy' doors with an arched fixed light above more in keeping with the character of the building.

2.2.6 Objections have been raised regarding the replacement of the original windows. The applicant has commissioned a window condition survey which concluded that the existing windows are beyond repair and in need of replacement. To meet noise requirements, it was concluded that bedrooms facing on to Hunter Street would require an enhanced double-glazing specification. Windows to Living Rooms and Bedrooms not facing onto Hunter Street would require standard double-glazed units. All trickle ventilators would also need to have enhanced levels of acoustic performance. To meet the required sound reduction, and provide a high level of thermal performance, it is proposed that the existing windows will be replaced with timber sash and case windows with double glazed units. Where existing windows have been altered and do not currently have the original glazing pattern, the replacement windows will reinstate the original glazing pattern. The existing windows are currently covered in advertising at ground floor level and blacked out at first floor level. In this instance, it is considered that the applicant has provided sufficient information to show that the existing windows are beyond repair and that the proposed windows are acceptable in this setting. Objections have been raised regarding the proposed rooflight windows to the rear. Given that this elevation does not front onto the public street and looks onto the internal courtyard and parking area, it is considered that these windows would not have a significant impact on the character of the Listed building or the wider conservation area.

2.2.7 The roof is proposed to be re-slatted using existing slates where possible. Any shortfall on the front elevations being made up with slate from the rear elevations. Any reclaimed slate to be used on the existing building would match the existing slate as closely as possible for colour size and thickness. All existing leadwork is proposed to be repaired or replaced like for like.

2.2.8 Internally the existing building would be reconfigured to create 9 flats. Objections have been raised regarding the loss of the original internal staircase. Fife Council's Built Heritage officers and Historic Environment Scotland (HES) have also commented that the existing building still maintains areas of internal significance including the existing staircase and ground floor rooms and that the loss of these features could diminish the special interest of this building. The interior of the old Post Office has been greatly altered through the years, with many of the features referenced in the listing either been removed or no longer visible. The existing staircase to the northeast corner of the building is to be removed as it would not comply with current building regulations requirements for accessibility and fire safety in a residential building. Given the layout of the existing stair with the number of risers between landings and that there are currently doors which open across landings in an unsafe manner, it would be unviable to keep the existing stairwell in any new development. A new stair will be provided within the proposed extension which will be able to serve the upper storey flats to both the extension and the existing building. This will allow the stair to be fully compliant with the current Building Regulations and provide ventilated protected lobbies without compromising the layout of the flats. It is considered that the proposed extension and proposed finishing materials on this elevation are acceptable and enhance the appearance of the building here as the existing ground floor elevation with its upvc windows and dry dash render has no architectural value. Although the existing stairwell and ground floor rooms are of significance in terms of the buildings listing, they do not support the re-use of the building. Given that this proposal would bring a prime town centre vacant building back into use, it is considered that the internal alterations are acceptable in this context.

2.2.9 The existing church on site is proposed to be demolished. The building has been extended and altered over time. Built Heritage officers commented that the remains of the former church are of limited heritage significance and have little impact on the conservation area. The new extension would be three storeys high and would contain nine flats in total. The front of the extension facing Hunter Street would be set back from the existing building in line with the

adjacent Tinto Cottage. The extension would be subservient to the existing building in scale and mass. A vertical slate top storey would further reduce the visual scale of the building. The extension would be accessed via the existing stone pedestrian archway to the east of the existing building which would be retained. There would also be access from the parking and communal garden to the rear.

2.2.10 It is considered that the design of the alterations and extension, are suitable in terms of proportion and scale, would use appropriate traditional external materials and overall would respect the character and appearance of the building and its setting, the streetscene and wider conservation area, whilst securing the long-term future of this vacant town centre B Listed Building.

CONSULTATIONS

Historic Environment Scotland	No objection
Built Heritage, Planning Services	Object

REPRESENTATIONS

One objection was received. The material considerations relating to these concerns have been addressed under sections 2.2 (Impact on the Listed Building and Conservation Area) of this report of handling.

CONCLUSIONS

The proposal is considered acceptable in terms of design, detailing and choice of materials; and would protect and enhance the character and appearance of this Category B listed Building. As such, the proposal is considered to be in compliance with the relevant policies of the Development Plan and relevant guidelines.

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 Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Guidance
National Planning Framework 4 - Revised Draft (2022)

Scottish Planning Policy (2014)
Historic Environment Policy for Scotland (2019)
Section 64 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997
Historic Environment Scotland - Policy Statement (2016)

Development Plan
Adopted FIFEplan - Fife Local Development Plan (2017)

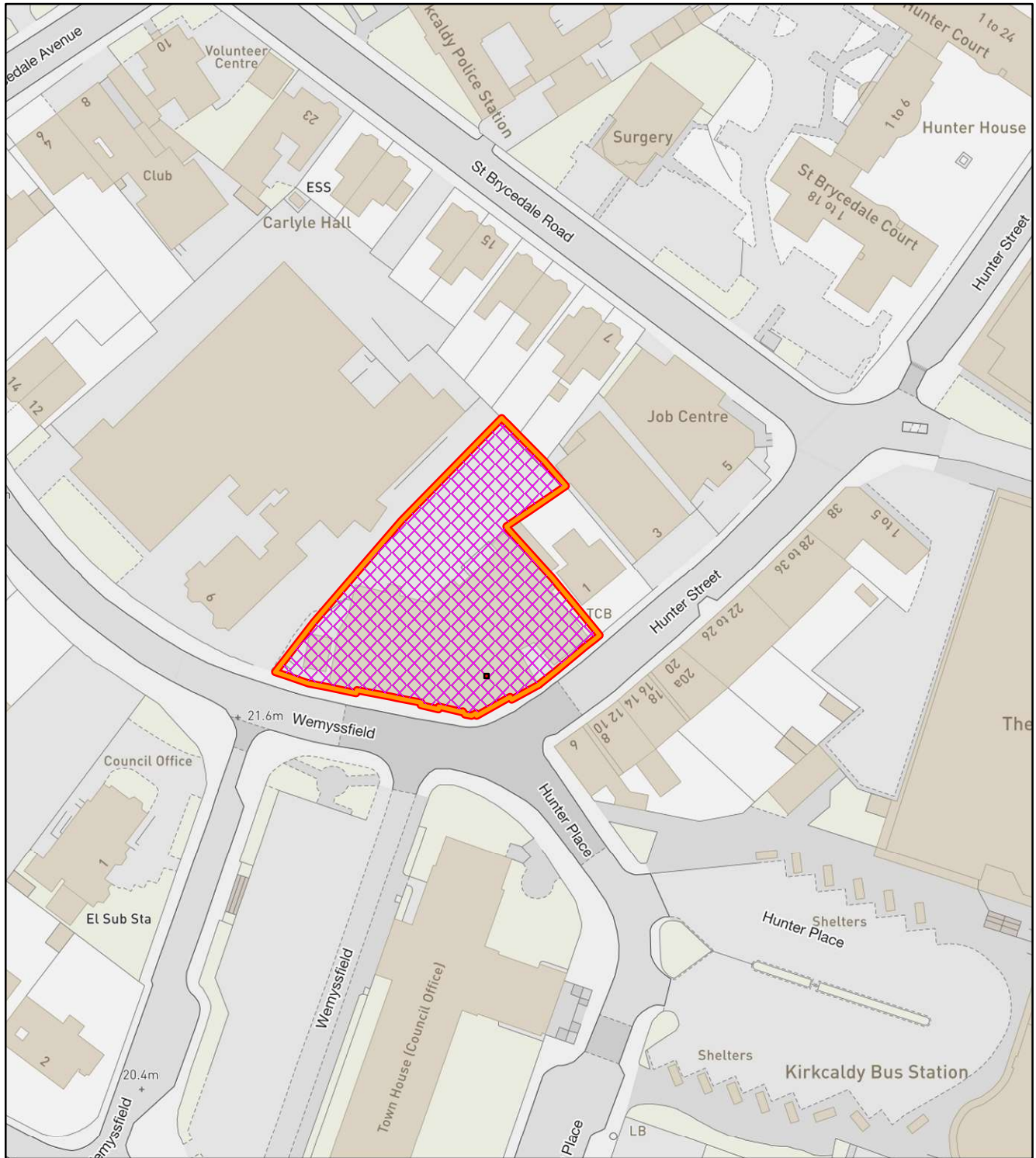
Other Guidance
Fife Council's Customer Guidelines on Windows in Listed Buildings and Conservation Areas (2014)
Abbotshall and Central Kirkcaldy Conservation Area Appraisal and Management Plan

Report prepared by Scott McInroy, Planner Development Management
Report reviewed and agreed by Mary Stewart, Service Manager and Committee Lead

Date Printed 18/11/2022

21/02187/LBC

Kitty McGinty's Auld Post Hotel 1 Hunter Street Kirkcaldy



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 7

APPLICATION FOR FULL PLANNING PERMISSION REF: 22/02907/FULL

SITE ADDRESS: LAND TO WEST OF LOW ROAD THORNTON

PROPOSAL: ERECTION OF BOUNDARY FENCE (RETROSPECTIVE)

**APPLICANT: KJJ PROPERTIES LTD
7 HALLEYS COURT HALLEYS COURT KIRKCCALDY**

**WARD NO: W5R15
Glenrothes Central And Thornton**

CASE OFFICER: Emma Baxter

DATE 11/10/2022

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

More than 5 representations have been received contrary to 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.

The Scottish Government laid the latest National Planning Framework 4 before Parliament on Tuesday 8 November 2022. With the publication of NPF4 this is now a material consideration in the assessment of planning applications. NPF4, once adopted, will form part of the statutory Development Plan and provides the national planning policy context and agenda for the

assessment of all planning applications. NPF4 has six overarching spatial principles to deliver sustainable places, liveable places, and productive places.

The policy context of NPF4 is set at a high level to provide directive but indicative policy context to be taken forward in further detail at a later date. The adopted FIFEplan LDP (2017) and associated Supplementary Guidance provides the most up to date expression of planning policy for Fife and continues to be part of the Development Plan until it is replaced.

When NPF4 is adopted, the SESplan and TAYplan Strategic Development Plans and any supplementary guidance issued in connection with them cease to have effect and will not form part of the Development Plan.

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

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

1.0. Background

1.0.1 The application relates to an area of land measuring approximately 1,300m² which is located to the rear of Karian Cottage and 2 Low Road and within the Thornton settlement boundary as designated within the Adopted FIFEplan (2017). The site is bounded by an approximately 2-metre-high fence on the west boundary and is surrounded by industrial uses to the west and dwellinghouses to the north, south and east. Access to the site is taken from Low Road to the east via a private track which passes between Karian Cottage and 2 Low Road. Low Road exits onto the B935 distributor road (Main Street) which is located approximately 116 metres to the south-east of the site. This site is currently undergoing the development of two detached, one storey dwellinghouses.

1.1. Proposal

1.1.1. The application seeks retrospective planning consent for the erection of fencing along part of the site's northern boundary.

1.2. Planning History

1.2.1. The relevant planning history for the application site is as follow:

Full planning permission (08/02681/CFULL) for erection of two dwellinghouses was approved with conditions on 18th September 2009.

Full planning permission (12/04095/FULL) for erection of two dwellinghouses was approved with conditions on 21st February 2012. This application was then renewed under planning permission references 16/00386/FULL and 18/02341/FULL on 29th March 2016 and 29th October 2018.

Full planning permission (20/02672/FULL) for the erection of two dwellinghouses (substitution of house types 1 and 2 from 18/02341/FULL). This application was permitted with conditions on 30th July 2021.

22/00190/ENF - Enforcement enquiry for alleged non-compliance with 20/02672/FULL

22/00321/ENF - Enforcement enquiry for unauthorised building works

1.3. A site visit was carried out 28 October 2022.

2.0. Assessment

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

- Principle of Development
- Visual Impact
- Residential Amenity

2.2. Principle of Development

2.2.1. Policy 1 of the adopted FIFEplan (2017) stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan.

2.2.2. As the proposal is situated within the settlement envelope of Thornton there is a presumption in favour of development.

2.2.3. In light of the above, it is considered that the proposed development is compatible with the area in terms of land use, meeting the policy requirements of the development plan, and therefore deemed acceptable in principle.

2.3. Visual Impact

2.3.1. Policy 1 of the Adopted FIFEplan Local Development Plan (2017) advises that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Policy 10 advises development will be supported where it does not have a significant detrimental impact on the amenity of existing land uses, including in relation to the visual impact of the development on the surrounding area.

2.3.2. Representations received have raised concerns with regards to the design and scale of the proposal and it not conforming to the uniformity of the surrounding area.

2.3.3. The proposed fence would comprise of closed boarded vertical timber. Furthermore, the fence would be approximately 8.5 metres in length, extending from the eastern elevation of the dwellinghouse for 5.5 metres at a height of 0.9 metres, then a subsequent 3 metres at a height of 1.8 metres to include a gate to allow access to the dwellings bin store area. The height and design of the proposed fence would be of a style commonly found within residential areas and therefore would not be out of keeping with the surrounding residential environment. As such, the

proposal would be considered to have no significant detrimental impact on the visual amenity of the surrounding area, which is not of special merit, as would be the case in a Conservation Area.

2.3.4. In light of the above, the proposal would not result in any significant detrimental impact in terms of visual amenity and therefore is considered acceptable in this respect.

2.4. Residential Amenity

2.4.1. Policies 1 and 10 of the Adopted FIFEplan states that development proposals must demonstrate that they will not lead to a significant detrimental impact on the amenity of existing or proposed land uses in relation, amongst other factors, the loss of privacy, sunlight and daylight. Fife Council's Planning Guidelines on Sunlight and Daylight (2018) also applies in this respect. BRE's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022) seeks to achieve good sunlighting and daylighting both within buildings and in the open spaces between them.

2.4.2. Representations received have raised concerns with regard to loss of daylight to the south facing windows of Dormitory House which is located north of the proposal site and loss of sunlight to Dormitory House's main amenity space. Representations also highlight that the loss of daylight would have an additional impact on occupants of the property whose medical conditions would constitute a disability for the purposes of the Equality Act 2010.

2.4.3 The personal circumstances of applicants or objectors are not normally a relevant consideration in planning terms. However, Section 149 of the Equalities Act 2010, requires that in the exercise of their functions public sector authorities must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This public sector duty applies to Fife Council in exercise of its function as Planning Authority.

2.4.4. The proposed fence would be positioned approximately 1.3 metres from the front elevation of Dormitory House. Where the fence is positioned directly in front of the south facing windows of Dormitory House, its height only extends 0.9 metres from finished ground level. As such, it is considered that the development would not have a significant detrimental impact with regard to the daylight levels received by these windows. It should also be noted that the 0.9-metre-high element of the proposed development would fall within the definition of permitted development rights for a dwellinghouse. As such, once the dwelling is completed the erection of the 0.9 metre section of the fencing would fall outwith planning control and could therefore be erected without requiring planning permission.

2.4.5 Further to this, having regard to Section 149 of the Equalities Act 2010, as the fence would not have a significant detrimental impact on daylight levels, the development would not prejudice any persons of a protected characteristic. As such it is considered that Fife Council as Planning Authority has had due regard to Section 149 of the Equalities Act 2010 in the assessment of the development proposal.

2.4.6 The proposed fence would not adjoin the main useable amenity space serving any of the neighbouring residential properties and lie to the south of the centre point of that amenity space. It is therefore considered that the proposed development would not result in any significant

detrimental impact on the sunlight levels received by the amenity space of any neighbouring properties.

2.4.7 In light of the above, it is considered that the proposed development would have no significant detrimental impact in terms of residential amenity and is therefore considered acceptable and in compliance with the Development Plan and other relevant guidance.

CONSULTATIONS

Land And Air Quality, Protective Services	No comment
Network Rail	No objections
The Coal Authority	No objections
Scottish Water	No comment

REPRESENTATIONS

Seven letters of representation were received for this application. The following concerns were raised in these letters

- Loss of daylight to habitable rooms within Dormitory House - This has been addressed in paragraphs 2.4.3 – 2.4.4 above
- Impact on the health of residents of Dormitory House arising from loss of daylight – This has been addressed in paragraphs 2.4.3 – 2.4.5 above.
- Loss of sunlight to amenity space of Dormitory House - This has been addressed in paragraph 2.4.4. above
- Visual impact of the fence - This has been addressed in paragraph 2.4.3 above.
- Impact on neighbouring residents - This has been addressed in paragraph 2.4.3 above
- Loss of sunlight to the garden of Karian Cottage - This has been addressed in paragraph 2.4.6 above

Additional matters raised include

- The impact on a prescriptive right to light by individuals within Dormitory House - This is not a material planning consideration, but rather a separate civil matter
- Title deeds for the property do not permit the fence - This is not a material planning consideration, but rather a separate civil matter
- Access being blocked to Dormitory House's main drain cover therefore preventing inspection, maintenance and repair of drain - This is not a material planning consideration, but rather a separate civil matter

Objections regarding the fence which has been erected to the east of the development site - This area of fencing is not a part of this planning application

The impact on the existing boundary fences of neighbouring properties and the access road to the development - This concern is based on the misunderstanding that the proposed fence would run along the entire boundary of the site, rather than the actual 8.5 metres along the site's northern boundary.

CONCLUSIONS

This proposal is considered to be acceptable in meeting the terms of FIFEplan 2017 and Fife Council Customer Planning Guidance. The proposal is compatible with the area in terms of land use, design and scale. Furthermore, no significant impacts would arise in regard to existing levels of residential amenity, visual amenity or road safety. The application is therefore recommended for unconditional approval.

RECOMMENDATION

It is accordingly recommended that the application be approved unconditionally

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

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

National Planning Framework 4 - Revised Draft (2022)

Adopted FIFEplan (2017)

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

BRE's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022)

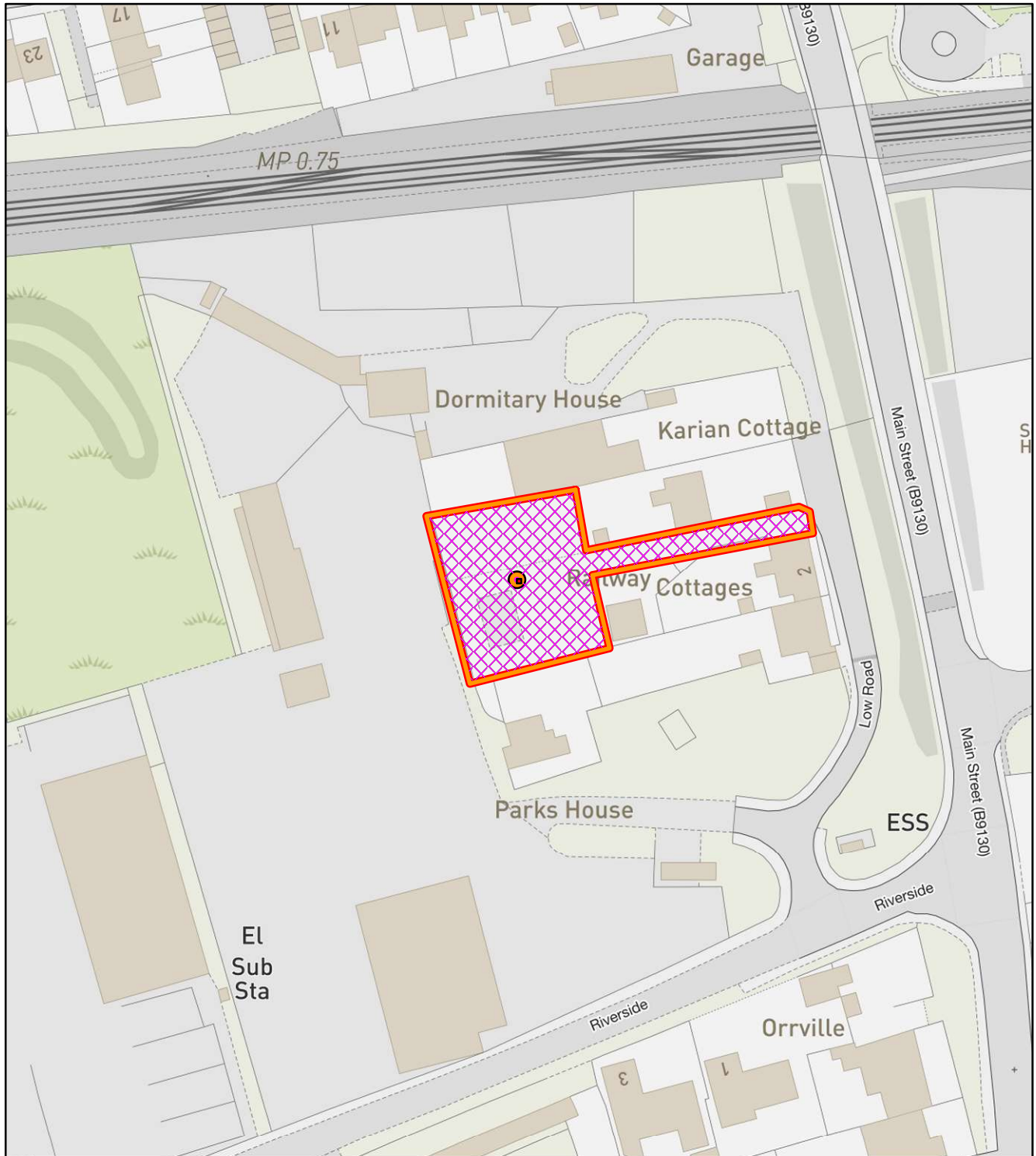
Report prepared by Emma Baxter, Graduate Planner and Case Officer

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

Date Printed 17/11/2022

22/02907/FULL

Land To West Of Low Road Thornton



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Legend	
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