



**Clackmannanshire
Council**

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Comhairle Siorrachd
Chlach Mhanann

Kilncraigs, Greenside Street, Alloa, FK10 1EB (Tel.01259-450000)

Planning Committee

Thursday 21 January 2021 at 1.00 pm

Venue: Via MS Teams

Date	Time
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Planning Committee

Subject to paragraphs 3.28 and 11.4 of the Scheme of Delegation, the Planning Committee has responsibility for taking decisions on planning applications and enforcing planning laws, and;

Carrying out the local authority's function in relation to street naming under section 97 of the Civic Government (Scotland) Act 1982; and

Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Development and Environment Services related to Building Standards.

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13 January 2021

A MEETING of the PLANNING COMMITTEE will be held Via Ms Teams on THURSDAY 21 JANUARY 2021 at 1.00 PM.



PETE LEONARD
Strategic Director (Place)

B U S I N E S S

	Page No.
1. Apologies	--
2. Declaration of Interests Members should declare any financial or non-financial interests they have in any item on this agenda, identifying the relevant agenda item and the nature of their interest in accordance with the Councillors' Code of Conduct. A Declaration of Interest form should be completed and passed to the Committee Officer.	--
3. Confirm Minutes of the Local Review Body held on 17 September 2020 (Copy herewith)	05
4. Planning Application (Ref 10/00153/PPP): Development of Land for Houses, School and Associated Pitches, Open Space, Play Provision, Landscaping, Roads, Paths and Other Infrastructure at Land at Branshill, Branshill Road, Sauchie - report by the Principal Planner (Copy herewith)	09
5. Planning Application (Ref: 20/00214/FULL): Change of Use of Woodland to Permanent Gypsy/Traveller Site (2 no households) and Siting of 2 No Static Caravans and 4 No Touring Caravans With Related Infrastructure (Retrospective) – Renewal of Permission for a Further 2 Years – Cow Wood, Forestmill, Clackmannanshire - report by the Principal Planner (Copy herewith)	43

Planning Committee – Committee Members (Membership 10 – Quorum 4)

Councillors

Wards

Councillor	Donald Balsillie (Convenor)	2	Clackmannanshire North	SNP
Councillor	Jane McTaggart (Vice Convenor)	3	Clackmannanshire Central	SNP
Councillor	Tina Murphy	1	Clackmannanshire West	SNP
Councillor	George Matchett, QPM	1	Clackmannanshire West	LAB
Councillor	Martha Benny	2	Clackmannanshire North	CONS
Councillor	Helen Lewis	2	Clackmannanshire North	SNP
Councillor	Derek Stewart	3	Clackmannanshire Central	LAB
Councillor	Chris Dixon	4	Clackmannanshire South	IND
Councillor	Kenneth Earle	4	Clackmannanshire South	LAB
Councillor	Dennis Coyne	5	Clackmannanshire East	CON



**MINUTES OF MEETING of the LOCAL REVIEW BODY (LRB) held via MS Teams on
THURSDAY 17 SEPTEMBER 2020 at 9.30 am.**

PRESENT

Councillor Donald Balsillie (In the Chair)
Councillor Martha Benny
Councillor Chris Dixon

IN ATTENDANCE

Lee Robertson, Clerk to the LRB
Keith Johnstone, Planning Adviser to the LRB
Melanie Moore, Committee Services

Mr Paul Houghton, DM Hall, Agent for the Applicant

LRB(20)01 A POLOGIES

None

LRB(20)02 DECLARATIONS OF INTERESTS

None.

**LRB(20)03 NOTICE OF REVIEW – BANKHEAD FARMHOUSE, DEVON VILLAGE,
FK10 3AN**

Name of Applicant:	Mr Alasdair MacGregor
Site Address:	Bankhead Farmhouse, Devon Village, FK10 3AN
Description of the Application:	Erection of 1 No house
Planning Application Reference Number:	20/00081/PPP

The Convenor introduced the Notice of Review documents. The Local Review Body then had the opportunity to ask questions of both the Planning Adviser and the Agent.

The Convenor confirmed that the applicant that he has four choices for this Notice of Review (i) agree that the new information that was not presented to the planning officer at the time of the application in March 2020 should be disregarded in terms of this Notice of Review and the Board will then make a decision based on the information available to the planning officer; or (ii) where the applicant wishes the new information to remain that the Board/Convenor confirms that it is unable to make a decision based on this new information and that the applicant should make a further application for planning permission at no cost to the applicant, to the planning authority; or (iii) the Board requests Written Submissions or a Hearing on the introduction of the new information and reconvene the meeting at a later date - this will allow for any interested parties to make representations on the new information; or (iv) that the Board accept the new information and make a decision on that..

Decision

The Local Review Body decided that they were happy to proceed on the basis that notwithstanding the new information was not available to the officer at the time a decision was made on the application they would proceed to review the new information and make a decision .

Having considered the Review Application documentation and the verbal submission from the applicant in terms of section 43A(15) of the Town and Country Planning (Scotland) Act 1997, the Local Review Body agreed to overturn the decision of the appointed officer and to grant planning permission to erect 1 no house; for the following reasons:

1.
 - (a) Before any works commence on site, the written approval of the Council as planning authority must be obtained for the details of the siting, design and external appearance of all buildings, structures, the means of enclosure, access and landscaping, including future maintenance.
 - (b) Particulars of the Matters Specified in Condition 1(a) above shall be submitted for consideration by the planning authority, and no work shall begin until written approval has been given.
2. The subsequent application for Matters Specified in Condition 1(a) shall include:-
 - (a) A site layout plan at a minimum scale of 1:200 showing the position of all buildings, structures, roads, footpaths, parking and turning areas, boundary enclosures and landscaping.
 - (b) Plans and elevations of the proposed house, showing the dimensions and type and colour of external materials.
 - (c) A detailed tree survey of the site and surrounding land prepared in accordance with the requirements of BS5837:2012, as amended – Trees in Relation to Construction. This shall indicate trees to be removed, retained and any proposed arboricultural work in connection with this application to accommodate the development. The survey should also show the relationship of the trees and their Root Protection Areas to the proposed construction works including any proposed service tracks, changes in existing ground levels, excavations, roads and building layouts etc. The proposed layout should take cognisance of the location of the existing trees to be retained.
 - (d) A Sustainability Statement for the development which shall include proposals to incorporate the use of Low and Zero Carbon generating technologies within the house and enhance the biodiversity value of the site.
 - (e) Details of existing and finished ground levels and finished floor and ridge levels in relation to a fixed datum, preferably Ordnance Datum.
 - (f) Foul and surface water drainage proposals. The arrangements to manage surface water on the site shall be designed in accordance with SUDs principles and in accordance with the Sustainable Urban Drainage System Design Manual (C753), CIRIA, as amended.
3. The subsequent application for Matters Specified in Condition 1(a) shall include a scheme of landscaping for the site. This scheme shall include:
 - (a) reference of how the scheme has taken account of the findings of the tree survey required under Condition No 2 (c) above and identify existing trees and hedgerows to be retained as part of the development.
 - (b) Details of native tree and hedgerow planting around the proposed house and curtilage, including plant species, sizes, planting distances and means of protection. The scheme shall be designed to provide visual screening from the Devon Way

footpath to the south east of the site and provide enclosure to the north and north east sides of the site.

- (c) Arrangements for implementation and ongoing maintenance of all landscaping works.

Thereafter, all approved landscaping/planting shall be carried out in accordance with such approved details, within the first planting season following the occupation of the house.

4. In association with Condition 2 above, the proposed house shall be single or one and half storey design only, with any first floor accommodation contained predominantly in the roof space, with the wall head and eaves levels reflecting this. The building design and finishes shall reflect the advice set out in Scottish Government Planning Advice Note (PAN) 72 - Housing in the Countryside.

The Clerk advised that she would issue a decision notice to confirm the outcome of the Local Review Body meeting.

Action

Clerk to the Local Review Body

Ends 11:20 hours

Report to Planning Committee

Date of Meeting: 21 January 2021

Subject: 10/00153/PPP - Development of Land for Houses, School and Associated Pitches, Open Space, Play Provision, Landscaping, Roads, Paths and Other Infrastructure at Land At Branshill, Branshill Road, Sauchie

Report by: Grant Baxter, Principal Planner

1.0 Purpose

- 1.1 The purpose of this report is to provide a summary of and recommendation on a planning application for houses, school and associated pitches, open space, play provision, landscaping, roads, paths and other infrastructure on land to the west of Sauchie.
- 1.2 The application is for Planning Permission in Principle (PPP) and relates to a 53.7Ha area of land west of Branshill Road, Sauchie. The Planning Committee previously made a “minded to approve” decision on the application in October 2013, this decision required conclusion of a Section 75 Agreement, including a new primary school on the site and a developer contributions towards its construction. The report to that Committee is appended to this report.
- 1.3 The Council has liaised with the applicant, both as Planning and Education Authority to ensure a set of education mitigation measures that adequately address the impacts of the development. In recent months, the applicant has revised their proposals, specifically in respect of education provision. These proposals, in respect of primary education, no longer involve a commitment to delivering a new primary school on the planning application site, but instead propose a small extension to Craigbank Primary School.
- 1.4 The report reviews previous iterations of the planning application, but the recommendation is based principally on the impact of the development on the education estate, in light of the applicant’s current proposals. These involve proposals to extend Craigbank Primary School, as opposed to constructing a new primary school on the site and also propose construction of a minimum of 1000 houses on the site, which is allocated for 774 houses in the Local Development Plan.
- 1.5 This current proposal departs from that which formed the basis for the Planning Committee’s “minded to approve” decision in October 2013, which

was on the basis of a development of around 800 houses, with a new school on the site and developer contribution towards its construction.

- 1.6 The applicant's current proposals are not informed, nor supported by the advice and assessment from the Council's Education Service, and do not represent the provision of the appropriate scale or standard of education environment for pupils, and as such do not accord with the principles set out in the Council's Learning Estates Strategy with regards to the learning estate environment Clackmannanshire Council envisages for its young people.
- 1.7 The inadequacy of the applicant's proposals in respect of education infrastructure are compounded by the applicant's insistence that the development accommodates 1000 houses – approximately 20% above the number of units envisaged by the Local Development Plan.
- 1.8 Approval of the proposals as now presented would expose the Council to the risk of unnecessary and significant capital costs to meet the shortfall in provision that such a decision would leave. This would still be likely to result in a sub-optimal standard of education infrastructure, in respect of a further extension to Craigbank Primary School than would not be suitable or appropriate to serve existing and new communities. In respect, it is worth noting that Scottish Government funding changes no longer provide for capital education projects, and therefore funds would likely to have to be borrowed.
- 1.9 The site is allocated in the Local Development Plan for residential development (circa 774 houses), and therefore the principle of housing is supported, however the LDP sets out detailed criteria and policies that any development on the site requires to comply with in order to ensure, for example, that development is accompanied by adequate supporting infrastructure. As noted above, the proposals fail to do so in respect of education. In this respect, the current housing land audits demonstrate that the area is served by an adequate supply of housing land, and this means there is no overriding reason for the Council to accept development of this site on the terms proposed by the applicant, and involving borrowing on behalf of the Council to fund sub-optimal education infrastructure being provided by the developer.
- 1.10 The report sets out in detail the significant gulf, both in quantitative and qualitative terms between the educational requirements outlined by the Council's Education Service and those proposed by the applicant. The Education Service remain of the view that an adequately sized and designed new primary school is required in order to accommodate the scale of development proposed. The principles and cost share of how such a school would be delivered were set out in the Planning Committee's decision of 2013. As set out in this report, the estimated costs of providing a similar size of school now are considerably higher, whilst the applicant's proposed financial commitment to education infrastructure has reduced markedly.

2.0 Recommendations

- 2.1 The application is recommended for REFUSAL for the following reasons:

1. The application is contrary to Policy SC9 – Developer Contributions, of the Clackmannanshire Local Development Plan, adopted 2015 in that the proposals would fail to mitigate the impacts of the proposed development on the education estate, nor adequately provide for the educational needs of residents of the proposed new development. The application proposals do not involve a new primary school on the site but an extension of Craigbank Primary School, the scale and nature of which is considered inadequate and which does not reasonably relate to the scale and nature of the development, nor its impact on the primary school estate. There is insufficient capacity in the existing primary educational estate to accommodate the proposed development , and the applicant has failed to provide adequate educational infrastructure commensurate with the scale of the proposed development nor to address deficiencies which would be a consequence of the development taking place.
2. The application is contrary to Policy SC9 – Developer Contributions, of the Clackmannanshire Local Development Plan, adopted 2015 in that the proposals would fail to mitigate the impacts of the proposed development on the education estate, nor adequately provide for the educational needs of residents of the proposed new development. There is insufficient capacity in the existing secondary educational estate to accommodate the proposed development , and the applicant has failed to provide for adequate secondary educational infrastructure commensurate with the scale of the proposed development, nor to address deficiencies which would be a consequence of the development taking place.
3. The application is contrary to Policy SC9 – Developer Contributions, of the Clackmannanshire Local Development Plan, adopted 2015 in that the applicant’s proposals involve development of a minimum of 1000 houses on a site allocated for 774 houses in the Local Development Plan. The number of houses proposed would significantly exceed those envisaged by Proposal H16 of the Local Development Plan and do not make adequate provision of educational infrastructure in order to serve this number of houses.

3.0 Background

- 3.1 The site lies to the west of Sauchie and is predominantly in agricultural use but contains a small area of woodland in its north east corner. It extends to 53.7Ha and adjoins the built up area of Sauchie on its eastern edge, but mainly farmland and woodland on all other sides. The site is undulating and is bisected by a linear path running between Sauchie and Lornshill, which follows the line of a small watercourse for part of its length.
- 3.2 The site is allocated in the Clackmannanshire Local Development Plan, adopted August 2015 as Housing Proposal H16 (Settlement Expansion).
- 3.3 The planning application was originally lodged with the Council in June 2010 and this report includes a chronology of key events since its submission that

have effected the time taken to determine the application and have been material to the proposed recommendation.

- 3.4 The site was first allocated for housing in the Clackmannanshire Local Plan, adopted 2004. This showed the whole site within the settlement boundary of Sauchie with a 5.4Ha first phase allocated for housing (circa 100 units). Guidelines included a requirement for a new roundabout at Collylands junction and improvements to the B9140 road.
- 3.5 The whole site was subsequently allocated for housing in the 1st Alteration to the Local Plan (adopted October 2011), with a notional capacity of 800 units. Development guidelines included reference to funding to secure adequate primary school provision and affordable housing as well as the roundabout and road improvements previously referred to in the adopted LDP.
- 3.6 The current LDP, adopted in August 2015 continues to allocate the whole site for housing. There is no longer reference to the need for the development to provide a roundabout at Collylands as the Council delivered this several years ago. Similarly, the Council has recently provided a new active travel link from Sauchie, through the site to Lornshill Academy. There would still be a requirement for the developer to provide improvements required on the B9140, junction improvements within the local road network, affordable housing and contributions to education provision.
- 3.7 The LDP acknowledges the existence of shallow coal reserves within the site and that these require consideration for prior extraction to avoid sterilisation. The existence of coal reserves within the site has been a known constraint since the site was first identified for development in the Local Plan. The current LDP states that that these require consideration for prior extraction to avoid sterilisation. The proximity of the site to existing residential areas mean that any coal extraction operation would have a significant, and possibly unacceptable impact on residential amenity and also potential negative traffic impacts.
- 3.8 The applicant's initial proposals in relation to the coal affected part of the site identified for built development was to stabilise this ground using a grouting technique i.e. injecting a material into the voids within the coal affected area to stabilise it for development.
- 3.9 Following submission of the application, the applicant had an intrusive site investigation (SI) of the site carried out. The applicant reported that the SI revealed a greater part of the site affected by underground coal than originally thought and was concerned at the potential costs of stabilisation as a result.
- 3.10 The applicant's resultant action was to propose opencast coal extraction as a cost effective means to address the unstable coal reserves affecting the site, as the extracted coal could be sold, thereby generating an income. A separate planning application (and Environmental Impact Assessment) was prepared and submitted to the Council, although was invalid upon submission. The applicant never paid the application fee to validate the application and following the announcement of the closure of Longannet Power Station, the application was withdrawn.

- 3.11 In respect of the applicant's current and final offer to the Council, it is assumed that this entails grouting of the effected parts of the site to enable development. The costs of this are not known to the Council at this time.
- 3.12 Policy EP9 of the LDP seeks to protect mineral resources from development that would sterilise them, and sets out criteria that require to be met if sterilisation of a mineral resource would be supported (provided the development is acceptable in all other respects). These criteria are where the economic importance of the development outweigh that of the mineral, where there are no other sites for the development and no likelihood of the mineral deposit being worked.
- 3.13 Policy EP10 sets out general principles in relation to minerals and sets out criteria that require to be met. These include consideration of significant adverse impact on the amenity, health, safety and air quality of nearby homes.
- 3.14 Policy EP11 deals specifically with surface coal mining (opencasting). This identifies areas of low, medium and high constraint in respect of such operations. The planning application site lies within an area of high constraint, where Policy EP11 states that surface mining will not be supported unless it can be demonstrated to the Council's satisfaction that a specific set of criteria can be met. These include the need to meet Policy EP10, and where there are exceptional circumstances and imperative overriding public, social or economic interest, and the net benefits would outweigh any harm to the environment or surrounding communities.
- 3.15 Policy EP11 goes on to state that surface coal mining will not normally be supported within 500m of a settlement and where there would be a significant adverse impact on individual or groups of houses that cannot be mitigated.
- 3.16 Given the site's very close proximity to the existing built up areas that are predominantly residential in character (i.e. well within 500m), the risk of significant harm to the amenity of householders from an opencast coal extraction operation would be great. On the basis of this consideration alone, the likelihood of such an operation being considered acceptable in planning terms seems remote, unless there were exceptional circumstances and the net benefit would outweigh any harm to the environment and surrounding communities.
- 3.17 In summary, whilst it is understood that the site is constrained by the presence of coal reserves, the method of extraction of this resource may not be acceptable in planning terms, and contrary to LDP policies. It is also clear that there is currently no local market for the coal since the closure of Longannet Power Station.
- 3.18 It is therefore likely that a scheme of grouting to stabilise coal reserves would be the only suitable means by which to allow development of affected parts of the site. The Council does not currently know the costs involved with such works, nor their impact on development viability, and the applicant has declined to have an open book approach to presenting this information along with the purchase price of the site.
- 3.19 Table 1: Summary of Planning Application Chronology

Date	Event	Outcome
June 2010	Planning application submitted.	Significant discussions with applicant on level the of detail submitted and impact on education estate.
November 2012	Confirmation from Education that accommodating the development would require a new school (incorporating an expanded Craigbank P.S.).	On going discussions with applicant on meeting education requirements, including a school site within the development.
September 2013	Revised masterplan submitted by applicant that includes a school within the site.	Planning application revised accordingly and re-publicised. Discussions with applicant on level of contributions to fund the school.
October 2013	Development Appraisal submitted by applicant setting out development viability, but excludes site purchase price.	Planning Service seeks advice from District Valuer (DV) on the appraisal. DV advises that the Council will not be able to satisfy themselves on the appraisal without sight of purchase documents, (not disclosed by applicant).
October 2013	Council's Planning Committee is "minded to approve" the application subject to conclusion of suitable conditions and Section 75 Agreement on contributions.	Planning Service begins drafting conditions and Section 75 Agreement and Education prepare a bid for Scottish Futures Trust (SFT) funding for the school.
January 2014	Applicant cites cost of remediating underground coal as cost prohibitive and submits Proposal of Application Notice (PAN) for a development to consolidate ground by means of opencast coal extraction, back-filling and re-profiling. Applicant advises that the on site school cannot be delivered unless coal extraction is allowed.	Planning Service advise that this application would be subject to a separate Environmental Impact Assessment (EIA) planning application.
March 2014	Draft s75 Agreement prepared by Planning Service and sent to applicant, involving a £3.3M contribution to education and provision of land on the site,	Revised draft Section 75 returned to the Council by applicant in December 2014, and which significantly changes the heads of terms

	for a primary school (based on SFT & Council funding at that time, with amalgamation of Craigbank Primary into the new school campus.	approved by Planning Committee in October 2013 and the subsequent draft s75 Agreement prepared by the Planning Service in respect of delivery of the school.
February 2015	Planning application for open cast coal extraction submitted by applicant (but is invalid).	The announcement of the closure of Longannet Power Station is made shortly after submission of the application and it is later withdrawn.
March 2015 – March 2016	A number of discussions with the applicant were held over this period in respect of education and affordable housing delivery, with officers Education advising that SFT funding would be re-directed to committed proposals (Redwell School) if agreement could not be reached.	The applicant produces a revised draft masterplan showing a reduction in development area and size (circa 400 houses. avoiding areas requiring ground consolidation) and removing the school proposal for the site and commitment to an education contributions.
March 2016- June 2017	Further discussion with applicant around delivery of affordable housing and education are held.	Applicant makes “final” offer to Council with 5 key terms: <ul style="list-style-type: none"> • Applicant provides £5M for single stream school on the site. • Applicant must be allowed to build the school. • Applicant must be allowed to build 250 units before any contributions are made. • Applicant is allowed to increase the site capacity to 1000 units. • Applicant has no affordable housing obligations.
November 2017	Applicant’s proposal declined by officers following liaison with Education/Housing as it does not adequately meet the	Council liaises with SFT on possible future funding mechanism for the school.

	educational requirements of the development and delivers no affordable housing	
August – December 2019	Applicant appoints a consultants to examine options for accommodating the development in the school estate without the need for a new school.	The Education Service Learning Estates Strategy is approved by the Council. LES approved in December 2019. The Scottish Government funding for education infrastructure changes from capital funding to revenue funding only.
June 2020	The applicant presents revised education proposals to serve the development. These are predicated on allowing 1000 houses to be built on site and focus on extending Craighbank Primary School rather than providing a new school on site.	Education response to this proposal is set out in detail in this report, but rejects the proposal on the basis that it does not adequately provide for the educational needs of the proposed development.

4.0 Representations

4.1 All representations to this application dated from several years ago and are fully summarised in the report to Planning Committee of 31st October 2013, attached as Appendix 1 to this report.

5.0 Consultations

5.1 Consultation was originally carried out when the application was first lodged in June 2010. Additional consultation has been carried out with relevant authorities in response to the revised proposals when necessary. Original consultation responses are all as set out in the report to the Planning Committee of 31st October 2013, which is included as Appendix 1 to this report. Where updated consultations have been undertaken, these are summarised below.

5.2 Roads: A Transport Assessment is required to inform the site layout, access arrangements and on/off-site transportation infrastructure requirements. This would update an earlier version provided in association with a previous planning application for this site. However, Roads have no objections to the key road and footway connections in the masterplan. The detailed proposals will be expected to comply with Government Guidance on "Designing Streets", prioritising the needs of the pedestrian. Collylands roundabout has been constructed by the Council at no cost to the developer, as has the active travel connection through the site from Sauchie to Lornshill Academy. *Comment: A Transport Assessment (TA) will be a requirement of any grant of PPP. It*

provides an appraisal of the likely traffic generation impacts resulting from new development, taking into account the measures which are required to improve road safety and promote walking, cycling and the use of public transport. A TA will be required as part of Matters Specified in Conditions, following the grant of Planning Permission in Principle. It is noted that the Council has provided key elements of transport infrastructure that are set out in the LDP as for the developer to provide. This investment has relieved the developer of transport infrastructure investments set out in the development plan.

- 5.3 Housing: Recommend that the development delivers affordable housing in accordance with the Housing Needs and Demand Assessment., and LDP policies. The specific form of affordable housing will require further consideration. Affordable Housing Policy SC2 of the LDP deals with affordable housing and requires that for developments of this scale, the level of affordable housing requirement should be 25% of the total number of units. *Comment: The draft Section 75 Agreement prepared by the Planning Service in accordance with the Council's "minded to approve" decision of October 2013 made allowance for affordable housing provision. The Housing Service continue to advise of the need for 25% affordable housing on site. The developer has recently confirmed a commitment to provision of affordable housing on site, in accordance with the provisions of the LDP and supplementary guidance.*
- 5.4 Education: Throughout the processing of the application, there has been significant dialogue between Planning and Education Services and directly with the applicant on the educational impacts of the development and how these should be addressed.
- 5.4.1 The application was originally submitted with no education proposals in June 2010. Through negotiation, the Council reached a position, late in 2013 where a new primary school was proposed on the site along with a developer contribution of £3,287,500. This was to be matched by Council capital funding of £2M and grant funding from Scottish Futures Trust of £5,287,500, to deliver a new school replacing Craigbank Primary School and accommodating the new development.
- 5.4.2 As the chronology above shows, the applicant did not progress with the Section 75 Agreement on the basis of this decision and sought to renegotiate the terms of the Council's decision and brought forward the opencast coal extraction proposal to deal with ground conditions. The applicant advised in 2014 that the education contribution could not be made if the opencasting was not allowed to go ahead, and ultimately this proposal did not progress. During 2015 and 2016, the Council advised the applicant on several occasions that capital funding and SFT grant money was time limited and would be re-directed to other, more immediate proposals, if progress could not be made on concluding the Section 75 Agreement, and ultimately, the Council had no choice but to prioritise the construction of Redwell School, which secured the capital and grant expenditure.
- 5.4.3 As again noted in the chronology, the Council were presented with alternative, and reduced proposals for education by the developer in 2016/17, which also involved the removal of any affordable housing requirements. These were rejected by Education on the basis that they did not make adequate provision

to meet the educational needs of the development. The current developer proposals, as set out in this report and subject of determination, move further away from either of these two earlier education positions of the applicant and both remove an on-site school and significantly reduce the level of contributions to an unacceptable degree.

Previous Education Position:

- 5.4.4 Education advised, early in the application process, that Craighbank, the catchment primary school for the site, could not accommodate the development on its existing site and therefore a new school site would require to be identified. As a result, in September 2013, the application was revised by the applicant, to incorporate a school site and the application description amended accordingly. It was envisaged that the school would be a replacement for Craighbank Primary School, and of a size to accommodate the existing and projected roll, including the new development.
- 5.4.5 This proposal represented the development that was presented to the Planning Committee in October 2013, and which the Committee indicated it was minded to approve. Thereafter, a Section 75 was drafted and Education Service prepared a funding model for delivery of the school. The funding model involved:
- Scottish Futures Trust - £5,287,500
 - Council Capital - £2,000,000
 - Developer Contribution - £3,287,500
 - **TOTAL - £10,575,000**
- 5.4.6 Whilst agreement in principle with the applicant was reached on this approach, the applicant was unable to progress with the Section 75 Agreement drafted on this basis, largely, as the Planning Service understood, due to uncertainty about costs of ground remediation.
- 5.4.7 The applicant's inability to progress the Section 75 Agreement as drafted, and the passage of time during which alternative ground consolidation and development options were explored threatened the funding model prepared by the Education Service, and the Planning Service periodically sought to advise the applicant that the Council's funding model, in particular SFT funding, could not be reserved indefinitely. Ultimately, the SFT and Council funding was re-directed to a project that was due to be delivered, i.e. Redwell Primary School.
- 5.4.8 During the processing of this application a new LDP was prepared and adopted. It reflects the position in respect of school rolls and capacities identified by Education at the time of the plan being finalised. In respect of this site, it states "*Contributions required to address educational issues, including the provision of a site for a new primary school.*"
- 5.4.9 With regards to the wider development strategy in the LDP, Education had identified capacity issues in the secondary school estate, including Lornhill Academy, the catchment secondary school for this site. The Developer Contributions Supplementary Guidance (SG1), prepared along with the LDP

therefore included provision for contributions towards secondary education from all housing developments, where secondary education capacity was an issue.

5.4.10 The Section 75 drafted in respect of this application did not contain provision for secondary education contributions arising from the development, however the emerging picture from Education was that there were capacity issues in Lornshill Academy that the development may exacerbate.

5.4.11 As noted in the chronology, the applicant presented a revised proposal to the Council in respect of developer contributions in June 2017, which moved away from the position that was presented to Committee in 2013 and comprised:

- Applicant provides £5M for single stream school on their site.
- Applicant must build the school.
- Applicant is allowed to build 250 units before any contributions are made.
- Applicant is allowed to increase the site capacity to 1000 units.
- Applicant has no affordable housing obligations.

5.4.12 In considering this proposal, the Education Service noted that the estimated cost of providing nursery and primary education facilities to serve the development of 1000 houses now proposed by the applicant was £10,914,000. As noted, this figure did not include the costs in respect of secondary education.

5.4.13 The applicant's 2017 proposal in respect of an education contribution amounted to £5,000,000, which is less than half of the estimated impact of the development on the nursery and primary estate, and was considered to expose the Council to several million pounds of capital costs to meet the shortfall in provision, which would effectively be a subsidy to the developer, notwithstanding potential secondary school costs.

5.4.14 Whilst secondary education contributions did not form part of the draft Section 75 Agreement, during the period the application has been with the Council, a lack of secondary school capacity to serve the proposed development has emerged as an issue. Based on Education's advice, this is a significant issue that must now be treated as a material consideration. In this regard, the Planning Service sought external planning law advice on this matter. That advice indicated that the education capacity situation at the point of determining the application should be material to determination, and therefore that the secondary education position, and lack of any provision being made for it in the applicant's proposals must be a relevant material consideration.

Current Education Position:

5.4.15 The Council approved a Learning Estates Strategy (LES) in December 2019. In respect of Craighbank Primary School, the Strategy noted that significant upgrades, comprising a new nursery would be completed within the year and that further extension and a new gym hall were proposed, but were pending a decision on this planning application. An options appraisal for the whole of

Sauchie was recommended. The LES also noted that proposed housing developments would increase pressure on Lornshill Academy, with a review of catchment areas recommended.

- 5.4.16 In order to seek to address education concerns, consultants on behalf of the applicant prepared a revised education proposal in June 2020. This moved away entirely from a proposal for any new school on the housing development site, and focussed instead on extension to Craigbank Primary School. The developer appointed an architect to demonstrate how Craigbank Primary School could be expanded in the manner envisaged. The applicant's indicative number of units remained at 1000; approximately 200 unit above what is anticipated in the LDP.
- 5.4.17 Two alternative schemes were presented, one predicated on Fishcross Primary School being closed and those pupils accommodated in Craigbank and the other without this scenario. It should be noted that the LES does not propose the closure of Fischross Primary School.
- 5.4.18 The scheme presented by the developer without closure of Fishcross involved a single classroom extension to Craigbank, estimated to cost £204,000. The developer proposed to contribute £178,000 to this, with the remainder anticipated to come from the Council and other developers building in the catchment area.
- 5.4.19 The scheme anticipating closure of Fishcross Primary School, and those pupils being accommodated at Craigbank, proposed an additional three classrooms, (making a total of 16) games hall and toilets and storage. The developer estimated the cost of these works to be around £1,530,000, and that a feasibility study showed this to be a practical solution.
- 5.4.20 The developer also noted that they considered the Council's preference was for 17 classrooms for the projected number of pupils and that the total cost would therefore be £1,650,000. The developer proposed to contribute £1,173,146 to this, with the remainder anticipated to come from the Council and other developers building in the catchment area.
- 5.4.21 The developer's proposals contained no provision for secondary education.

Education Response to Current Proposal:

Craigbank Primary School

- 5.4.22 Craigbank School sits on a constrained site at the top of a steep slope and with limited level ground which can be utilised for any activities **and** external sports provision is also therefore severely limited. All level external ground is currently in use.
- 5.4.23 Since adoption of the LDP in 2015, changes to the education estate were required, most significantly, bringing the 1140hrs nursery hours requirement into operation. This has a significant impact on the feasibility of any of the options presented by the developer.
- 5.4.24 In response to the option not involving closure of Fishcross Primary School, Education have stated that this option attempts to fit additional pupils into an existing layout without fully taking into account of what this does to the overall

operational quality of the internal spaces. It removes the break out areas which were achieved as part of the latest refurbishment and puts additional stress on the remaining areas. It also forms an additional separate class rather than expanding upon the more open plan approach which Clackmannanshire Council looks to achieve. In summary for the additional 25 pupils accommodated into the existing school this option is likely to have a detrimental impact on the quality of education provision for the original 13 classes.

- 5.4.25 In respect of the second option, predicated on closure of Fishcross Primary School and accommodation of pupils into Criagbank, Education state that there is an identified need for enhanced PE provision at Craigbank and to this end the authority identified a possible location for a gym hall extension but that this would result in a loss of usable playground space, which is already constrained.
- 5.4.26 The developer's suggestion that the playground is simply moved south ignores the fact that the ground to the south is both very soft and on a severe incline. Another aspect not taken into account by the developer is that Craigbank is split into three levels and communication between these levels is at present is not conducive to a barrier free education.
- 5.4.27 This option also does not take into account the pressures that adding an additional wing onto a school will have on its internal communication and its use of break out spaces. The proposal involving additional toilets fitted into corridor spaces creates cramped and possibly unsatisfactory internal areas.
- 5.4.28 For this option to be viable it would be necessary to consider a complete revision to the external playground space. The cost to correct all the drainage issues and level issues of the site cannot be understated, and will add a significant cost to a three class extension. Significantly expanding the number of pupils and thereby classrooms on the site is not likely to be a benefit to the pupils.

Lornshill Academy

- 5.4.29 The catchment school for the development is Lornshill Academy. The current roll of the school is 1050 and a capacity for 1200 pupils. Based on projections of existing housing, notwithstanding this site, the roll is expected to reach 1100 within 4 years as a result the Council would be seeking contributions in line with Supplementary Guidance 1 of the LDP.
- 5.4.30 The previous "minded to approve" decision on the Council did not include any provision for secondary education, as there were no known capacity issues at that time. That position has now changed. The Planning Service sought external legal advice which advises that the education position at the point of determination is material to decision making, and therefore the lack of any proposals to address secondary education provision in the planning application must form part of the Council's consideration at this time.
- 5.4.31 The costs to undertake an extension will be significant and have not yet been fully costed. (The adaptations and changes to a PPP contract will also incur additional management fees.)

Overall Summary of Education Response:

- 5.4.32 The developer as proposed (with 1000 pupils) is likely to generate a need for accommodation to serve a total of 270 pupil primary school. This scale of Education are clear that this requires a new school, as was previously planned for the site, but now no longer part of the applicant's proposal. This translates to 11 classes plus 2 nursery classes, and broadly equates to a 3749sqm2 new school build based on SFT rates, the estimated implementation costs of this would be in the region of £22.7M.
- 5.4.33 This cost estimate includes such items as project fees, IT Works, roads and footpath upgrades , potential CPO, furniture, equipment and demolition costs into the overall project sum. Matters which the developer has not considered in their assessment. In addition the Council is conscious of further Covid19 and Brexit implications affecting construction and labour costs going forward.
- 5.4.34 The Education Service have advised that there are no proposals to close Fishcross Primary School. They noted that the development would have an impact on all sectors in Education. Craigbank Primary School cannot accommodate the scale of development proposed as set out by the developer.
- 5.4.35 The effect on Lornshill Academy is significant and may require alteration of the catchment areas or an extension in the future. The costs to undertake an extension will be significant and have not yet been fully costed. (The adaptations and changes to a PPP contract will also incur additional management fees.)
- 5.4.36 There is therefore insufficient capacity in the Education estate to accommodate the development.
- 5.4.37 Taking account of the education position, it is clear that the proposals are contrary to Policy SC9 of the adopted LDP, and the related Supplementary Guidance (SG1) as, in respect of education, as they would fail to address they would fail to provide for the required education infrastructure commensurate with the scale of the proposed development.

6.0 Local Development Plan

6.1 The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Clackmannanshire Local Development Plan, adopted August 2015 (LDP) comprises the development plan. The key LDP considerations are as follows:

- Housing Proposal H09, Elm Grove, Alloa
- Policy SC2 – Affordable Housing
- Policy SC5 – Layout and Design Principles
- Policy SC6 – Additional Design Information
- Policy SC9 – Developer Contributions
- Policy SC11 – Transport Networks

- SC12 - Development Proposals – Access and Transport Requirements
- Policy EA4 – Landscape Quality
- Policy EA7 – Hedgerows, Trees and Tree Preservation Orders
- Policy EA12 – Water Environment

6.2 This is a PPP application for residential development on a site allocated in the adopted LDP for this purpose. The site is not affected by any specific designations that constrain development or would mean that policy provisions set out above cannot be met by an appropriate layout and design of development.

6.3 The current application requires to be assessed in respect of the key principles of the development and how these comply with the provisions of the development plan. Much of the detailed assessment of the proposals against the above policy provisions would be carried out in respect of applications for matters specified in conditions, following the grant of planning permission in principle.

6.4 The fundamental issue of principle that has not been addressed in the consideration of this application is the provision of education infrastructure to serve the development. Policy SC9, as supported by Supplementary Guidance 1.

6.5 Policy SC9 seeks to ensure that where new developments have an impact on infrastructure capacity, developers will be required to mitigate the impacts by contributing to new or improved infrastructure or facilities. The policy and supporting SG are framed in accordance with Scottish Government guidance and advice, which seek to ensure that developers only make contributions to new or improved infrastructure where this is directly related to the impacts of their development.

6.6 It is clear, taking full account of the assessment of the applicant’s proposals for education infrastructure, and the Education Service’s assessment of these proposals, that the application falls significantly short of complying with the provisions of Policy SC9 in respect of education infrastructure, and that this must be the overriding consideration in determination of this application.

7.0 Conclusions

7.1 The planning application, in respect of its failure to properly provide for the educational requirements of the proposed development is contrary to Policy SC9 of the adopted Clackmannanshire Local Development Plan, 2015, and is recommended for refusal on this basis.

8.0 Resource Implications

8.1 Financial Details

The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

8.2 Finance have been consulted and have agreed the financial implications as set out in the report. Yes

9.0 Exempt Reports

9.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

10.0 Declarations

10.1 The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

11.0 Equalities Impact

11.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

12.0 Legality

12.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

13.0 Appendices

13.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Report to Planning Committee of 31 October 2013 on Planning Application 10/00153/PPP.

14.0 Background Papers



14.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Planner	2615

Approved by

NAME	DESIGNATION	SIGNATURE
Emma Fyvie	Service Manager	
Allan Finlayson	Team Leader	

Report to: **Planning Committee**

Date of Meeting: **31 October 2013**

Subject: **Application for Planning Permission in Principle Ref: 10/00153/PPP - Development of Land for Houses, School and Associated Pitches, Open Space, Play Areas, Landscaping, Roads, Paths and Other Infrastructure on Land at Branshill Road, Sauchie, Clackmannanshire**

Report by: **Grant Baxter, Principal Planner**

1.0 Purpose

- 1.1. The purpose of this report is to update members on this planning application, recommending a decision to grant Planning Permission in Principle (PPP), with officers to prepare a set of planning conditions and Section 75 Agreement regulating the development of the site, and which will be reported back to a subsequent meeting of the Planning Committee for approval.
- 1.2. The report outlines the assessment of the original and amended masterplan proposals, summarises contributions from 3rd parties and identifies the material considerations that have informed the recommendation to grant Planning Permission in Principle.
- 1.3. For the purposes of the Planning etc. (Scotland) Act 2006 and subsequent regulations, this report represents the Report of Handling on this planning application.

2.0 Recommendations

- 2.1. It is recommended that:
 - I. The committee indicates that it is minded to grant Planning Permission in Principle for the development as shown indicatively on the submitted masterplan.
 - II. The Planning Permission in Principle is granted subject to conditions, which will be reported back to a subsequent Planning Committee meeting for further approval.

- III. The Planning Permission in Principle is granted subject to, and issued on the conclusion of, a Section 75 Agreement between the applicant, landowner and Clackmannanshire Council, based upon the Heads of Terms in Appendix 1 of this report. The finalised agreement will be reported back to the Planning Committee for final approval with the planning conditions at II. above.

Reasons for Decision

- 2.4 The application and indicative masterplan form the initial stages of planning this major settlement expansion identified in the Clackmannanshire Local Plan. The development principles set out at this stage are considered to comply with the terms of the development plan, in as much as they capture the key development components anticipated in the Local Plan. The proposals will deliver sustainable economic growth in a planned manner, meet requirements for housing land supply, affordable housing provision, and related education and community infrastructure.

2.2. Plans Relating to the Decision

- 2.3. Constraints and Proposals Masterplan - 3698/1003 Rev B.

3.0 Background to the Proposals

- 3.1. The application seeks planning permission in principle for development of land for houses, school and associated pitches, open space, play provision, landscaping, roads, paths and other infrastructure on land at Branshill Road, Sauchie. The site encompasses 53.7Ha of agricultural land to the west of Sauchie, enclosed to the north, south and west sides by woodland, and fronting Branshill Road and Fairfied Road to the east. The site is shown on the location plan appended to this report.
- 3.2. This application was originally lodged by the applicant for residential development, accompanied by an indicative masterplan, in 2010. In the intervening period, discussion have taken place with the developer, Council services and outside agencies. The major focus of these discussions has been around the issues of physical and social infrastructure, education provision and the delivery of affordable housing. The culmination of these discussions has been the submission of a revised indicative masterplan incorporating a site for a school. These discussions will inform a Section 75 Agreement, a key mechanism in the delivery of this development project.
- 3.3. The application does not fall within Schedules 1 or 2 of the Environmental Impact Assessment (Scotland) Regulations 2011, and therefore an Environmental Impact Assessment (EIA) has not been required in relation to the current application. It is, however, a major development as defined in the Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009 and was therefore subject to pre-application consultation (PAC). A PAC report accompanied the application.

4.0 Consultations

- 4.1. Consultation was carried out when the application was first lodged in June 2010. Additional consultation has been carried out in response to the revised proposals received this year. Where additional comments have been received from consultees to the revised proposals, these have been included.
- 4.2. Roads: A Transport Assessment is required to inform the site layout, access arrangements and on/off-site transportation infrastructure requirements. This would update an earlier version provided in association with a previous planning application for this site. However, Roads have no objections to the key road and footway connections in the masterplan. The detailed proposals will be expected to comply with Government Guidance on "Designing Streets", prioritising the needs of the pedestrian. *Comment: A Transport Assessment (TA) will be a requirement of any grant of PPP. It provides an appraisal of the likely traffic generation impacts resulting from new development, taking into account the measures which are required to improve road safety and promote walking, cycling and the use of public transport. A TA will be required as part of Matters Specified in Conditions, following the grant of Planning Permission in Principle.*
- 4.3. Land Services: Measures are required to protect trees to be retained on and adjacent to the site. A tree survey will be required. A new public park should be created as part of the development, providing parking, interpretation and spaces for ball games facilities for all ages. Smaller play facilities will also be required. Detailed landscaping plans will be required. *Comment: Any grant of PPP will require open space and play provision in the masterplan. However, the indicative plan shows a central community park, plus a network of other spaces that can include smaller play areas. The plan has been drawn to safeguard woodland on the edge of the site. Overall, the advice from Land Services is captured in the proposals or the planned conditions of planning permission.*
- 4.4. Environmental Health: No objections, subject to the developer addressing issues to do with noise/dust suppression during construction, control of noise/odour from sewerage pumping systems and adequate maintenance of common facilities such as SUDs. Due to historic mining activities on the site, the developer should undertake a Human Health/Environmental Risk Assessment before development can commence. *Comment: Any grant of PPP will be conditioned such that the appropriate risk assessment is carried out and means of addressing ground stability issues are fully addressed in the development.*
- 4.5. SEPA: The applicant should ensure connections to the public sewerage systems are available. SUDs systems should ensure flow rates are no greater than greenfield run-off rates. No flooding should occur in the 1:200 yr return event, and development should not increase flood risk elsewhere. Potential flood risk from the watercourses in and around the site will require to be assessed. All road surface water should receive two stages of treatment. All drainage arrangements will be in accordance with the SUDs Manual and Sewers for Scotland 2. *Comment: A detailed SUDs strategy for the whole site will be a requirement of any grant of PPP, and particular care will be taken to ensure clear responsibilities for maintenance and management of water related infrastructure.*

4.6. Housing: Support the development and recommend that it delivers affordable housing in accordance with the Housing Needs and Demand Assessment. The specific form of affordable housing will require further consideration. *Comment: Detailed discussions have taken place between the developer and the Housing Service in respect of the delivery of affordable housing in the development. It is anticipated that an on site provision of 25% affordable housing will be required. Suitable obligations for phased and managed accommodation will be included in the Section 75 Agreement.*

4.7. Education: The development will have an impact on all sectors in Education. An increase of around 300 primary age pupils could be generated from 800 or more houses, depending on the type and density of housing, having a significant impact on the delivery of education. The nursery and primary provision can be accommodated in a completely new primary school. The effect on Lornshill Academy will also require to be considered.

The current Craigbank primary school as existing could not accommodate all pupils. The preferred option would be to build a new primary school to accommodate any new pupils coming from the proposed houses and any pupils in the existing catchment area of Craigbank primary school. In line with Council policy, a nursery class would be integrated into the new school replacing provision currently provided at Sauchie nursery.

It is recommended that the provision of a full size grass pitch is made available to the community, and access to changing areas are incorporated within the design of the school. Access to community spaces and library facilities should be incorporated into the design of the school enabling dual use of areas as a community campus.

Comment: It has been agreed in principle with the developer that a site for a new primary school shall be accommodated within the proposed development. This school, incorporating nursery provision would provide a replacement to Craigbank Primary School and accommodate the pupils generated from the new development. It would also act as a community hub with the potential to provide facilities such as a library, meeting rooms etc. The developer would also make a commensurate financial contribution towards delivery of the new school. The precise mechanism, with appropriate delivery options to ensure flexibility in terms of the Council's control of implementation, will be incorporated in a Section 75 Agreement.

4.8. Stirling Council Archaeologist: No archaeological objections to the proposal. however, it is recommended that suspensive conditions be placed on any consent/s which may be granted for development. These reflect the possibility that a phased approach to the archaeology may be required on this site. *Comment: Appropriate conditions can be applied to any grant of PPP to address archaeological concerns.*

4.9. Scottish Water: No objections, however spare capacity cannot be reserved. The developer will require to submit a Development Impact Assessment. There may be a need for the developer to carry out improvements to the foul drainage and water supply networks to ensure no loss of service to existing customers. A separate system will be required to address surface water discharge, incorporating SUDs, in accordance with Sewers for Scotland 2. *Comment: The developer will require to liaise directly with SW in respect of*

foul and water connections, and will require to provide details of SUDs arrangements as part of the masterplanning of the site.

5.0 Representations

5.1 A total of 63 No. neighbouring properties were notified of the original planning application. In addition, a Neighbour Notification advertisement was placed in the local press. In response, representations were received from the undernoted parties:

- Sauchie Community Group
- Alloa Centre Community Council
- Craigbank Primary School Parents' Council
- Mrs Mary McGroarty, 7 Fairfield Sauchie
- Ms S Hossack, 6 Blairdenon Drive Sauchie
- Mrs Linda Howson on behalf of British Horse Society Scotland and Clackmannanshire Riders Access Group
- Earl of Mar and Kellie, per Bell Ingram
- John & Anne Shearer, Pompee Cottage, Branshill Road, Sauchie

A further Neighbour Notification and advertisement process has been undertaken in respect of the revised proposals showing a primary school on the site. Supplementary comments received in relation to this publicity are listed separately in paragraph 5.3.

5.2 Representations on the original proposals were received on the following grounds:

- Uncertainty regarding impact on the school estate. *Comment: The application now proposes a new primary school on the site, which would be designed to accommodate the needs of the new development and replace the existing Craigbank Primary School (including Sauchie Nursery). The Council has secured Scottish Futures Trust funding towards the new school, and the Section 75 Agreement that will be tied to any grant of planning permission will set out the arrangements for transfer of the school site to the Council, options for implementation and developer contributions towards its provision.*
- Account should be taken of the needs of horse riders in the planning of existing Core Path through the middle of the site. *Comment: The use by horse riders will be taken into account in designing the upgraded core path route through the site.*
- There will be a loss of greenery and wildlife resulting from the development. *Comment: The site is largely agricultural fields, however it has already been identified in the development plan as a settlement expansion area for residential development. The development*

guidelines for the site as set out in the Local Plan require enhancement of the ancient and semi-natural woodlands around the site, including improved habitats, in accordance with LBAP targets. In addition, the indicative masterplan shows substantial areas of planting and open space which will provide opportunities for further biodiversity enhancement and habitat connectivity.

- More investigation of ground conditions are required, given previous mining history, before development should occur. Comment: *The site is known to contain the remains of historical mine workings. The applicant undertook further ground investigations this year. The indicative masterplan shows the conjectured extent of coal reserves. Insofar as the proposals entail development over this part of the site, the developer will require to bring forward proposals for ground stabilisation. As yet, precise details of proposals to deal with this issue have not been presented to the Council. This will be a matter to be addressed in subsequent MSC (Matters Specified in Conditions) applications following the grant of PPP (Planning Permission in Principle), or in a separate detailed planning application were the proposals to go beyond ground stabilisation in the conventional sense and include the extraction of coal from shallow seams by opencast mining methods. Both these processes will involve neighbour notification and publicity, in order that the local community can view and comment on any such proposals before a decision is made. We have already provided the applicant with policy advice on the prospects of a coal extraction proposal, in the knowledge that this may be a matter for the developer to factor into any finalised development appraisal. The District Valuer has examined financial information provided by the developer and advised us that ground conditions are an example of abnormal costs which should properly be reflected in the land value. This has not been disclosed by the applicant.*
- Concern at the need for another roundabout to serve the development, close to an existing roundabout on Fairfield Road. Comment: *The proposed new roundabout on Fairfield Road would sit around 500m from the mini-roundabout to the Southeast, at the junction with Ten Acres, and a similar distance from Collylands roundabout to the north. Roads and Transportation have no objections in respect of the distance of the new roundabout from these two existing roundabout junctions. In addition, it is considered that the new roundabout will act as a traffic calming feature at the entrance to Sauchie.*
- Concern about more traffic on Fairfield Road, which is already busier as a result of other recent road improvements to the east and west. Comment: *The development, given its scale will generate additional traffic on the surrounding road network. The main access is proposed off Fairfield Road, however this will not be the sole access into the development. As noted in Roads and Transportation's response, a Transport Assessment (TA) will be required in order to fully inform the layout and design of the development. A TA is an assessment of the full transport impact of a development proposal, and will require to fully assess traffic impacts on Fairfield Road. Crucially, there is no reason to believe that Fairfield Road has insufficient capacity to accommodate*

this development. An additional access will be formed onto Branshill Road.

- Sufficient provision should be made for pedestrian crossings of existing roads that will become busier as a result of the development. *Comment: Safe crossing points of existing roads will be a matter that will be examined in the Transport Assessment (TA) that will be required to inform the detailed stages of this development, beyond this "in principle" stage. The developer will require to fund or implement such measures.*
- Concern that construction traffic will cause noise, pollution, dust, vibration and congestion for nearby residents. *Comment: Before any development commences, a detailed construction traffic management plan will require to be submitted to and approved in writing by the Council.*
- Houses should be set back at least 20 from existing trees around the site, in order to protect residential amenity and the health and viability of mature trees and woodlands. *Comment: The indicative masterplan shows a 10m set back between development and existing woodland boundary. This would be further extended from any "built" development by virtue of garden ground or amenity space that would form the outer edge of the development, which should ensure that the buffer between existing woodland and built development is closer to 20m. Ultimately the suitable relationship between development and existing trees will be informed by arboricultural surveys, which will be required at detailed stages.*

5.3 Additional representations on the amended masterplan have been received from Sauchie Community Group and Ms R Gibb, 2 Benview Cottages, Alva Road, Sauchie on the following grounds:

- Questions on the need for so many new houses. *Comment: The site forms an important part of the Strategic Land Supply in order to meet projected population and household growth in Clackmannanshire.*
- Loss of green space and trees, in particular, to form new roundabout. *Comment: The area of trees that would be affected by the new roundabout is an area of plantation conifers and not ancient or semi-natural woodland. The development will provide opportunities for new native planting and woodland enhancement.*
- No objection to proposed siting of a school and pitches on the site.
- Concern on how mine workings and coal reserves will be dealt with. *Comment: The extent of coal on the site has been surveyed and the developer will require to bring forward proposals as to how to address this issue, before any built development could take place. Any such proposals will be subject to public consultation.*
- Flood risk may be an issue, given the developer proposes SUDs to hold excess water. *Comment: The site is not within a high flood risk area, however, will require to be developed in a manner that ensures*

existing and new properties are not put at risk from flooding. SUDs will be required in any event, to manage surface water run-off. Although ponds are shown on the Indicative Masterplan, a detailed SUDs scheme is yet to be developed. This will form part of an initial detailed plan for development of the overall site.

6.0 Development Plan Position

6.1 The site was first identified for residential development in the adopted Clackmannanshire Local Plan, 2004, within which the whole site was encompassed into the Sauchie settlement boundary, and approximately 5.43 Ha of it identified for 100No. houses as a first phase of an urban expansion area.

6.2 Subsequently, the First Alteration (Housing Land) to the Local Plan, adopted 2011, identified the whole site (53Ha) as Housing Policy Site H22 for speculative and affordable housing, expected to deliver approximately 800No. units in total. This represents the current Development Plan position. The application therefore accords with this Local Plan allocation. The development guidelines for the site in the First Alteration do however set out a number of guiding criteria, notably guidance on:

- Masterplan and phasing plan for the entire site;
- Arrangements for primary school provision;
- Enhancement of Greenbelt and the woodland setting of the development;
- Enhancement of local routes to locations such as to Inglewood and Lornshill Academy;
- Active and passive open spaces to be provided within the site;
- Provision of a new roundabout at Collylands;
- Consideration of coal extraction;
- Provision of affordable housing in relation to housing needs.

6.3 Taking account of these development guidelines, the following conclusions can be drawn:

6.4 **Masterplan and phasing plan for whole expansion area:** The application for Planning Permission in Principle (PPP) has been accompanied by an indicative masterplan drawing, which sets out the distribution of land uses, identifying housing parcels, the site of a proposed school and parkland areas. informed by some analysis of the site characteristics and constraints. However, the final make-up of the development will be subject to much more detailed analysis, following a design process that would be agreed between the developer and Development Services. The phasing of the development will also be informed by this detailed analysis, to ensure the delivery of key community infrastructure at appropriate stages in the development.

- 6.5 **Arrangements for primary school provision:** Based on evidence from previous developments in Clackmannanshire, the effect of 800 plus houses would result in an increase of around 300 primary age pupils, depending on the type and density of housing. The site is within the Craigbank Primary School catchment area. This school cannot accommodate all pupils, in addition to a nursery class which is planned to be integrated into the school, replacing Sauchie Nursery
- 6.6 The preferred option of Education Services, emerging in part from a review of the primary school estate, is the provision of a new, in part replacement, primary school within the site of this development. The school will serve the new and existing school age population within the Craigbank catchment area alike. The applicant agreed to amend the original masterplan and include a site for a primary school, close to the site access off Fairfield Road. Both Education and Facilities Management support this proposal, on the understanding that:
- The site is transferred to the Council
 - The school can be delivered at an appropriate stage of the development, which will have to be determined in part by the future decisions on Craigbank School itself
 - The developer contributes to the cost of the school being provided in proportion to the scale of the new housing development
- 6.7 We welcome the change to the masterplan. This meets the joint aspirations of the developer and the Council. The Section 75 Agreement will put in place the framework for delivery of this aspect of the project in accordance with the foregoing parameters.
- 6.8 **Enhancement of the Greenbelt and the woodland setting:** The site adjoins land identified as Greenbelt to the north and south, including areas of ancient and semi-natural woodland, such as Gubber Hill and Inglewood. The latter is subject to a Tree Preservation Order. The development offers the opportunity to enhance the urban edge of the Greenbelt through sensitive design and landscaping. The creation of parkland with trees in the site which connect to woodlands that surround it, offer the opportunity to expand the habitat network that these areas of woodland form part of. In addition to this, a buffer zone is proposed, separating any development from existing woodlands that bound the site, in order to reduce the scope for conflict between built development and existing woodlands.
- 6.9 **Enhancement of local routes to locations such as to Inglewood and Lornshill Academy:** The development will create additional demand on the existing network of paths and cycleways. In particular, the location of a primary school on the site will create a new pattern of development that will require to be catered for, in terms of new and enhanced routes both in the site and the surrounding area.
- 6.10 The indicative masterplan already identifies enhancement of a key route through the centre of the site, from Ten Acres to Lornshill. A number of other

routes are indicated, linking across the site and into the existing footpath network, ensuring that opportunities are taken to provide the resident population with good access to the existing on and off road network of paths.

- 6.11 **Active and passive open spaces to be provided within the site:** The development will provide a range of open spaces and recreation opportunities for the needs of residents. The indicative masterplan shows playing fields associated with the new school, as well as an adjoining central parkland area. It is anticipated that this area would provide both for passive amenity, but also as the central play area for the whole development. Smaller open spaces, possibly containing local play facilities will be expected to be provided throughout the development.
- 6.12 The Council will expect all open spaces to be designed to provide multi-benefits, in terms of their recreational and play value, but also by contributing to amenity, habitat, water management and climate change resilience.
- 6.13 **Provision of a new roundabout at Collylands:** This project has been completed in advance of the development by the Council, at no cost to the developer.
- 6.14 **Consideration of Coal Extraction:** The site is known to contain shallow coal reserves which have been subject to mine working in the past. These are recognised as being both a valuable mineral resource, but also a constraint on development that can be difficult and costly to overcome.
- 6.15 Policy EN24 of the Local Plan seeks to resist permanent development that would sterilise a viable mineral resource where this could be extracted in a manner that accords with the development plan. A notable exception to this stance, set out in Policy EN24, is where preservation of the mineral resource would prevent residential development that would contribute to the strategic land requirement and no other sites are available to meet the requirement. This site is considered to be important to the strategic land supply, given its size and location, and would provide a significant number of houses, that could not be easily met by other alternative sites. Equally, it is not altogether clear whether coal could be extracted in a manner that complies with the Development Plan. Environmental protection, proximity to the existing settlement and road safety are some of the more obvious policy issues that we have brought to the applicants attention. For the moment, we have fulfilled the Local Plan guideline.
- 6.16 **Provision of affordable housing in relation to housing needs:** The advice from Housing, in accordance with the Housing Needs and Demand Assessment, indicates that the development will require to provide 25% affordable housing, which for an 800 units development would equate to 200 affordable units. It is anticipated that such provision will be distributed throughout the site, rather than grouped in one location, and that a variety of property types will be provided with the affordable housing. The planning conditions and Section 75 Agreement will make provision for delivery of affordable housing in a phased manner throughout the construction programme.
- 6.17 Whilst much detail is required in order to fully assess how the development will deliver on the requirements set out in the Local Plan, the general

principles that are established at this stage will allow officers to prepare conditions and a legal agreement that will shape delivery of a masterplan and detailed proposals that will meet the Council's expectations for this site, as expressed in the Local Plan. On this basis, and in the absence of any specific areas of policy conflict, the proposal complies with the Development Plan.

7.0 Other Material Considerations

- 7.1 The emerging Development Plan, in the form of the Clackmannanshire Local Development Plan (LDP) continues to identify the site as a Settlement Expansion for housing development, and setting out detailed development requirements, such as the need for a detailed masterplan, phasing plan, transport assessment, open space/play provision, affordable housing and education provision. The LDP is being reported to Council on 24th October 2013.
- 7.2 Given the size of the development, and the publicity that has accompanied it, including pre-application consultation, press advertisement and notification of around 70No. neighbours, a relatively small number of objections have been received. By and large, these raise issues of detail, on matters that will become clearer in the further detailed stages of planning, which will themselves be subject to publicity and consultation.
- 7.3 Similarly, comments and issues raised by consultees do not raise issues of principle in relation to the development, but of detail. These consultees will be involved in the subsequent stages of planning of this development where such issues will be addressed.
- 7.4 There are no material considerations that would prevent the Committee from indicating that it is minded to approved the application in principle, subject to the provisions set out in Section 2.0 of this report.

8.0 Sustainability Implications

- 8.1 The proposed development involves a large settlement expansion, encompassing houses, school and associated pitches, open space, play provision, landscaping, roads, paths and other infrastructure. The detailed layout and form of the development presents opportunities and challenges in respect of ensuring the that a new sustainable place is created. It is anticipated that this can be achieved through the preparation and implementation of a well considered masterplan, which will be brought forward following the grant of Planning Permission in Principle.

9.0 Resource Implications

9.1 Financial Details

- 9.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes
- 9.3 Finance have been consulted and have agreed the financial implications as set out in the report. Yes

10.0 Exempt Reports

10.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

11.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

- | | |
|--|-------------------------------------|
| The area has a positive image and attracts people and businesses | <input checked="" type="checkbox"/> |
| Our communities are more cohesive and inclusive | <input type="checkbox"/> |
| People are better skilled, trained and ready for learning and employment | <input type="checkbox"/> |
| Our communities are safer | <input type="checkbox"/> |
| Vulnerable people and families are supported | <input type="checkbox"/> |
| Substance misuse and its effects are reduced | <input type="checkbox"/> |
| Health is improving and health inequalities are reducing | <input type="checkbox"/> |
| The environment is protected and enhanced for all | <input checked="" type="checkbox"/> |
| The Council is effective, efficient and recognised for excellence | <input type="checkbox"/> |

(2) **Council Policies** (Please detail)

12.0 Equalities Impact

12.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

13.0 Legality

13.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

14.0 Appendices

14.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

- Appendix 1 - Draft Heads of Terms of Section 75 Agreement.

15.0 Background Papers

15.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at

which the report is considered)

Yes (please list the documents below) No

Clackmannanshire Local Plan, 2004

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Planner	2615

Approved by

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Services Manager	

APPENDIX 1

DRAFT HEADS OF TERMS FOR SECTION 75 AGREEMENT

Application for Planning Permission in Principle - Ref No. 10/00153/PPP
- Development of Land for Houses, School and Associated Pitches,
Open Space, Play Provision, Landscaping, Roads, Paths and Other
Infrastructure on
of Land at Branshill Road, Sauchie West

Applicant: Allan Water Developments Ltd

Agent: Bracewell Stirling Consulting

Proposed Heads of Terms of Planning Obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended.

1. Masterplan - The development shall proceed in accordance with a town expansion masterplan, to be submitted by the development and approved by the Planning authority.
2. Phasing Plan - The development shall proceed in accordance with a Phasing Plan, to be submitted by the developer and approved by the planning authority. The Phasing Plan shall identify proposals and arrangements for the provision and implementation of transport infrastructure improvements, travel management arrangements, the primary school community campus (PSCC), maintainable areas and affordable housing, all in relation to the phased implementation and completion of housing sites.
3. PSCC Site - The PSCC site shall be identified and delineated on the masterplan.
4. Transfer of Site - The PSCC site shall be transferred under disposition to the Council by a prescribed date shortly after the grant of Planning Permission in Principle.

5. PSCC Implementation - Alternative funding arrangements will be available which will provide three options for implementation of the PSCC. These are:

1. Construction of the PSCC by the Council with agreed developer contribution as part of the phased implementation of the development
2. Construction of the PSCC by the developer, jointly with SFT funding, again as part of the phased implementation of the development
3. Construction of the PSCC as an initial phase of development by the Council, with a series of subsequent developer contributions linked to progress on the early phases of housing development.

The PSCC shall be completed in accordance with an agreed Scottish Government specification.

6. Transport Assessment - A Transport Assessment shall be prepared in association with the masterplan proposals, then to be approved by the Council. The development shall thereafter be implemented in accordance with the agreed recommendation for travel management, infrastructure improvements, safe routes to the existing and proposed schools, all as incorporated in the Phasing Plan.

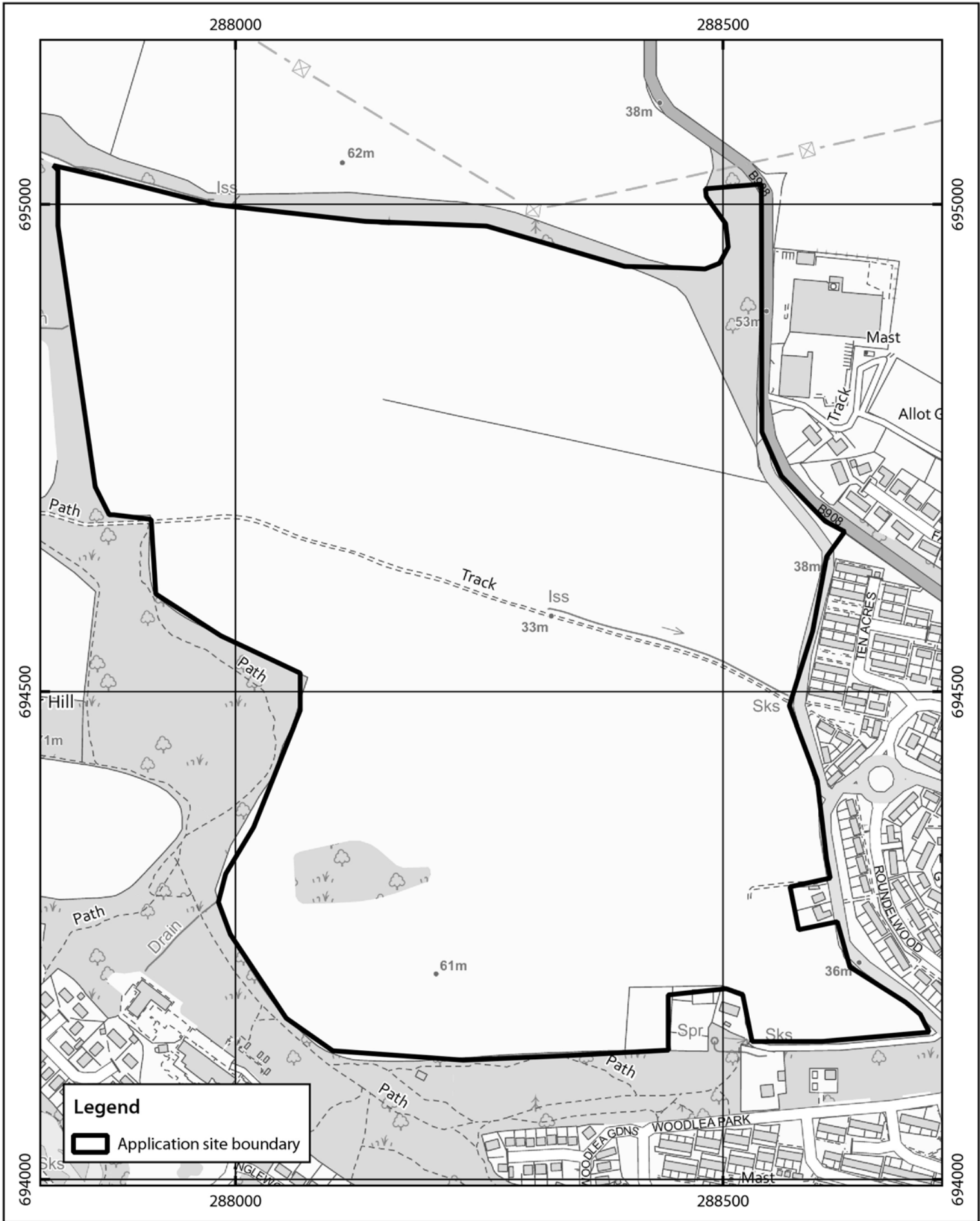
7. Affordable Housing - The development shall make provision for affordable and particular needs housing, as defined in the glossary to PAN 2/2010. This will be implemented in accordance with the Phasing Plan and shall comprise 200 no. houses or 25% of all houses within the development, whichever is the greater.

8. Maintainable Areas - All areas of landscaping, woodland, active or passive open space, play spaces or paths, (Maintainable Areas) as identified on the masterplan shall be completed to the Clackmannanshire Standard for adoption by the Council.

9. Transfer of Land - All Maintainable Areas shall be transferred under disposition to the Council for future maintenance and adoption, in accordance with the Phasing Plan.

10. Performance Bond - A performance bond or other form of security shall be provided in association with the phased implementation of the Maintainable Areas.

Note: The various terms described herein will be subject of definition in the Obligation.



N
Date:
08 Jan 2021

10/00153/PPP – Land At Branshill, Branshill Road, Sauchie
 Development of Land for Houses, School and Associated Pitches, Open Space, Play Provision,
 Landscaping, Roads, Paths and Other Infrastructure

Ward: Clackmannanshire Central
 0 50 100 150 200 250 metres

OS Grid Ref: NS882945
 Scale: 1:5,000

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 **Clackmannanshire Council**
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 Development & Environment
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Report to: Planning Committee

Date of Meeting: 21 January 2021

Subject: Planning Application Ref: 20/00214/FULL - Change of Use of Woodland to Permanent Gypsy/Traveller Site (2 No Households) and Siting of 2 No Static Caravans and 4 No Touring Caravans With Related Infrastructure (Retrospective) - Renewal Of Permission For A Further 2 Years - Cow Wood, Forestmill, Clackmannanshire

Report by: Grant Baxter, Principal Planner

1.0 Purpose

- 1.1. To provide an assessment of the above noted planning application against the provisions of the Local Development Plan and other material considerations, and provide a recommendation on the application.

2.0 Recommendations

- 2.1. It is recommended that the application is approved for a temporary period of just one year from the date of this Planning Committee and subject to the conditions as set out below:

Conditions

1. This permission shall cease on 31st January 2022. By that date, the use of the site as a permanent gypsy/traveller site, shall cease, all caravans shall be removed from the site and it shall be returned to forestry use. Unless, by that time, planning permission has been granted for continued use of the site for this development.
2. The site shall only be occupied by a maximum of two families who are declared Gypsy/Traveller households.
3. Within three months of the date of this permission, the following additional information shall have been submitted to and approved in writing by the Council:
 - a) A schedule of native tree and hedge planting along the site's western and northern boundaries, and arrangements and timing of planting and future maintenance.
 - b) Details of proposed water supply, foul and surface water drainage arrangements and timing of installation. If a public supply is not to

be used, details must include details of a private water supply which is adequate and potable and complies with the requirements of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

- c) Once approved, the development shall be carried out in accordance with such approved details, unless otherwise approved in writing by the Council.
4. All plant, machinery and equipment installed or operated within the site shall be so enclosed and/or attached that noise therefrom does not, at any time, increase the background levels as measured in accordance with British Standard BS4142:2014, at any nearby residential property.
5. In so far as not required for access, the site shall be enclosed along its boundaries with a post and wire fence in accordance with a specification and details to be submitted to and approved by the Council, as planning authority.

Reasons

1. The application does not fully comply with the Local Development Plan and this time period is considered suitable in order to meet the housing needs of the applicant and his family, whilst allowing screen planting to mature and the Council to monitor the use and visual amenity of the site.
2. In order to protect the visual amenity of the site and its immediately surrounding area and prevent against over-development, in recognition of the needs of Gypsy/Travellers.
3. In order to ensure the submission and approval of precise details in connection with the proposed development and their implementation on the site.
4. In the interests of residential amenity.
5. To ensure that the area to which the change of use hereby permitted relates is physically and sufficiently demarcated.

2.2 Reasons for Decision

1. In 2017, it was concluded that the proposals complied with certain provisions of the LDP, but that they were not fully policy compliant. Key policy tests on Gypsy/Traveller accommodation and development in the countryside, as set out in Policies SC3 and SC23, in respect of visual amenity and provision of suitable infrastructure, were not entirely satisfied.

2. As such, temporary planning consent was granted in 2017 for a period of 3 years. This was considered to strike a suitable balance in order to meet the immediate housing needs of the applicant's family, whilst allowing time to address outstanding matters in relation to screen planting and installation of utilities required to make the site suitable for permanent habitation. This temporary period would allow for consideration of the suitability of permanent planning permission at the end of a trial period. Cognisance could also be

taken of any other material planning considerations that arose during the three year period.

3. The three year period expired on 30th September 2020, and this current application, seeking a further extension of the temporary planning permission for a further 2 years was submitted shortly before that expiry date. The application is accompanied by a supporting Planning and Design Statement, prepared by a planning consultant on behalf of the applicants. This acknowledges that an application for permanent planning permission would be premature given matters in relation to landscaping/planting and provision of utilities (as set out in planning conditions) have not been adequately addressed to date. The statement sets out reasons as to why these matters have not yet been addressed and also includes updated details of planting and foul drainage proposals, and considers that a further 2 years is required to address all issues before a permanent consent is sought.

4. It is acknowledged that the applicants have faced a number of challenges in addressing the planning conditions, which have been outwith their control, but equally that these do not fully justify or explain the lack of progress. The site is the main home for the applicant families, but without appropriate screen planting, and in particular without basic amenities, such as electricity, foul drainage and drinking water, its suitability for permanent habitation, in accordance with planning policies, remains in doubt.

5. It is considered that an additional period of 2 years may only serve to further delay actions to address outstanding planning requirements, but equally that refusal of the application would fail to acknowledge challenges the applicants have faced and deny them the opportunity to address matters appropriately.

6. An additional period of one year (from the date of this Planning Committee meeting) would provide the applicants with appropriate time to address previous planning conditions, and for the Planning Committee to review progress at the end of that period, should the applicants wish to make a further planning application at the end of that period.

7. This approach is considered to comply with the provisions of the adopted development plan and takes account of material considerations.

Approved Plans

- 5164.D.01B - Location Plan
- -- - Location of Outstanding Works
- -- - Plans 2 & 3 & Fence Details

3.0 Considerations

3.1. Background

3.2. This is a further application seeking to extend a temporary planning permission granted in September 2017 for the retrospective change of use of an area of woodland to a permanent gypsy/traveller site. The permission

comprised the site being split into two halves, each being a separate pitch for a household, and each containing a static caravan and two touring caravans, with related infrastructure. The two separate households are from the same family, and the site was first occupied in January 2017, with the original application being submitted retrospectively in June 2017.

- 3.3. The site is rectangular, measuring approximately 50m by 26m and abuts the east side of the minor unclassified road from Forestmill to Sheardale, approximately 700m south of its junction with the B9140 road. It lies close to the northern edge of Cow Wood, and in very close proximity to an overhead power line that runs east-west through the woodland. The site and adjoining land under the powerline were clear felled, creating a linear area of cleared woodland along the northern edge of Cow Wood. The applicant's land ownership runs for several hundred metres east of the application site alongside the powerline corridor.
- 3.4. The site has an access off the minor road it abuts and is surfaced in compacted stones (Type 1). It contains static and touring caravan and has a backdrop of woodland to the south, cleared woodland under the powerline to the north and woodland and agricultural land on the opposite side of the road, to the west.
- 3.5. The nearest houses are Meeks Park (400m to the southeast), Cairnsmuir (600m to the east) and Easter Sheardale Cottages (700m north).
- 3.6. In September 2017, the Planning Committee agreed with the officer's recommendation that planning permission be granted, not permanently, but for a period of three years. The reasons for this were set out in the officer's report as follows:
 - 3.6.1. Elements of the proposals comply with certain provisions of the LDP, but there remain areas of policy conflict. The proposals would not result in significant adverse effects on the wider landscape or appropriate levels of residential amenity but do detract from the appearance, amenity and character of immediate area. As such, they only partially comply with the key policy test on Gypsy/Traveller accommodation, as set out in Policy SC3 of the Local Development Plan.
 - 3.6.2. The application does not fully meet the tests set out in the LDP in respect of developments in the countryside, however, the housing needs of a Gypsy/Traveller family are material considerations that are of relevance in this case.
 - 3.6.3. Whilst not fully in accordance with such policy provisions, there are areas of policy support, such that a clear case for refusal of the application and subsequent enforcement action is not at this stage fully justified.
 - 3.6.4. Matters in relation to the suitability of the access arrangements, installation of appropriate services and amenities, compliance with other non-planning regulations and implementation and establishment of screen planting remain unresolved, and to some extent can themselves only be progressed following a grant of planning permission. A temporary planning permission, lasting a suitable period of time will allow progress with these issues to be made, and the success of the site in respect of road safety, provision of services and

visual impact can be fully reviewed if a permanent permission is sought at the end of the temporary period.

3.6.5. Taking account of the development plan and material considerations, therefore, a temporary planning permission for a period of three years would strike a suitable balance in order to meet the housing needs of the applicant and his family, whilst allowing screen planting to mature and the Council to monitor the use and visual amenity of the site.

3.7. The temporary planning permission was granted subject to the following conditions and reasons (Condition 5 was added by the Planning Committee):

Conditions

1. This permission shall cease on 30 September 2020. By that date, the use of the site as a permanent gypsy/traveller site, shall cease, all caravans shall be removed from the site and it shall be returned to forestry use. Unless, by that time, planning permission has been granted for continued use of the site for this development.

2. The site shall only be occupied by a maximum of two families who are declared Gypsy/Traveller households.

3. Within three months of the date of this permission, the following additional information shall have been submitted to and approved in writing by the Council:

a) A schedule of native tree and hedge planting along the site's western and northern boundaries, and arrangements and timing of planting and future maintenance.

b) Details of proposed water supply, foul and surface water drainage arrangements and timing of installation.

Once approved, the development shall be carried out in accordance with such approved details, unless otherwise approved in writing by the Council.

4. All plant, machinery and equipment installed or operated within the site shall be so enclosed and/or attached that noise therefrom does not, at any time, increase the background levels as measured in accordance with British Standard BS4142:2014, at any nearby residential property.

5. In so far as not required for access, the site will be enclosed along its boundaries with a post and wire fence in accordance with a specification and details to be submitted to and approved by the Council, as planning authority.

Reasons

1. The application does not fully comply with the Local Development Plan and this time period is considered suitable in order to meet the housing needs of the applicant and his family, whilst allowing screen planting to mature and the Council to monitor the use and visual amenity of the site.

2. In order to protect the visual amenity of the site and its immediately surrounding area and prevent against over-development, in recognition of the

needs of Gypsy/Travellers.

3. In order to ensure the submission and approval of precise details in connection with the proposed development and their implementation on the site.

4. In the interests of residential amenity.

5. To ensure that the area to which the change of use hereby permitted relates is physically and sufficiently demarcated.

3.8. Planning Assessment

3.9. The planning conditions were applied to the temporary permission, not only to require provision of outstanding details of the site, but also so that assessment of a future application for a permanent or extended temporary permission could review “performance” against the requirements of the conditions, given the development was not considered to be fully policy compliant. In this regard, the following summary in respect of the planning conditions is provided:

3.9.1. Condition 1: This application for an extension of the temporary permission was submitted one day prior to the expiry of the period set out in Condition 1.

3.9.2. Condition 2: As far as the Planning Service is aware, the site has been occupied in accordance with this condition.

3.9.3. Condition 3a: Details of native tree and hedge planting were approved on 26 April 2018 (seven months after the planning permission). The approved planting has not been completed on site to date.

3.9.4. Condition 3b: The site does not yet have drinking water or foul sewerage services. Drinking water is transported to the site and held in a bowser. Foul water arrangements are only those contained in caravans and a portable toilet, which are periodically emptied and with waste water disposed of off site. The site is covered in compacted stone which allows surface water to drain.

3.9.5. Condition 4. The Council’s Environmental Health Service has no record of any noise complaints emanating from machinery operated on the site, however one objector has referred to audible generator noise in mornings and at night.

3.9.6. Condition 5. Details of post and wire fencing for the site boundaries were approved on 26 April 2018. Most, but not all fencing has been erected on site.

3.10. The planning application has been accompanied by a Planning Report and Design Statement prepared by the applicant’s agent, the key elements of which can be summarised as follows:

3.10.1. The report confirms that the site is owned and occupied by the related Stewart and MacDonald families, who are part of the gypsy/traveller community. The family are settled at the site and wish to remain there as their permanent home to access health and education services.

- 3.10.2. The report notes that conditions 3 and 5 have not been fully complied with, but that the applicants wish to provide the facilities required by the planning conditions and request a further 2 years in order to achieve this, before seeking permanent consent.
- 3.10.3. In respect of Condition 3a, the report acknowledges that the approved native planting scheme to the north and west boundaries of the site has not been carried out, but there is no specific justification given for this. Reference is made to a wayleave in relation to a powerline that passes over the site that would allow the line operator to fell trees beneath it. Mention is also made of natural regeneration that has provided some screening to the site over the last 3 years. The application is accompanied by a revised planting scheme for mixed deciduous planting on the western (roadside) boundary and beech hedging to the northern boundary, which the agent advises could be made a condition of any planning permission. This scheme is considered to be acceptable.
- 3.10.4. In respect of Condition 3b, the report advises that domestic waste is uplifted from the site by the Council.
- 3.10.5. Electricity is provided by an onsite generator. The applicant had made arrangements for a grid connection via a pole mounted line running from the south alongside the road. The applicant has however been unable to achieve the required wayleave from a third party landowner to allow this line to be installed. There are no details of an alternative solution.
- 3.10.6. A water supply connection has been planned, in the form of a pipe from Easter Sheardale, to the north. This has not yet been achieved, with the COVID 19 lockdown cited as a reason for this. The applicants are now investigating a private on-site borehole as an option.
- 3.10.7. No permanent drainage system has been installed. Portable toilets are in place and emptied on a regular basis under contract from the supplier. The lack of a water supply is a barrier to installation of a drainage system. A package treatment plant would also require a mains power supply, which is yet to be provided. A septic tank option is now being investigated, and details of this are submitted with the application. Surface water drainage is provided by permeable surfaces.
- 3.10.8. In respect of Condition 5, the agent advises that fencing has been erected on all but the northern site boundary, with this to be completed after a septic tank is installed.
- 3.10.9. The report cites the illness and sad passing away of Mr Alexander Stewart in April 2020 as a major setback to the family that has contributed to the outstanding matters above not having been addressed. Mr Stewart was the head of the family and the project manager for addressing the planning conditions and achieving utility connections.
- 3.10.10. The report notes that from time to time, the number of touring caravans on the site has exceeded four in total, with extended family members visiting. During summer months, there may be no touring caravans on site, with the family travelling during this time.

- 3.10.11. The report concludes that due to a number of circumstances outwith the applicants' control, full compliance with planning conditions has not been achieved, and therefore a further period of 2 years is required and requested to address all outstanding points. The agent does not consider that the recommendation of an additional one year is sufficient time for the applicants to address all matters, particularly taking account of ongoing COVID19 restrictions.
- 3.10.12. Finally, the report summarises matters that the agent considers should be taken into account in decision making, including the development plan, Scottish Planning Policy and equalities and human rights legislation. The key provisions of these are set out in this report.
- 3.11. Consultations
- 3.12. Roads: Presumption against residential development in a rural area. Safety concern regarding increased vehicle movements and pedestrian activity on this de-restricted section of rural road. *Comment: Notwithstanding the concerns about the principle of the development, a reasonable degree of visibility appears to be available at the site access which is onto a straight section of a quiet minor rural road. There are no footways in the vicinity of the site. Granting of temporary approval allowed the use of the access to be monitored for an initial period, and then reconsidered at a future date in light of any issues. Roads have not reported any issues or incidents in connection with the site access.*
- 3.13. Environmental Health: Recommend refusal based on no information having been provided since the original consent on water supply and toilet/washing facilities. The relevant site licence for a residential mobile homes or touring caravans has not been applied for. If approval is granted, conditions on water supply details, noise levels of plant and machinery and hours of demolition/construction. Licences should also be sought. *Comment: Any consent should be conditioned as advised by Environmental Health. Licences should also be sought by the applicant separately from planning consent.*
- 3.14. SEPA: No objections. There is no indication of a watercourse for soakaway run off from a septic tank to discharge to. A septic tank and soakaway will require consent via Building Standards. *Comment: The proposed septic tank drainage arrangements will require a Building Warrant.*
- 3.15. Scottish Water: No objections. There is sufficient capacity in the Turret Water Treatment Works to provide a water supply. There is no waste water infrastructure in the vicinity. *Comment: SW have previously confirmed that an application for water connection had been made to them, and that the water main lies 350m from the site, but that any application would only be processed if planning permission is granted.*
- 3.16. Dollar Community Council: Neither object to nor support the application. Full (permanent) planning permission should not be granted if previous conditions have not been addressed.
- 3.17. Representations

- 3.18. There were no notifiable neighbours to this application, however as there is adjoining land with no premises, a Neighbour Notification advertisement was published in the Alloa Advertiser on 14th October 2020.
- 3.19. A total of 3No. representations have been made by the following parties:
- Stephen Outhwaite, Meeks Park, Forestmill
 - George Drysdale, 9 Livingstone Way, Clackmannan
 - J. Drysdale, Forestmill Farm, by Forestmill
 - Scottish Forestry, Upper Battleby, Redgorton, Perth
- 3.20. On the following grounds:
- The application was granted subject to a number of conditions and these have not been fully complied with. *Comment: A summary in the context of planning conditions is provided in this report of handling.*
 - Landscaping/planting has not been carried out. *Comment: This has been noted.*
 - A wayleave for electricity connection was permitted by a nearby landowner due to Mr Stewart's poor health, but consent was later withdrawn due to issues caused by a third party landowner who was carrying out unauthorised development on adjoining land, and threatening to bring several families onto their site. *Comment: The Council as Planning Authority has no locus in respect of private wayleaves. Issues in relation to adjoining land are not material to determination of this application, however are being monitored by the Planning Service.*
 - Noise from generators on site can be heard at night and in early morning. *Comment: Environmental Health have no record of noise complaints, but this point has now been raised with them.*
 - Notwithstanding the death of Mr Stewart, the family have had over 3 years to address planning conditions.
 - Comments in respect of anti-social behaviour emanating from the site. *Comment: This is not a material planning consideration, but Police Scotland are aware of issues in this regard.*
 - The site is not suitable for caravans and should be returned to forestry. *Comment: Planning permission was granted on a temporary basis in order to assess the suitability of the site for permanent development.*
 - There are regularly more than the permitted number of caravans on the site. *Comment: It has been observed that the number of touring caravans on the site can be above or below four at certain times. Whilst the development description refers to four touring caravans, it would not necessarily be deemed a breach of planning control for the number of touring caravans to increase above four for short periods of time. At the*

time of writing this report, the number of caravans on site does not appear to exceed that described in the development.

- The proposal is contrary to Policy SC3 of the adopted LDP. *Comment: Assessment of the proposal against LDP policies is set out in this Report of Handling.*
- Approval of woodland removal for development is contrary to Scottish Government woodland removal policy and as such the application should be rejected. *Comment: The site was previously part of a larger plantation woodland (presumably planted for future timber harvesting). The trees were removed by the operator of the power line that passes overhead, not by the applicant.*

3.21. Planning Policy Assessment

3.22. The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Clackmannanshire Local Development Plan, adopted August 2015 (LDP) comprises the development plan.

3.23. The main relevant policy provisions of the LDP are as follows:

- Policy SC3 – Gypsies, Travellers and Travelling Show People
- Policy SC20 – Water and Drainage Infrastructure and Capacity
- Policy SC23 – Development in the Countryside – General Principles
- Policy EA4 – Landscape Quality

3.24. Policy SC3 identifies considerations to be taken into account for private Gypsy/Traveller sites, with encouragement given to use of authorised sites in the first instance, and support for private sites only given where certain criteria, including other relevant policies of the LDP, can be met.

3.25. The key provisions of other policies are set out below, however Policy SC3 also requires the development to be sensitively located and designed to avoid significant adverse effects, offer appropriate standards of amenity and access to local services.

3.26. Policy SC20 seeks to ensure that developments are served by suitable water and drainage infrastructure, and proposes SUDs for all new development.

3.27. Policy SC23 sets out general principles for development in the countryside. It directs new developments to existing settlements unless specific criteria can be met, such as demonstrating the need for a countryside location, appropriateness of scale, design and character and adequacy of infrastructure. If these are met, the policy supports developments adjacent to existing groups/clusters or via conversion of suitable buildings.

3.28. Policy SC24 derives from SC23 and is specific to residential development, setting out additional criteria for assessing residential development. In this case, the residential element of the proposal are the caravans, and none of the criteria of the policy are specific to this type of development, unless it is

temporary accommodation in connection with a new rural business, which is not the case here.

- 3.29. Overall, whilst elements of the proposals comply with certain provisions of the LDP, it was originally concluded in 2017 that there were also significant areas of policy conflict, suggesting that the proposals did not fully comply with the provisions of the development plan, and hence temporary consent was granted.
- 3.30. There are a number of material considerations that are relevant to this proposal which include:
- The Planning Aid Scotland’s publication “Gypsy/Travellers and the Scottish Planning System – A Guide for Local Authorities” (The PAS Guide).
 - The Secretary of State’s Advisory Committee on Scotland’s Travelling People – Guidance Note on Site Provision for Travelling People (ACSTP), Final Report 2000 - adopted by Scottish Executive(SE) as policy.
 - Human Rights and Equality Legislation – Public Sector Equality Duty (PSED)
 - Personal circumstances of the applicant.
 - Compliance with other legislation.
- 3.31. Taking account of these considerations, the following conclusions can be drawn:
- 3.32. The Council has adopted a policy for consideration of private Gypsy/Traveller sites, as required by the SPP. As noted above, there are areas of both compliance and conflict with the policy.
- 3.33. The personal circumstances of the applicant are not normally of relevance in determining planning applications. The PAS Guide suggest that due to the inequalities that gypsy/travellers face, it may be the case that personal circumstances should be given weight in determining applications, but only if there is conflict with the development plan. In this case, the personal circumstances that have been brought to our attention are the education of children living at the site and the need for access to healthcare, and the ill health and passing away of the head of the family, Mr Alexander Stewart, within the last year.
- 3.34. Article 8 of the European Convention on Human Rights (ECHR) is concerned with the right to private and family life, and public authorities are required to consider carefully the proportionality of their actions in decision making which may affect Gypsy/Travellers family or home life. This requires a balance of social need with the protection of the environment. In respect of Article 14 of the ECHR, concerning prohibition of discrimination, there is a positive obligation to facilitate the Gypsy/Traveller way of life, and again, a balance must be struck, taking account of the facts of the case. It should also be noted that the UN Convention on the Rights of the Child (UNCRC) is also a

material consideration. When considering Gypsy/Traveller applications, there is a duty on the Council to consider the impact that decision-making will have on any children affected by the outcome of that decision.

- 3.35. Should planning permission be granted, the site will require to be licensed. As part of this new regime, model standard conditions will apply, in relation to a number of site issues, including drinking and waste water, sanitary and washing facilities, refuse and waste disposal. The applicant has not progressed with site licencing and this has been compounded by the failure to achieve water and drainage connections.
- 3.36. The PAS Guide indicates that temporary planning permissions can create uncertainty and should be avoided where possible, however, are not ruled out where the balance between the potential planning harm of the development and other material circumstances is unresolved. This was considered to be the case in respect of the original application, and the applicant now requests an extension to that temporary period to allow planning requirements to be fulfilled.
- 3.37. It was previously considered that a temporary planning permission for a period of three years would strike a suitable balance between meeting the housing needs of the applicant and his family in the medium term, allowing screen planting to mature, utilities to be installed and the Council to monitor the use and visual amenity of the site.
- 3.38. Taking account of visual amenity issues, the site benefits from some natural screening afforded by the mature woodland that lies immediately to the south. There is no guarantee that this will remain in the long term as it is plantation woodland that could be felled at a later date and is not in the applicant's control. The site is open on all other sides however is only visible at relatively close proximity on approach along the minor road it is served off. There are no long distance public views of the site and it is not in an area designated for landscape or natural heritage importance. The local visual amenity of the site could be significantly enhanced by native tree/hedge planting as has been conditioned but not implemented. Natural regeneration has softened the visual impact of the site somewhat.
- 3.39. Granting of planning permission on a temporary basis was meant to allow such planting to be implemented and its success reviewed as part of a future application to renew a temporary permission. There is no clear reason for the approved planting not having been implemented since consent was granted in September 2017. The agent has proposed a revised (and acceptable) alternative planting scheme, but its success can only be judged if it is implemented, and there must be concerns about whether this would take place as proposed, given the failure to implement the original scheme.
- 3.40. The site lies in an area of forestry with other nearby land in agricultural use, and the nearest houses over 400m away. One objector has referred to night and morning noise from generators on site causing disturbance, although Environmental Health have no record of such concerns to date. Mention is made of anti-social behaviour and other issues related to alleged activities on neighbouring land. The requirement for generators on site is a direct consequence of the applicant's inability to achieve a power connection from the grid. There does not appear to be any current proposal to overcome this

constraint, and therefore the applicants may be restricted to the use of generators for electricity indefinitely. This would be a concern, not just in respect of potential noise disturbance, but also about the long-term suitability of the site in the context of Policy SC3.

- 3.41. The site is served by Council domestic waste collection service, but there is as yet no on-site drainage system or water supply. The COVID 19 restrictions have been cited by the agent as a reason for a proposed water connection not progressing, however, consent was in place for 2.5 years before these became a factor. An on-site borehole now being investigated. A package sewage treatment plant was also originally proposed, but due to the need for a power supply, this cannot progress and a septic tank/soakaway solution is now being considered. There is currently no building warrant application for a septic tank/soakaway.
- 3.42. Whilst it is acknowledged that the applicants have encountered significant challenges in achieving utilities connections for the site, not least the death of the head of the family 8 months ago, it is also clear that matters could, and perhaps should, have progressed more quickly in the 2.5 year period preceding this and the COVID 19 restrictions, with regard to installing these important amenities. It is not fully clear as to why so little progress has been made since the grant of planning consent in September 2017, particularly bearing in mind that the applicants owned and occupied the site for several months prior to this date. These amenities were set out as requirements of planning conditions, and relate to criteria set out in Policy SC3, regarding the suitability of sites for private gypsy/traveller occupation.
- 3.43. The Council requires to take a balanced view on the future likelihood and timescale for achieving such connections and also addressing other related matters such as site licencing. The unforeseen issues the applicant has encountered have undoubtedly contributed to delays, but these are not solely responsible for the lack of progress. An extension of temporary planning permission for a further 2 years may provide sufficient time for all of these issues to be addressed, but equally may only serve to further delay their implementation. A shorter time period of 12 months may strike an appropriate balance between providing the applicants more time to address matters, but not unreasonably extend a temporary situation, if in fact these utilities cannot be installed to make this a suitable permanent living environment envisaged by Policy SC3.
- 3.44. Whilst the applicant's agent has indicated that one year is not considered sufficient, it should be borne in mind that this would be from the date of decision (i.e. the date of this Planning Committee meeting), and not from 30th September 2020, when the original consent expired, so an additional 4 month period has already been permitted.
- 3.45. It is important that in the additional temporary period matters are expedited in respect of not only provision of planting and amenities but also seeking building warrant for drainage infrastructure and the appropriate licencing through Environmental Health.
- 3.46. It is clear that national and local planning policy and other material considerations do not support protracted temporary planning permissions for private gypsy/traveller sites, particularly where these sites are not capable of

providing the amenities and standard of living required by planning and other regulations. Granting consent for a further 2 years would not fully reflect the reasons for the Council's original planning decision to grant temporary planning permission in 2017. Equally, refusal of the application would not fully reflect some of the challenges the applicants had faced in the previous three years or fully consider human rights legislation such as the fact that the site is currently the applicant's home, despite its current lack of amenities.

- 3.47. A one year consent would fully acknowledge the human rights and equalities legislation that are important material considerations in this case, as well as properly reflect local and national planning policies. It would allow the applicants time to address planting and utility connection issues without unnecessarily prolonging uncertainty for the them, neighbours and other third parties. This time period can also provide for the applicant to progress with other consents and licencing arrangements. The applicants would have the opportunity to have a further application for permanent development considered thereafter, and in light of how issues had been addressed and considering the long-term suitability of the site for habitation.

4. Resource Implications

4.1 Financial Details

- 4.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

- 4.2 Finance have been consulted and have agreed the financial implications as set out in the report.

Yes

4.3 Staffing

5.0 Exempt Reports

- 5.1 Is this report exempt? Yes (please detail the reasons for exemption below) No

6.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses and people and ensure fair opportunities for all

Our families; children and your people will have the best possible start in life

Women and girls will be confident and aspirational and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Report of Handling on Planning Application 17/00149/FULL – considered by the Planning Committee on 14th September 2017.

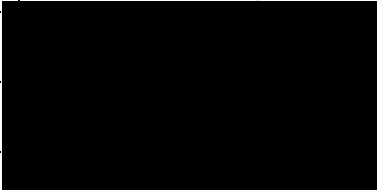
11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)
Yes (please list the documents below) No

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Planner	2615

Approved by

NAME	DESIGNATION	
Emma Fyvie	Service Manager	
Allan Finlayson	Team Leader	

Report to: Planning Committee

Date of Meeting: 14 September 2017

Subject: Planning Application Ref: 17/00149/FULL - Change of Use of Woodland to Permanent Gypsy/Traveller Site (2 No Households) and Siting of 2 No Static Caravans and 4 No Touring Caravans With Related Infrastructure (Retrospective) - Cow Wood, Forestmill, Clackmannanshire

Report by: Grant Baxter, Principal Planner

1.0 Purpose

- 1.1. To provide an assessment of the above noted planning application against the provisions of the Local Development Plan and other material considerations, and provide a recommendation on the application.

2.0 Recommendations

- 2.1. It is recommended that the application is approved for a temporary period of 3 years, and also subject to other conditions as set out below:

Conditions

1. This permission shall cease on 30 September 2020. By that date, the use of the site as a permanent gypsy/traveller site, shall cease, all caravans shall be removed from the site and it shall be returned to forestry use. Unless, by that time, planning permission has been granted for continued use of the site for this development.
2. The site shall only be occupied by a maximum of two families who are declared Gypsy/Traveller households.
3. Within three months of the date of this permission, the following additional information shall have been submitted to and approved in writing by the Council:
 1. A schedule of native tree and hedge planting along the site's western and northern boundaries, and arrangements and timing of planting and future maintenance.

2. Details of proposed water supply, foul and surface water drainage arrangements and timing of installation.

Once approved, the development shall be carried out in accordance with such approved details, unless otherwise approved in writing by the Council.

4. All plant, machinery and equipment installed or operated within the site shall be so enclosed and/or attached that noise therefrom does not, at any time, increase the background levels as measured in accordance with British Standard BS4142:2014, at any nearby residential property.

Reasons

1. The application does not fully comply with the Local Development Plan and this time period is considered suitable in order to meet the housing needs of the applicant and his family, whilst allowing screen planting to mature and the Council to monitor the use and visual amenity of the site.
2. In order to protect the visual amenity of the site and its immediately surrounding area and prevent against over-development, in recognition of the needs of Gypsy/Travellers.
3. In order to ensure the submission and approval of precise details in connection with the proposed development and their implementation on the site.
4. In the interests of residential amenity.

2.2 Reasons for Decision

1. Elements of the proposals comply with certain provisions of the LDP, but there remain areas of policy conflict. The proposals would not result in significant adverse effects on the wider landscape or appropriate levels of residential amenity but do detract from the appearance, amenity and character of immediate area. As such, they only partially comply with the key policy test on Gypsy/Traveller accommodation, as set out in Policy SC3 of the Local Development Plan.

2. The application does not fully meet the tests set out in the LDP in respect of developments in the countryside, however, the housing needs of a Gypsy/Traveller family are material considerations that are of relevance in this case.

3. Whilst not fully in accordance with such policy provisions, there are areas of policy support, such that a clear case for refusal of the application and subsequent enforcement action is not at this stage fully justified.

4. Matters in relation to the suitability of the access arrangements, installation of appropriate services and amenities, compliance with other non-planning regulations and implementation and establishment of screen planting remain unresolved, and to some extent can themselves only be progressed following a grant of planning permission. A temporary planning permission, lasting a suitable period of time will allow progress with these issues to be made, and the success of the site in respect of road safety, provision of services and

visual impact can be fully reviewed if a permanent permission is sought at the end of the temporary period.

5. Taking account of the development plan and material considerations, therefore, a temporary planning permission for a period of three years would strike a suitable balance in order to meet the housing needs of the applicant and his family, whilst allowing screen planting to mature and the Council to monitor the use and visual amenity of the site.

Approved Plans

5164.D.01B - Location Plan

3.0 Considerations

3.1. Background

3.2. This is a retrospective application for the change of use of an area of woodland to a permanent gypsy/traveller site. The site is split into two halves, each being a separate pitch for a household, and each containing a static caravan and two touring caravans, with related infrastructure. The two separate households are from the same family, and the site was first occupied in January 2017.

3.3. The site is rectangular, measuring approximately 50m by 26m and abuts the east side of the minor unclassified road from Forestmill to Sheardale, approximately 700m south of its junction with the B9140 road. It lies close to the northern edge of Cow Wood, and in very close proximity to an overhead power line that runs east-west through the woodland. The site and adjoining land under the powerline were clear felled within the last 2 years, creating a linear area of cleared woodland along the northern edge of Cow Wood. The applicant's land ownership runs for several hundred metres east of the application site alongside the powerline corridor.

3.4. The site has an access off the minor road it abuts and is surfaced in compacted stones (Type 1). It contains the static and touring caravans referred to in the application description. It has a backdrop of woodland to the south, cleared woodland under the powerline to the north and woodland and agricultural land on the opposite side of the road, to the west.

3.5. The nearest houses are Meeks Park (400m to the southeast), Cairnsmuir (600m to the east) and Easter Sheardale Cottages (700m north).

3.6. Consultations

3.7. Roads: Presumption against residential development in a rural area. Safety concern regarding increased vehicle movements and pedestrian activity on this de-restricted section of rural road. *Comment: Notwithstanding the concerns about the principle of the development, a reasonable degree of visibility appears to be available at the site access which is onto a straight section of a quiet minor rural road. There are no footways in the vicinity of the site. Granting of temporary approval may allow the use of the access to be monitored for an initial period, and then reconsidered at a future date in light of any issues.*

- 3.8. Environmental Health: Objection based on lack of details of private water supply arrangements, toilet /washing and foul drainage arrangements. The site will require to be licenced under the Housing (Scotland) Act 2014, and comply with the standards set out in the related regulations. *Comment: The applicant's agent has confirmed that a public water supply connection is being sought, and if not possible then a private source will be investigated e.g. borehole, however Environmental Health are still concerned that no definite arrangements for water supply are in place and reiterate the need for compliance with model standard conditions. Scottish Water have now advised that a water supply connection is available, albeit the water main is 350m from the site. If planning permission is granted, the site will require a Licence which would be administered by the Council's Environmental Health Service. This will cover such matters as water supply. A planning condition can also require these details.*
- 3.9. SEPA: No objections. Details of SUDs shown are appropriate. Foul drainage arrangements via septic tank or package plant would be acceptable subject to confirmation of ground conditions being suitable. *Comment: The principle of the drainage arrangements are acceptable but final details will be required and will also require a Building Warrant. If planning permission is granted, the site will require a Licence which would be administered by the Council's Environmental Health Service. This will cover such matters as drainage arrangements.*
- 3.10. Scottish Water: There is sufficient capacity in the Turret Water Treatment Works, however further investigations will be required as part of a formal application, if planning permission is granted. There is no waste water infrastructure in the vicinity. *Comment: SW have confirmed that an application for water connection has been made to them, and that the water main lies 350m from the site, but that the application will only be processed if planning permission is granted.*
- 3.11. Representations:
- 3.12. There were no notifiable neighbours to this application, however as there is adjoining land with no premises, a Neighbour Notification advertisement was published in the Alloa Advertiser on 14th June 2017.
- 3.13. A total of 6No. representations have been made by the following parties:
- SP Energy Networks
 - Patrick Leavey, c/o Port Hamilton, 69 Morrison Street, Edinburgh
 - Colliers International, (on behalf of a local proprietors and farmers), 1 Exchange Crescent, Conference Square, Edinburgh
 - Margery Milligan, 22 Brucefield Crescent, Clackmannan
 - Stuart & Emma Earley, Meeks Park, Forestmill
 - Mrs C Wright, Wester Gartgreenie, Forestmill
- 3.14. On the following grounds:

- 3.14.1 SP Energy initially objected on the basis of possible interference with overhead apparatus next to the site, however following a site visit has concluded that there are no safety concerns and withdrawn the objection.
- 3.14.2 This is a retrospective application, with caravans and portaloos having been present on the site for several months. *Comment: The application is retrospective and follows submission and withdrawal of an earlier application by another agent which did not fully reflect the applicant's overall proposals. The Council's Enforcement Charter allows for retrospective applications to be made in most circumstances where development has been undertaken without prior approval, in order that they can be fully assessed before any decisions about possible enforcement action are taken.*
- 3.14.3 The site and surrounding woodland are important for wildlife and have been subject to tree felling and other development activity that may affect the local wildlife, including bats and red squirrels. *Comment: The site and adjoining woodland have no specific natural heritage designation and are plantation woodland where protected species, such as red squirrels are known to be present. Scottish Natural Heritage are not a statutory consultees in this case, however have advised informally that they have no specific locus in respect of this application, but would be a consultee on any felling licence application for the adjacent woodland.*
- 3.14.4 Allegations regarding night time noise and activity and other human activity in the woodlands adjoining the site affecting residential amenity for neighbouring properties. *Comment: This is not specifically a planning matter, however any allegations of criminal or anti-social behaviour should be reported to the Police.*
- 3.14.5 Gypsy/Traveller sites should be identified through the development plan and not via individual applications. *Comment: The Scottish Planning Policy indicates the Council should have a policy for assessing applications for private Gypsy/Traveller sites, but not necessarily that it identifies specific sites in the LDP.*
- 3.14.6 Existing Gypsy/Traveller sites are provided by Clackmannanshire Council and insufficient evidence has been submitted as to why these aren't suitable for the applicants. *Comment: The availability of space at the Council-run Westhough site is not material in considering an application for a small privately owned site with related business proposals. It must be examined on its own merits in relation to relevant LDP policy.*
- 3.14.7 There is another private gypsy/traveller site nearby at Gartlove, and no need for another one here. *Comment: The current application must be assessed on its own merits, and is unconnected to any previously approved sites.*
- 3.14.8 The site is in open countryside, detracts from the visual amenity and character of the area and is not sensitively designed nor does it fit with the landscape, and does not meet the Council's Placemaking policy. It has little connectivity to local amenities. As such the application is contrary to LDP Policy SC3. *Comment: The development design is somewhat limited by its nature i.e. caravans, however as such must be sensitively located and not have a significant adverse effect on the landscape. The site benefits from a woodland backdrop to the south but is open on all other sides. It is not visible in distant views or from adjacent houses, but only from the minor road passing it at*

relatively close proximity. The negative visual impact of the site is limited to its immediate context, rather than from further afield. It is noted that the site is over 4km from the nearest amenities and that there are no footpaths nor public transport links serving it.

- 3.14.9 The site is not allocated in the LDP for residential development. There is no demonstrable need for a countryside location for the development and therefore it does not comply with Policies SC23 and SC24 of the LDP, in relation to developments in the countryside. *Comment: The proposal is for a specific development type, and not simply a “residential development”, but one that may be more suitable to a rural location, provided other criteria of Policy SC23 can be met. Policy SC24 does not specifically apply to this development.*
- 3.14.10 No details of the proposed water supply arrangements have been submitted, and no safe private supply is available at the site. *Comment: An application to connect to the public water supply has been made. Scottish Water have indicated that there may be capacity in the water network to serve the development, but that the application will only be processed if planning permission is granted. A planning condition can require final details of water supply to be submitted.*
- 3.4.11 Concern about septic tank soakaway affecting adjoining land and watercourses and flooding concerns. *Comment: SEPA have no objection to the proposed foul drainage arrangements, but these would be subject to final approval, including the need for a building warrant. . A planning condition can require final details of drainage arrangements to be submitted.*
- 3.14.12 Road safety concerns about more traffic using this narrow country road and manoeuvring in and out of the site. *Comment: The Council’s Roads Service do not support the application in principle, however it is noted that the access is onto a lightly trafficked rural road and a reasonable degree of visibility can be achieved at the access.*
- 3.14.13 The supporting statement refers to the applicant’s health issues, however the site is unsuitable for someone with health problems as it is remote and mobile phone and poor wi-fi signal. *Comment: Whilst availability of wi-fi and mobile phone signal are not material planning considerations, the availability of access to local amenities is a consideration under Policy SC3. The site is considered somewhat remote from local services.*
- 3.14.14 There has been a significant amount of litter deposited along the road leading to the site since the caravans arrived on it, however this may be a coincidence. *Comment: This is not a material planning consideration and there is no evidence to suggest that this issue is related to the development.*
- 3.14.15 Human rights should be universal and people of different ethnic backgrounds should not have preferential treatment in the planning process. *Comment: Article 8 of the European Convention on Human Rights (ECHR) is concerned with the right to private and family life, and public authorities are required to consider carefully the proportionality of their actions in decision making which may affect Gypsy/Travellers family or home life. In respect of Article 14 of the ECHR, there is a positive obligation to facilitate the Gypsy/Traveller way of life, and again, a balance must be struck, taking account of the facts of the case.*

3.14.16 Granting planning permission could set a precedent for other similar developments elsewhere in Clackmannanshire. *Comment: Each planning application must be assessed on its own individual merits, the site and immediately surrounding area has been the subject of unauthorised developments and activities in recent years and whilst approval of this application may give rise to concern that other similar proposals may come forward, this should not be a factor in determining this application.*

3.15. Supporting Statement

3.16. The applicant's agent has submitted a statement in support of the application, the key elements of which can be summarised as follows:

3.16.1. The Government recognises the need for sufficient land to be allocated to meet the needs and demands of Gypsy/Travellers.

3.16.2. Unrelated families living together is not common and this is why the applicant and his family do not wish to live at the Council-run site at Westhaugh. The family have travelled throughout Scotland, often using unauthorised sites, for many years and now wish to make a home on their own privately owned site.

3.16.3. The site is split into two pitches; one for Mr Stewart, his wife and family members, and the other for Mr Stewart's daughter and her family. The site is a base from where senior family members can travel for work and to get medical treatment and younger family members (3 of school age) can attend school. The Rights of the Child, in respect of their having a home and access to education must be considerations in the Council's decision making.

3.16.4. The site is cleared woodland with no specific natural heritage or landscape designation. It has a woodland backdrop and is in a remote location on a lightly trafficked road. The site is not visible from the nearest houses and would not impact on privacy and amenity. The site can be safely accessed by vehicles. As such the proposals comply with the LDP and Scottish Planning Policy (SPP).

3.16.5. The Equality Act 2010 introduced the Public Sector Equality Duty (PSED). As an ethnic minority, Gypsy/Travellers still face a shortage of sites to meet their needs and the Council must take the PSED and European Convention on Human Rights into account in its decision making.

3.16.6. The applicant is content to comply with planning conditions in respect of the provision of facilities on the site e.g. water & drainage, should permission be granted, but cannot risk investment in these whilst no planning permission is in place.

3.16.7. There is a proven need for the development, the site can be fully serviced, there are no alternative sites available to meet the applicant's needs and the proposal complies with the development plan.

3.17. Planning Assessment

3.18. The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Clackmannanshire

Local Development Plan, adopted August 2015 (LDP) comprises the development plan.

3.19. The main relevant policy provisions of the LDP are as follows:

3.19.1 Policy SC3 – Gypsies, Travellers and Travelling Show People

3.19.2 Policy SC20 – Water and Drainage Infrastructure and Capacity

3.19.3 Policy SC23 – Development in the Countryside – General Principles

3.19.4 Policy EA4 – Landscape Quality

3.20. Policy SC3 identifies considerations to be taken into account for private Gypsy/Traveller sites, with encouragement given to use of authorised sites in the first instance, and support for private sites only given where certain criteria, including other relevant policies of the LDP, can be met.

3.21. Assessment against other policies is set out below, however Policy SC3 also requires the development to be sensitively located and designed to avoid significant adverse effects, offer appropriate standards of amenity and access to local services.

3.22. Policy SC20 seeks to ensure that developments are served by suitable water and drainage infrastructure, and proposes SUDs for all new development.

3.23. Policy SC23 sets out general principles for development in the countryside. It directs new developments to existing settlements unless specific criteria can be met, such as demonstrating the need for a countryside location, appropriateness of scale, design and character and adequacy of infrastructure. If these are met, the policy supports developments adjacent to existing groups/clusters or via conversion of suitable buildings.

3.24. Policy SC24 derives from SC23 and is specific to residential development, setting out additional criteria for assessing residential development. In this case, the residential element of the proposal are the caravans, and none of the criteria of the policy are specific to this type of development, unless it is temporary accommodation in connection with a new rural business, which is not the case here.

3.25. Taking account of the provisions of the development plan, the following conclusions are made:

3.25.1. The site benefits from some natural screening afforded by the mature woodland that lies immediately to the south. There is no guarantee that this will remain in the long term as it is plantation woodland that could be felled at a later date and is not in the applicant's control. The site is open on all other sides however is only visible at relatively close proximity on approach along the minor road it is served off. There are no long distance public views of the site and it is not in an area designated for landscape or natural heritage importance. The local visual amenity of the site could be significantly enhanced by native tree/hedge planting. Granting of planning permission on a temporary basis would allow such planting to be implemented and its

success reviewed as part of any future application to renew a temporary permission.

- 3.25.2. The site lies in an area of forestry with other nearby land in agricultural use, and the nearest houses over 400m away. Whilst objectors have made reference to late night disturbance, litter and speeding traffic, there is no evidence that these concerns are attributable to the applicant's site, and no clear evidence that the development would impact negatively on residential amenity in any measurable way. There is no clear view of the site from any nearby house.
- 3.25.3. In respect of services and amenity for residents of the site, the applicants have provided space for the caravans, both static and touring that they require and space for vehicle parking and refuse storage. It is noted that the applicant owns adjoining land to the east, but this does not form part of the application site. Should planning permission be granted, the detailed layout and amenities of the site would be subject to licencing administered by the Environmental Health Service.
- 3.25.4. It is proposed that a septic tank be installed, subject to relevant permissions, and SEPA have indicated that they have no objections in principle to this arrangement. No details have been submitted of a proposed water connection, although an application has been made to Scottish Water for connection to public mains. Scottish Water have advised that capacity exists in the water network to serve the development and the main is 350m from the site. Scottish Water note that this does not guarantee connection, and capacity will be reviewed if planning permission is granted. The applicant is considering a private borehole as an alternative, should a public supply not be possible. There is no available foul connection, but a septic tank is proposed in any event.
- 3.25.5. The site lies 4km from the nearest amenities, including school and shops in Coalsnaughton, with the nearest health centre 5.5km away in Tillicoultry. There are no public transport connections to the site, nor on the B9140 and no footways alongside roads serving the site. The site is therefore considered somewhat remote from the nearest services and amenities, with no practical means to connect to them other than by car. Nevertheless, it should be borne in mind that sites within or closer to existing settlements may themselves fall foul of other criteria of Policy SC3, and few sites are likely to strike an ideal balance between accessibility, retaining local amenity and acceptable visual impact.
- 3.25.6. The Roads Service have recommended refusal based on safety concern regarding increased vehicle movements and pedestrian activity on this de-restricted section of rural road. It is noted, however that a reasonable degree of visibility appears to be available at the site access which is onto a straight section of a quiet minor rural road. Granting of temporary approval may therefore allow the use of the access to be monitored for an initial period, and then reconsidered at a future date in light of any issues.
- 3.25.7. The design of the development is very much limited by its nature i.e. caravans. The location is not considered to be visually prominent, being on a minor road, partially screened, not open to distant views and not visible from

any houses. Closer views of the site from the road passing it show that there is no additional screening beyond the existing woodland backdrop. The site forms an area of felled woodland and the combination of this and the proximity of the caravans to the road, with no other visual softening, has a detrimental impact on the amenity of the immediate surroundings. The area has no natural heritage or landscape designation, and the development is judged to have no significant impact on the character of the wider landscape. Rather, its impacts are localised and when seen from close proximity, the site does detract from visual amenity. It is considered that native screen planting around the site would significantly improve this. A suitably conditioned temporary planning permission would allow a scheme of planting to be approved, implemented and allowed to establish, following which the visual impact of the site could be re-visited should a renewal of temporary planning permission be sought.

- 3.26. Overall, whilst elements of the proposals comply with certain provisions of the LDP, there are also significant areas of policy conflict, suggesting that the proposals do not fully comply with the provisions of the development plan. There are, however, significant material considerations which need to be taken into account.
- 3.27. Other Material Considerations
- 3.28. There are a number of material considerations that are relevant to this proposal which include:
- 3.28.1. The Planning Aid Scotland's publication "Gypsy/Travellers and the Scottish Planning System – A Guide for Local Authorities" (The PAS Guide).
- 3.28.2. The Secretary of State's Advisory Committee on Scotland's Travelling People – Guidance Note on Site Provision for Travelling People (ACSTP), Final Report 2000 - adopted by Scottish Executive(SE) as policy.
- 3.28.3. Human Rights and Equality Legislation – Public Sector Equality Duty (PSED)
- 3.28.4. Personal circumstances of the applicant.
- 3.28.5. Compliance with other legislation.
- 3.28.6. Previous appeal decision on adjacent site.
- 3.28.7. Precedent for other such development
- 3.29. Taking account of these considerations, the following conclusions can be drawn:
- 3.30. The Council has adopted a policy for consideration of private Gypsy/Traveller sites, as required by the SPP. As noted above, there are areas of both compliance and conflict with the policy.
- 3.31. The personal circumstances of the applicant are not normally of relevance in determining planning applications. The PAS Guide suggest that due to the inequalities that gypsy/travellers face, it may be the case that personal circumstances should be given weight in determining applications, but only if there is conflict with the development plan. In this case, the personal

circumstances that have been brought to our attention are the education of children living at the site and the need for access to healthcare. As noted above, the site is somewhat remote from these services, with neither walking nor public transport available as realistic options.

- 3.32. Article 8 of the European Convention on Human Rights (ECHR) is concerned with the right to private and family life, and public authorities are required to consider carefully the proportionality of their actions in decision making which may affect Gypsy/Travellers family or home life. This requires a balance of social need with the protection of the environment. In respect of Article 14 of the ECHR, concerning prohibition of discrimination, there is a positive obligation to facilitate the Gypsy/Traveller way of life, and again, a balance must be struck, taking account of the facts of the case. It should also be noted that the UN Convention on the Rights of the Child (UNCRC) is also a material consideration. When considering Gypsy/Traveller applications, there is a duty on the Council to consider the impact that decision-making will have on any children affected by the outcome of that decision.
- 3.33. Should planning permission be granted, the site will require to be licensed in terms of Part 5 of the Housing (Scotland) Act 2014. As part of this new regime, model standard conditions will apply, in relation to a number of site issues, including drinking and waste water, sanitary and washing facilities, refuse and waste disposal. The grant of planning permission will also allow the application to Scottish Water for a mains water connection to progress. In addition, a building warrant will be required for installation of a septic tank and this will require to be registered with SEPA. Granting of a temporary planning approval will allow sufficient time to allow these other forms of regulation to be complied with, and thereafter, the functioning of the site in relation to these other regulatory requirements can be assessed and reviewed before any permanent approval is granted.
- 3.34. In an appeal decision for a private gypsy/traveller pitch on land at Gartlove, by Clackmannan in 2009, the Reporter noted that, at that time, the Council did not have a development plan policy on gypsy/traveller sites, as required by the then SPP3. The Reporter noted that the ACSTP stated that applications for private sites should be sympathetically considered and also that the site in question was particularly discreet. These were the main reasons for allowing the appeal.
- 3.35. The Council now has a development plan policy to assess private gypsy/traveller sites against, and as noted above there is some compliance and conflict with the development plan provisions in this case. Where there is conflict with development plan policies, the ACSTP would continue to be a material consideration, as it was at the previous planning appeal on the nearby site, and which states that planning permission for private sites should be sympathetically considered.
- 3.36. The PAS Guide indicates that temporary planning permissions can create uncertainty and should be avoided where possible, however, are not ruled out where the balance between the potential planning harm of the development and other material circumstances is unresolved. This appears to be the case in respect of this application.

- 3.37. Therefore, a temporary planning permission for a period of three years would, it is felt, strike a suitable balance between meeting the housing needs of the applicant and his family in the medium term, allowing screen planting to mature and the Council to monitor the use and visual amenity of the site, and commence a review of local development plan policy. This approval would be consistent with that taken in the recent decision by the Committee (October 2016) on a similar planning proposal on land west of Gartlove Plantation, near Clackmannan (ref; 16/00159/FULL).
- 3.38. The site and adjoining woodland were sold by a previous owner and since 2013 there have been planning issues, such as importation of materials, formation of private tracks, siting and occupation of caravans and other portable buildings. The Planning Service has sought to address potential breaches of planning control in this area where they have arisen, and indeed, the current application seeks retrospective permission for what is currently an unauthorised development. Whilst each planning application must be considered and determined on its own individual merits, it is appropriate that the Council take account of the potential for planning approval in this case to trigger further developments of a similar nature on adjoining land.
- 3.39. In this regard, the recommendation of approval on a temporary basis takes full account of development plan policies and those material considerations that are specific to this particular development type, i.e. taking account of the applicant's gypsy/traveller status, alongside the planning merits of the site and proposal.
- 3.40. Sustainability Implications
- 3.41. This is a small development in a rural area, and will be mainly served by private transport. It would meet the housing needs of the applicants and conditions can ensure enhanced planting and suitable infrastructure to serve the site.

4.0 Resource Implications

4.1. Financial Details

- 4.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 4.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

4.4. Staffing

5.0 Exempt Reports

- 5.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

- The area has a positive image and attracts people and businesses
- Our communities are more cohesive and inclusive
- People are better skilled, trained and ready for learning and employment
- Our communities are safer
- Vulnerable people and families are supported
- Substance misuse and its effects are reduced
- Health is improving and health inequalities are reducing
- The environment is protected and enhanced for all
- The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

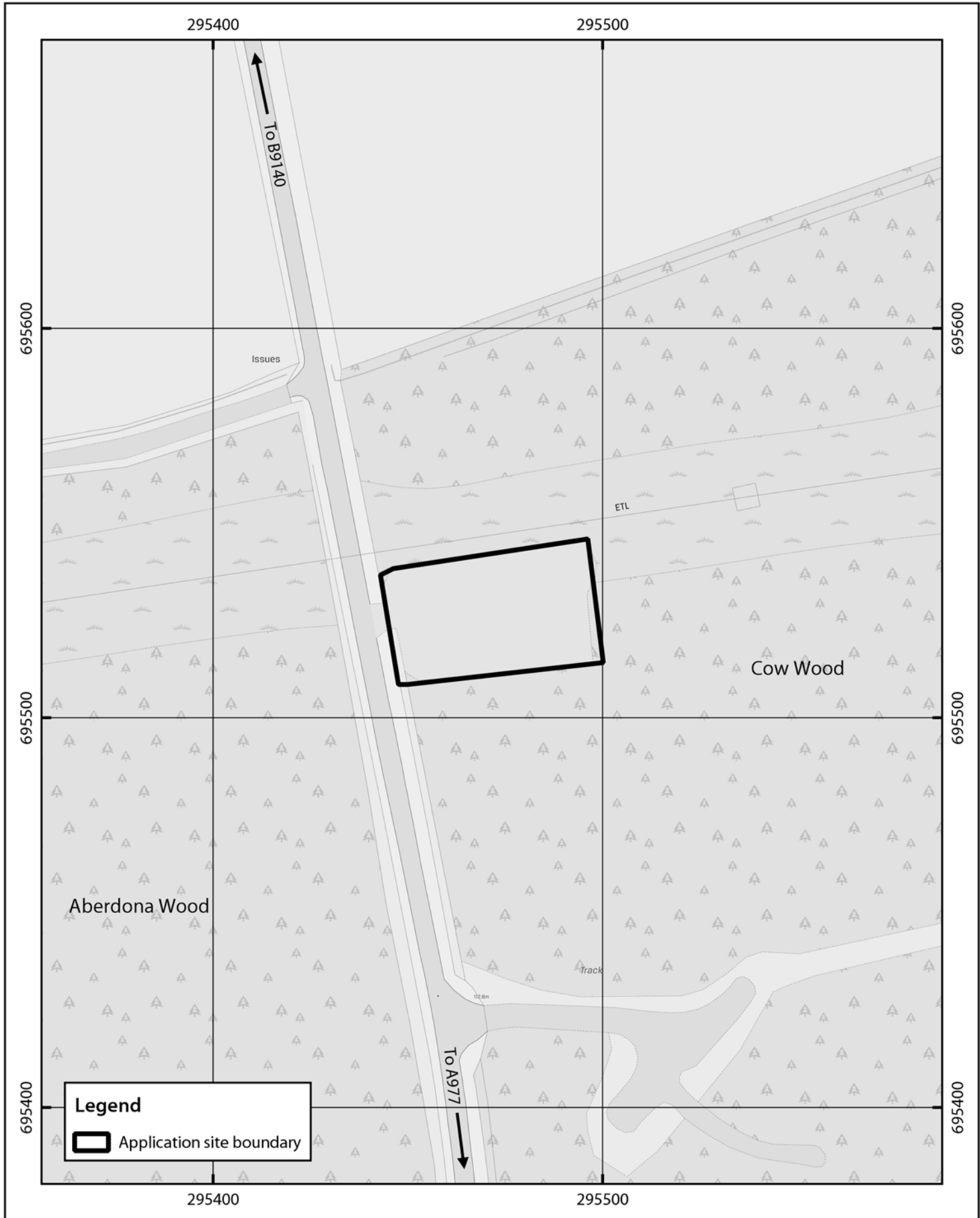
Yes (please list the documents below) No

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
Julie Hamilton	Development Services Manager	



20/00214/FULL – Cow Wood, near Forestmill

Change of Use of Woodland to Permanent Gypsy/Traveller Site (2 No Households) and Siting of 2 No Static Caravans and 4 No Touring Caravans With Related Infrastructure (Retrospective) - Renewal Of Permission For A Further 2 Years

Ward: Clackmannanshire East

0 10 20 30 40 50 metres

OS Grid Ref: NS882945

Scale: 1:1,250

Date:
08 Jan 2021

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