

Proposed Residential Development Comprising of 150 Dwellinghouses

KEY INFORMATION

Ward The Ferry

Address

Linlathen, Linlathen Road
Broughty Ferry

Applicant

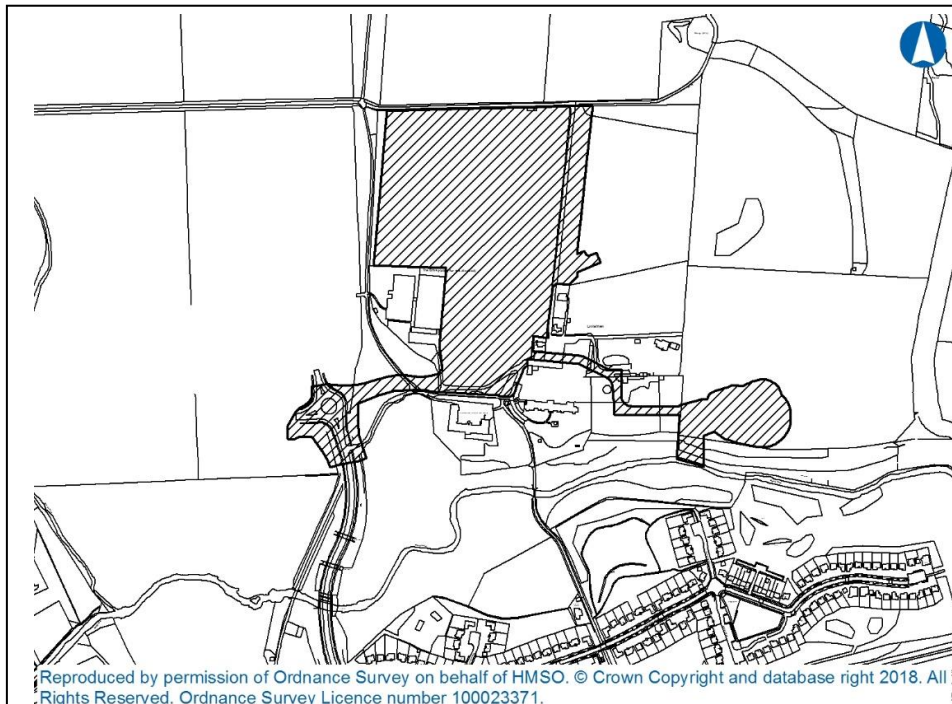
Sauchen Business Park
Sauchen A51 7LE

Agent

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Registered 28 Feb 2018

Report by: Executive
Director of City Development



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SUMMARY OF REPORT

- Planning permission is sought for the erection of 150 houses on the site, along with associated infrastructure, access, landscaping, drainage, SUDS and open space.
- The 12.7 hectare site comprises part of a greenfield housing site, listed as site H71(2) in the Dundee Local Development Plan 2014 which is indicated as having capacity for 150 houses. The LDP states that the site is for release in the second 5 year period of 2020-2024 of the Plan.
- The applicant proposes 150 houses on part of the allocated H71(2) site, leaving the eastern part of the allocated site out of this application. The proposed SUDS area is located outwith the allocated site.
- The proposal is contrary to Policy 8 of the Dundee Local Development Plan because of the proposal to bring it forward ahead of the 2020-2024 Plan period; Policy 9 and Appendix 3 because of proposed courtyard parking; and Policy 32 due to the SUDS area being located in the Open Countryside.
- The proposal otherwise complies with relevant provisions of the Development Plan.
- Fifty five valid objections were received, including objections from Broughty Ferry Community Council and Dundee Civic Trust.
- Bringing forward the delivery of the site by one year would meet the requirements of Policy 9 Housing Land Release of the Proposed Local Development Plan which supports the release of the allocated housing site from 2019. The development would also have no impact on the delivery of the Western Gateway Strategic Development Area and would provide a choice of new housing locations within the east and west of Dundee. The location of the proposed SUDS area is at the lowest possible level close to the outfall into the Dighty would not detract from the rural character of the Open Countryside. The courtyard areas provide a choice of housing style and sizes within the development.
- In accordance with the Scheme of Delegation, this planning application is to be determined by the Councils Planning Committee as it constitutes a Major Planning Application and requires a legal obligation in respect of Education Contributions and road upgrades.
- More details can be found at <http://idoxwam.dundeeecity.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

RECOMMENDATION

The proposal fails to comply with the Development Plan. However, there are material considerations that would justify the approval of planning permission. Therefore, the application is recommended for APPROVAL subject to a Section 75 Planning Obligation and conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of 150 houses on the site, along with associated infrastructure, landscaping, SUDS and open space. Access would be taken from the existing roundabout at the north end of Linlathen Road, before leading eastwards through a small woodland into the site. The majority (120) of the houses would be detached with in-curtilage parking. Four semi-detached properties are proposed within the south west of the site. The detached and semi-detached properties mainly address the road network within the site. Terraced properties comprising 6 rows of three properties and 2 rows of four properties are proposed within two areas of the site, and would address parking courtyard areas. The houses would range from 3 to 5 bedrooms and 1.5 to 2 storeys in height.
- 1.2 A new SUDS area is also proposed to the southeast of the main residential part of the site, directly to the north of the Dighty Water. It is proposed to link the houses to this via a new sewer running beneath a 4 metre wide access track to the north of 10 Linlathen Grove, which then turns south east towards the Dighty.
- 1.3 Several areas of open space are proposed within the site, all with pedestrian/cyclist access to or through them. The proposal would also provide pedestrian/cycle access to the north, east and west of the site, including links to the Core Path Network to the north and west of the site. The applicant proposes to landscape the areas of open space, and provide some landscaping strips to the north and west boundaries of the site.
- 1.4 As the application site exceeds 2 hectares, and the proposed number of residential units is more than 50, the proposals constitute a major planning application as defined by Regulation 2(1) of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Accordingly, the applicant was required to undertake statutory pre-application consultation with the local community. A Proposal of Application Notice (PAN) was submitted in October 2017 and a Pre-application Consultation Report has been submitted with the application. A design and access statement, planning statement, transport statement, ecological impact assessment, bat survey, ground investigation report and tree survey have also been submitted with the application.
- 1.5 In accordance with the Council's Scheme of Delegation, all Major Planning Applications must be reported to the Council's Development Management Committee.



Figure 1 – Proposed Site Layout



Broughty Ferry - Scene Across Central Open Space

Figure 2 – Proposed Central Open Space



Broughty Ferry - Scene Along Tree Lined Avenue at North East of Site

Figure 3 – Proposed Streetscape

2 SITE DESCRIPTION

- 2.1 The application site is located 750m to the north of the A92 and is accessed from Linlathen Road. It lies north of the escarpment above the Dighty Water beyond the existing housing developments at Clearwater Park and Strathyre Avenue. The site is currently in agricultural use and slopes down gently from north to south towards the Dighty Water.
- 2.2 The site is bound by the existing Core Path Network to the north and west of the site, existing agricultural land to the east and designated open countryside to the south. There is an existing narrow tarmac road running east from Linlathen Road providing access to an existing nursing home which is located to the south of the site, and The Braes horse riding facility for the disabled to the east. Several houses are also accessed via this road. Small areas of woodland are located to the south and west of the proposed housing layout. There is a steep wooded embankment to the south of the site down to the Dighty Water. These areas of woodland are the subject of Tree Preservation Orders.
- 2.3 A small number of existing houses associated with Linlathen Farm are located to the southeast of the site.



Figure 4 – Site Photo Towards South West



Figure 5 – Site Photo Towards North East

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032

Policy 1: Location Priorities

Policy 2: Shaping Better Quality Places

Policy 4: Homes

DUNDEE LOCAL DEVELOPMENT PLAN 2014

Policy 7: High Quality Design

Policy 8: Housing Land Release

Policy 9: Design of New Housing

Policy 19: Funding of On and Off Site Infrastructure Provision

Policy 29: Low and Zero Carbon Technology in New Development

Policy 32: Development within the Open Countryside

Policy 34: Locally Important Nature Conservation Sites

Policy 38: Trees and Urban Woodland

Policy 41: Flood Risk Management

Policy 42: Sustainable Drainage Systems

Policy 45: Land Contamination

Policy 55: Accessibility of New Developments

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2017

Policy 1: High Quality Design and Placemaking

Policy 9: Housing Land Release
Policy 10: Design of New Housing
Policy 20: Funding of On and Off Site Infrastructure Provision
Policy 31: Development within the Open Countryside
Policy 33: Local Nature Conservation Designations
Policy 35: Trees and Urban Woodland
Policy 36: Flood Risk Management
Policy 37: Sustainable Drainage Systems
Policy 41: Land Contamination
Policy 48: Low and Zero Carbon Technology in New Development
Policy 54: Safe and Sustainable Transport

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

The Policy states that the strategic development plan should identify the housing land requirements for city regions and local development plans should allocate land on a range of sites which is effective or capable of becoming effective up to year 10 from the predicted date of adoption. This report will demonstrate that these requirements have been met by the TAYplan and the Dundee Local Development Plan.

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Planning application 10/00298/FULM for the development of a 60 unit supported living complex on land immediately to the south of the application site which was granted on 24 July 2012. The southern portion of this development has been completed.
- 4.2 Planning application 12/00830/FULM for the erection of 271 houses with associated infrastructure, open space and landscaping was withdrawn by the applicant prior to determination.
- 4.3 Application 16/01016/MDPO sought the discharge of planning obligations associated with 10/00298/FULM for a supported living complex. The applicant sought to remove the restriction on occupation of the units to those over 60 years of age only and a requirement to complete development within 3 years of commencing work. This application was withdrawn in February 2017.
- 4.4 A further application 17/00174/MDPO seeking the discharge of planning obligations associated with 10/00298/FULM was submitted in March 2017. The applicant sought to discharge obligations regarding upgrade works to footpaths and stone dykes and the timing of completion of development of the supported living complex. This application was withdrawn in September 2017.
- 4.5 Planning application 16/00392/FULM for the erection of 150 houses with associated infrastructure, open space and landscaping was refused by Planning Committee in December 2016. This decision was appealed by the applicant to the DPEA. The DPEA dismissed the appeal and upheld the decision to refuse planning permission in April 2017. The reporter concluded the application was contrary to the requirements of Policy 8 of the Dundee Local Development Plan 2014, with development proposed to commence ahead of the 2020-2024 site release period specified for this allocated housing site (H71).

- 4.6 A Proposal of Application Notice (reference 17/00843/PAN) was received on 25 October 2017. The current planning application was submitted on 23 February 2018 along with the required Pre-Application Consultation Report. The PAC Report states that the applicant undertook two community consultation events, each of which were attended by in excess of 60 people.

5 PUBLIC PARTICIPATION

- 5.1 The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. This application was also advertised in the Dundee Evening Telegraph as a departure to the Development Plan.
- 5.2 Fifty five valid objections were received, including those from Broughty Ferry Community Council and Dundee Civic Trust, citing the following concerns:
- the proposals are contrary to the Adopted Local Development Plan 2014, including Policy 8 (Housing Land Release) which states development within the site should be planned for 2020 – 2024;
 - the proposal would have a detrimental impact on wildlife and the surrounding environment;
 - the proposal is would have a detrimental impact on residential amenity;
 - the proposal would result in increased traffic on East Balgillo Road and Arbroath Road which would have a detrimental impact on road and pedestrian safety;
 - the proposals would result in overdevelopment of the site and there is insufficient provision of renewable technology, vehicle charging points and on-site parking; and
 - the proposals would have a significant impact on the capacity of community facilities and would not provide sufficient services including schools, GPs and public transport.
- 5.3 Broughty Ferry Community Council's comments are summarised in the Consultations section below.

6 CONSULTATIONS

- 6.1 **Scottish Natural Heritage** – offered no comments on the application.
- 6.2 **Scottish Water** – has no objection and confirmed there is capacity within the existing network to serve the proposed development.
- 6.3 **Scottish Environmental Protection Agency** – has no objection to the application, stating that the site is located sufficiently high above the Dighty Water to be outwith the flood plain.
- 6.4 **Transport Scotland** – has no objection to the application.
- 6.5 **Historic Environment Scotland** – has no objection to the application.
- 6.6 **The Head of Community Safety and Protection** – notes giant hogweed is present along the Dighty and the site is within a smoke control area. It is requested that a condition in relation

to the control of giant hogweed and an informative in relation to the burning of fuels are attached to any consent.

- 6.7 **The Head of Environmental Management** – has no objection to the application.
- 6.8 **Broughty Ferry Community Council** – object strongly to planning application 18/00115/FULM on the grounds that it is premature according to the Dundee Local Development Plan current at this date and that it seeks to anticipate the content of a new Local Development Plan before its adoption. The Community Council also notes their position is supported by the DPEA reporter in dismissing the appeal of the previously refused application 16/00392/FULM. Separately, the Community Council confirms they did not respond to the applicant's requests for comment during the consultation process to protect the independent status of the Community Council as a statutory consultee.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2016-2036

- 7.2 **Policy 1: Location Priorities** - states that the principal settlements within the region have the potential to accommodate the majority of development in the region, and that the re-use of previously developed land and buildings should be priorities; Dundee's core area is identified as a Tier 1 principal settlement.
- 7.3 **The proposal therefore satisfies Policy 1 of the Adopted Strategic TAYplan.**
- 7.4 **Policy 2: Shaping Better Quality Places** - requires that climate change resilience and resource efficiency is built into the built environment, that new development is integrated with the existing community and transport links, that waste management solutions are incorporated into development proposals and that new designs and layouts take cognisance of Scottish Governments Designing Places and Designing Streets.
- 7.5 The proposal has demonstrated that it complies with the above; the site is allocated in the current Local Development plan for housing and is well located to offer choice for greenfield housing locations in Dundee; waste management is considered and the proposals take heed of the required policy statements.
- 7.6 **The proposal therefore satisfies Policy 2 of the Adopted Strategic TAYplan.**
- 7.7 **Policy 4: Homes** - requires Local Development Plans to identify appropriate land to be allocated for housing to ensure a generous supply of effective housing sites. This includes provision of a mixture of sites to ensure an effective supply of housing which meet the needs of the region.
- 7.8 The Dundee Local Development Plan 2014 includes allocated greenfield housing sites within the east and west of the city. These allocated sites seek to provide a choice of new build

housing development which meets the needs of the city. Within the west of the city, development at Dykes of Gray within the Western Gateway Strategic Development Area is now well underway. A total of around 700 units have been approved, development has commenced, and as of March 2018, a total of 78 houses had been completed. Given the progress at the Western Gateway, the development of the Linlathen site one year ahead of the 2020 to 2024 Plan period would not prejudice the delivery of the Strategic Development Area. Additionally, the development of housing at Linlathen would offer a balanced choice of locations in both the east and west of Dundee for prospective residents.

7.9 The proposal therefore satisfies Policy 4 of the Adopted Strategic TAYplan.

DUNDEE LOCAL DEVELOPMENT PLAN 2014

7.10 Policy 8: Housing Land Release - gives priority to the development of the allocated brownfield and greenfield sites and states that the sites allocated in Appendix 2 shall not be developed for uses other than housing.

7.11 The site forms part of the H71(2) allocation the Dundee Local Development Plan which is identified for release in the 2020 to 2024 Plan period. The applicant proposes to commence development in Autumn 2018, with the first homes completed in early 2019. This is ahead of the Plan period. The proposal is therefore contrary to Policy 8. Appendix 2 states that the site has an indicative capacity of 150 houses. The current application seeks planning permission for 150 houses, but only on part of the allocated site. The remainder of the site (approximately one third) would not be developed as part of this permission and the applicant has indicated that additional residential development would be proposed on that part of the site. Doing so would substantially increase the scale of development beyond the indicative capacity in Appendix 2. Notwithstanding, it is still incumbent on any proposed developer to demonstrate that the design and layout is in accordance with the development plan. As part of this process it is accepted that the number of units that can actually be accommodated may increase or decrease from that identified for each of the allocated sites. The current application demonstrates that 150 units could be developed on the site in a manner that would not have any significant detrimental impact on the quality of the overall development. Any future application for additional housing or other land uses would be assessed on their own merits at that time.

7.12 The proposal contravenes Policy 8.

7.13 Policy 7: High Quality Design - requires all new development proposals to have a high quality design that contributes positively to the surrounding built and natural environment, with designs complementing their surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.

7.14 The applicant submitted a Design and Access Statement which outlines the aspirations of the developer to create unique and identifiable places and neighbourhoods. The proposal seeks to provide a variety of house types/sizes, create safe pedestrian, cycle and vehicular environment, utilise the existing landscape features and minimise the number of cul-de-sacs and dead ends. The applicant aspires to develop the wider area and has included details within a development framework which indicates further residential development and services such as school to the north, east and west. Members should note that the wider area is currently designated open countryside where there is a presumption against development and any further development in this area would be the subject of future Local Development Plan Policies, Site Planning Briefs and/or planning applications. The proposed development framework is therefore not for determination at this time.

- 7.15 The layout currently proposed would contain several areas of open space and landscaped amenity areas and these would reflect the character of the site's semi-rural location. The applicant has provided landscape plans to illustrate tree, hedge and shrub and grass planting within public areas and private gardens. The landscape plans also propose areas of feature stone walling. Conditions are proposed to ensure that the landscape plan is implemented and to agree the maintenance details of such areas.
- 7.16 The applicant proposes a structure of streets and spaces ranging from wider carriageways within the south of the site capable of serving as a bus route, to narrower lanes with various shared surface areas providing access to a small number of houses. Footways, cycle paths are also proposed throughout the site and the site plan illustrates links to the Core Path Network to the north and west of the site. Whilst the principle of this would be acceptable, further details are required regarding the road type and layout, roads drainage and footpath links and conditions are proposed to ensure these matters are resolved before development commences.
- 7.17 Whilst the majority (120) of the houses would be detached, 14 different house types are proposed. Two terraced courtyard areas are also proposed to provide choice for smaller and more affordable properties. The applicant states that the finishing materials would generally comprise white wetdash walls, timber grey or green lintels, grey tiled roofs, white UPVC windows and black UPVC rainwater goods. Similarly, the applicant states that the boundary treatments would generally comprise 0.9m timber fencing to the front gardens, 1.8m timber fencing to the rear, and 0.9m masonry walls with 0.9m timber fencing on top in areas of public/private interface. The applicant aims to create an attractive development with high quality streetscapes. The proposal aims to create a residential development with semi-rural character, avoiding a suburban appearance. As such, the applicant proposes sections of 0.9 metre high masonry wall with timber fencing above where boundary treatments front roads and are visible from the roadways. A condition is proposed to ensure that the details of the proposed boundary treatments are agreed to ensure a high quality finish.
- 7.18 In accordance with Policy 7, at least 1% of the construction costs should be allocated for the inclusion of art projects in a publically accessible/visible place or places within the development. A condition is proposed to secure the required art.
- 7.19 Overall, the proposed development would be of high quality and through the addition of conditions regarding street layout, footpath connections, landscaping and materials, would be acceptable in the context of Policy 7.
- 7.20 **The proposal satisfies Policy 7 through the addition of conditions.**
- 7.21 **Policy 9: Design of New Housing** - states that the design and layout of all new housing in Dundee should be of high quality and contribute to creating places that build on and enhance the distinct character and identity of the city. In seeking to achieve this, the policy requires proposals to comply with the requirements of Appendix 3 of the Local Development Plan.
- 7.22 The proposed development would be of high quality for the reasons explained above in the context of Policy 7.
- 7.23 Appendix 3 requires 75% of the houses to have 3 or more bedrooms or a minimum of 100m² of gross internal floor area. Every proposed house would have at least 3 bedrooms and this meets the requirements.
- 7.24 In relation to parking, all tenures should have at least one space within the curtilage of each house, 3 bedroom houses should at least 2 spaces, and 4 or more bedroom houses should have at least 3 spaces. All proposed houses would have the minimum number of required

spaces. However, the required 2 spaces for the 3 bedroom terraced houses would not be located within the curtilage of the respective houses, but within parking bays within the courtyards directly in front of the houses. This would not meet the requirements of Appendix 3.

- 7.25 The proposed courtyard parking areas are required to be served by electrical charging points. The applicant has not provided any details of electric charge point provision, it is therefore recommended further details and the installation of charging points within the courtyard parking areas is controlled by condition.
- 7.26 Every house would have a minimum of 120m² of private useable garden ground and the average rear garden area is 177m². This meets the required standards. The proposed houses would meet the minimum window separation distance of 18m between habitable rooms.
- 7.27 **The proposal contravenes Policy 9 and Appendix 3 due to the proposed courtyard parking.**
- 7.28 **Policy 19: Funding of On and Off Site Infrastructure** - provision states that the City Council, where necessary and appropriate, will seek to secure developer contributions towards the cost of infrastructure provision both on and off the site.
- 7.29 The Developer Contributions Supplementary Guidance (SG) states that housing development in this location will be required to make a financial contribution towards enhancing primary school provision. The SG states that any greenfield housing land release over that allocated will require the provision of a new primary school north of the A92 Arbroath Road. As the site is allocated for 150 houses, there is no requirement for a new school at this stage, and it is recommended that Members secure the required financial contributions via a Planning Obligation in accordance with the SG. The SG would likely require developer contributions in the form of both land and finance for any further development. The applicant has submitted an indicative development framework for the wider area which indicates a possible location for a new school and neighbourhood facilities to the north of this application site. However, these matters do not currently form part of proposals within the Proposed Local Development Plan 2 which allocates the surrounding agricultural land as Open Countryside.
- 7.30 The proposed development would also necessitate junction improvements at Claypotts . These improvements should also be secured through the Planning Obligation should Members be minded to approve planning permission.
- 7.31 The SG also requires connections for cycling and walking routes to the wider Dundee core path network and green infrastructure. The applicant has illustrated this on the proposed site layout and conditions are proposed to secure the detail the links.
- 7.32 Lastly, the inclusion of public art is to be secured through condition as explained in the context of Policy 7.
- 7.33 **The proposal satisfies Policy 19 subject to a Planning Obligation and conditions.**
- 7.34 **Policy 29: Low and Zero Carbon Technology in New Development** - requires the applicant to demonstrate that 10% of carbon emission reduction standards set by the Scottish Building Standards (2007) will be met through the installation and operation of zero-carbon generating technologies.
- 7.35 A statement has been submitted which outlines the renewable technologies being considered by the applicant for inclusion in the proposed development. This includes photovoltaic panels and air source heat units. However, these details have not been finalised. It is recommended

that the provision of a report demonstrating the requirements of Policy 29 are met is controlled by condition should Members be minded to approve the application.

7.36 **The proposal satisfies Policy 29 through the addition of a condition.**

7.37 **Policy 32: Development within the Open Countryside** - states that there will be a presumption against all new development in areas designated as Open Countryside.

7.38 The proposed SUDS area and sewer from the proposed housing are located outwith the allocated site, and within the area of Open Countryside as defined by the Dundee Local Development Plan. The proposal therefore contravenes Policy 32. However, it is noted that none of the proposed houses, roads, or any other development would be located within the Open Countryside, only the technical SUDS infrastructure. In addition, landscaping including planting is proposed at the SUDS basins to help integrate the drainage infrastructure into the rural setting.

7.39 **The proposal contravenes Policy 32.**

7.40 **Policy 34: Locally Important Nature Conservation Sites** - states that development which could have a significant effect on the conservation interests associated with Local Nature Reserves, Sites of Importance for Nature Conservation or Wildlife Corridors will only be permitted where an ecological assessment has been carried out; any negative impacts have been identified and mitigated without affecting the integrity of the designated area; and it has been demonstrated that there are no other suitable sites that could accommodate the development.

7.41 An Ecological Assessment was submitted with the application. This concluded that the development would result in the loss of arable and grassland fields, areas of woodland and hedgerows. The assessment stated that the habitats within the site are of negligible local value and the impact of the development on them would not be significant. The Ecological Assessment recommended that further surveys for breeding birds, great crested newt and barn owls be carried out. Since the ecology survey was undertaken, a Breeding Bird Survey has been completed. The Breeding Bird Survey concluded that there is no evidence of Barn Owls at the site and no further surveys were required ahead of construction. Mitigation measures identified in the undertaken assessments and any subsequent surveys should be implemented in full. Furthermore, the Ecological Assessment identified giant hogweed on and around the site and recommended that an eradication programme be undertaken. It is recommended that this is implemented by condition.

7.42 **The proposal satisfies Policy 34 through the addition of conditions.**

7.43 **Policy 38: Trees and Urban Woodland** - supports the establishment and enhancement of woodland, tree belts and corridors and states that new development must ensure the survival of healthy mature trees through sensitive site layout. Where appropriate, proposals must be accompanied by a tree planting and landscaping scheme which includes supporting justification and sufficient map based material to document existing planting within the site as well as new planting and maintenance arrangements.

7.44 There are a number of Tree Preservation Orders (TPO) on and around the site. These include TPO 07/84 and 06/13 in the southwest corner and along the western boundary of the site. A Tree Survey was submitted with the application and this identified that several trees with the southwest corner of the site would require to be felled to facilitate the proposed vehicular access into the development. This forms part of the allocated housing site and the only available road access to the site is from the existing roundabout on the Linlathen Distributor Road. As such, the loss of these protected trees is justified, subject to confirmation of the

precise route and construction of the access road to ensure there is no impact on trees within TPOs which are being retained. It is recommended that Members agree to condition these matters should they be minded to approve the application.

- 7.45 **The proposal satisfies Policy 38 through the addition of conditions.**
- 7.46 **Policy 41: Flood Risk Management** - seeks to control development in low to medium and medium to high risk areas and requires a flood risk assessment to be carried out where necessary.
- 7.47 Part of the site is located within SEPA's 1 in 200 year flood risk envelope from surface water, and the Dighty Water to the south of the site is a source of fluvial flooding. The applicant submitted a flood risk and drainage strategy to demonstrate that the site would not be at risk of flooding from the Dighty Water due to the level differences between the water and the site. SEPA has no objection to the application on grounds of flood risk and the matter of surface water disposal is considered below in the context of Policy 42.
- 7.48 **The proposal satisfies Policy 41.**
- 7.49 **Policy 42: Sustainable Drainage Systems** - states that surface water from new development must be treated by SUDS except for single houses or where discharge is to coastal waters.
- 7.50 The applicant proposes to collect surface water from the development and transfer to the proposed SUDS area to the southeast of the proposed housing development, before thereafter discharging into the Dighty Water. The applicant has submitted a drainage strategy in support of the application which demonstrates that the development could be acceptably drained in the manner proposed. The Proposed SUDS area is located adjacent to the Dighty Water and the technical detail of the proposed SUDS area could be controlled via condition should Members be minded to approve the application.
- 7.51 **The proposal satisfies Policy 42 through the addition of conditions.**
- 7.52 **Policy 45: Land Contamination** - states that development of potentially contaminated land will be considered where a site investigation is submitted establishing the nature and extent of contamination and the Council is satisfied that remediation measures proposed adequately address the risks to all receptors.
- 7.53 The Ground Investigations Report identified potential risks to buildings and human health from elevated concentrations of carbon monoxide requiring and sulphate concentrations. The applicant proposes to carry out further investigations and remediation measures. It is reasonable to apply planning conditions to ensure that further site investigations are carried out and remediation proposals approved before any development can commence.
- 7.54 **The proposal satisfies Policy 45 through the addition of conditions.**
- 7.55 **Policy 55: Accessibility of New Developments** - requires all development that would generate travel to be well served by all modes of transport, with priority afforded to sustainable modes of walking, cycling and public transport.
- 7.56 The proposed street layout provides for safe pedestrian, cycle and bus circulation, as well as by private vehicle. The application proposes pedestrian and cycle route connections to the wider area including the core path network. Whilst no public transport is currently available within the site, the site has been designed to accommodate buses, including provision of a turning area, should future demand indicate that a bus route would be viable. Good foot and

cycle connections are available to the existing bus stops on Balgillo Road East, located 750 metres to the south of the site.

7.57 **The proposal satisfies Policy 55.**

7.58 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**

OTHER MATERIAL CONSIDERATIONS

The other material considerations to be taken into account are as follows:

A - JUSTIFICATION FOR DEPARTURE FROM DEVELOPMENT PLAN

7.59 The application is contrary to Policy 8, Policy 9 (and Appendix 3) and Policy 32 of the Dundee Local Development Plan 2014 because the proposal is to bring forward the housing development ahead of the 2020 to 2024 Plan period within which it is allocated; the parking provision for the terraced courtyards is outwith the relevant house curtilages; and the proposed SUDS area is located within the defined Open Countryside.

7.60 The reason that housing site H71(2) is allocated for release in the second 5 year period of the Local Development Plan (2020 to 2024) is to avoid undermining the investment in housing development at the Western Gateway which is a strategic priority for the first Plan period. However, planning permission has been granted for almost 700 houses at the Western Gateway and road improvements at Dykes of Gray have been undertaken. The construction of houses at the Western Gateway is ongoing with 78 units completed as of March 2018. As a result, there is now an opportunity to release the allocated capacity of 150 houses on a greenfield site at Linlathen without undermining the delivery of the Western Gateway. Allowing the release of 150 houses here would offer a choice of new greenfield housing locations within both the east and west of the City without undermining the development plan strategy. The applicant proposes to have the first dwellings completed in early 2019. It is proposed to control the time of completion of the first property to no earlier than 1 January 2019. This is an appropriate time for homes to be completed and meets the requirements of the Dundee Local Development Plan 2. Policy 9 (Housing Land Release) supports release of the application site, allocated site H46, from 2019. The proposals compliance with the requirements of Policy 9 of the Proposed Local Development Plan is a material consideration of sufficient weight to support approval of planning permission contrary to the current Local Development Plan.

7.61 The proposed courtyard areas for the terraced housing meet the required parking standards in terms of the number of private spaces to be provided per house. However, the proposed spaces would not be located within the private house curtilages. The proposed parking spaces would be directly related to and owned by the respective householders and the spaces would not constitute remote parking due to their location directly in front of the proposed houses. The inclusion of terraced housing around the courtyards would provide a choice of housing type and size within a development which would otherwise comprise of predominantly detached houses. The inclusion of courtyard parking was considered to be acceptable under the previous application 16/00392/FULM and was not supported as a reason for refusal by the DPEA reporter when considering the subsequent appeal of 16/00392/FULM following the refusal of planning permission.

7.62 The SUDS area is proposed on greenfield land, outwith the allocated housing site, in the Open Countryside. The applicant states that the proposal has evolved in this manner because the best technical solution to dispose of surface water involves the SUDS area being located at the lowest possible level, close to the proposed outfall into the Dighty Water. The SUDS area would be landscaped so that it did not detract from the character and appearance of the

designated Open Countryside. The location of the proposed SUDS area was considered to be acceptable under the previous application 16/00392/FULM and was not supported as a reason for refusal by the DPEA reporter when considering the subsequent appeal of 16/00392/FULM following the refusal of planning permission.

- 7.63 These are material considerations of sufficient weight to justify approval of the application contrary to the relevant provisions of the adopted development plan.

B - DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.64 The Proposed Dundee Local Development Plan 2 was approved by the Council on 21 August 2017. It sets out the spatial strategy that will guide future development up to 2029.
- 7.65 The proposed Dundee Local Development Plan 2 will in time replace the Dundee Local Development Plan 2014. Approval of the Proposed Dundee Local Development Plan 2 represents the Planning Authority's settled view as to what the final adopted content of the Plan should be. Whilst the Dundee Local Development Plan 2014 (along with TAYplan) constitutes the statutory Development Plan, the Proposed Dundee Local Development Plan 2 has the status of a material planning consideration to be taken into account in the assessment of planning applications.
- 7.66 The provisions of the Proposed Dundee Local Development Plan 2 relevant to the determination of this application are specified in the Policy background section above.
- 7.67 The principle of residential development at this site was established through the site's allocation as a Greenfield Housing Site within the adopted Dundee Local Development Plan 2014. The proposed Local Development Plan 2 seeks to continue the allocation of this site as a Greenfield Housing Site. There has been a material change to the requirements of Policy 9 (Housing Land Release) of the Proposed Local Development Plan with regard to the release period of the application site for residential development. The Proposed Plan supports development of the application site, allocated Housing Site H46, from 2019. This is one year ahead of the Adopted Local Development Plan 2014 which required release of the site in the period 2020-2024.
- 7.68 The first dwellings would be completed and available for sale in early 2019. The application therefore complies with the requirements of Policy 9 (Housing Land Release) of the Dundee Local Development Plan 2.
- 7.69 There are material changes to the requirements of Policy 9 (Housing Land Release) which would affect the outcome of the present planning application and this is of sufficient weight to justify approval of the application contrary to the current Local Development Plan.

C - VIEWS OF OBJECTORS

Fifty five valid objections were received, citing the following concerns:

- 7.70 **Objection** – the proposal is contrary to the development plan, including Policy 8 which states development within the site should be planned for 2020 – 2024 raising the same issues in relation to timing as previous application 16/00392/FULM. The supporting of the application prior to the adoption of the Proposed Local Development Plan 2 would be premature.
- 7.71 **Response** - the application is contrary to the development plan for the reasons explained in the Development Plan assessment. However, there are material considerations which weigh in support of the application as outlined above. This includes the applications compliance with the requirements of Policy 9 (Housing Land Release) of the Proposed Dundee Local

Development Plan 2 which is a material consideration which weighs in supports of the proposed development.

- 7.72 **Objection** - detrimental impact on capacity of community facilities and lack of services including schools, GPs and public transport.
- 7.73 **Response** - the Council's Supplementary Guidance on Developer Contributions notes that the site is in an area where the Primary School is close to capacity. The most recent assessment of Forthill Primary School was in December 2017, where the school was at 95% capacity. As such, it states that financial contributions towards enhancing primary school provision are required for any new housing development in the area, and it is proposed to secure such contributions through a Planning Obligation. Furthermore, it states that any greenfield housing release beyond that which is allocated would require a new school. The site is currently allocated for 150 houses and as such, there is no requirement for a new Primary School at the current time.
- 7.74 With regard to secondary school provision, as of December 2017 Grove Academy was at 90% capacity. There is therefore capacity at this school to serve the proposed development.
- 7.75 Whilst the Council encourages other community facilities as part of the development, there is no requirement for the developer to provide this. Should there be any further land release in the area, consideration would be given to additional community facilities through the proposed Local Development Plan and/or Supplementary Guidance. To that end, the applicant provided an indicative development framework which identifies the possibility of land for a new primary school and other facilities to the north of the application site. However, consideration for any additional development is not for consideration at this time.
- 7.76 Whilst there are no community facilities on or adjacent to the site, the site is well connected by road, cycle and footpaths to the wider area where services can easily be accessed, and the applicant proposes to improve such connections.
- 7.77 It is noted that a number of objections state existing GPs in Broughty Ferry no longer accept new patients. Whilst the provision of health facilities is an important aspect of a residential development, the capacity of local health care provision is not a matter for the applicant or Dundee City Council to address. It would be for the NHS to ensure there is sufficient GP provision for the local area.
- 7.78 With regard to public transport, the application site has been formed with access roads and a turning area which are able to accommodate a bus service. However, the proposed development of 150 houses would not be served by public transport as providing a bus service to the site is not presently viable.
- 7.79 **Objection** – the proposed development would have a detrimental impact on local wildlife and the surrounding natural environment.
- 7.80 **Response** - the application would not have any significant adverse impact on the environment for the reasons explained in the Development Plan assessment above. Surveys, including a Bat Survey, Breeding Bird Survey and Ecological Impact Assessment have been undertaken and submitted with the application. The undertaking of further surveys and implementation of mitigation measures as proposed in the submitted reports is to be controlled by condition should planning permission be granted.
- 7.81 **Objection** – the proposed development would have a detrimental impact on residential amenity.

- 7.82 **Response** - the proposed development meets the relevant Local Development Plan standards in relation to privacy and amenity. The proposed housing is located far enough away from existing residential development so as not to have any significant adverse impact on residential amenity.
- 7.83 **Objection** - increased traffic at Balgillo Roundabout, East Balgillo Road and Arbroath Road would have a detrimental impact on road traffic and pedestrian safety particularly at peak times. The increased traffic would result in further congestion in the area.
- 7.84 **Response** - it is acknowledged that particularly at peak times the A92/East Balgillo Road are busy. However the proposed development would not result in a significant increase in traffic or have a detrimental impact on road safety. The applicant's Transport Statement (TS) has fully assessed the impact of the development on the existing road infrastructure. Transport Scotland have audited the TS and have no objections to the proposals. To mitigate the impact of the additional traffic generated by the proposed development on existing infrastructure, it is proposed to widen the junction at Claypotts to improve traffic flow. It is recommended this improvement is secured through a Planning Obligation should Members be minded to approve the application.
- 7.85 **Objection** – the proposal would result in overdevelopment of the site and there is insufficient provision of renewable technology, vehicle charging points and on-site parking.
- 7.86 **Response** - whilst 150 houses are proposed on only part of the allocated housing site, the applicant has demonstrated that this can be achieved by meeting the relevant Local Development Plan Standards in relation to privacy, amenity, parking provision and garden sizes. In addition, a number of public open spaces, amenity areas and landscaped areas are proposed throughout the site. As such, the proposal does not constitute overdevelopment. The applicant states options for the inclusion of renewable technologies are being explored, including the provision of Air Source Heat pumps. Full details of the renewables to be included in the development will be considered under the requirements of Policy 29 (Low and Zero Carbon Technologies) with details to be agreed by condition. Similarly, details of electric charging point provision within the courtyard parking areas associated with the terraced houses will be required by condition.
- 7.87 **Objection** - the remoteness of the application site from public transport provision and public services such as shops and schools residents will be dependent on car use. This is at odds with the Development Plans emphasis on sustainability.
- 7.88 **Response** - the proposed development of 150 houses would not support a viable bus service. However, the allocated housing site is well connected by road, cycle and footpaths to the wider area where services can be accessed.
- 7.89 The concerns of the objectors are not of sufficient weight to justify refusal of the application.
- 7.90 **It is concluded from the foregoing that there are material considerations of sufficient weight to support the approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Development Plan. However, there are material planning considerations including the provisions of the Proposed Local Development Plan 2 in relation to the site's allocation as a housing site from 2019, the proposals offering a balanced choice for new housing between the east and west of Dundee, appropriate mix of house style and size and technical considerations for the proposed SUDS area that would

justify approval of planning permission. Therefore, it is recommended that this application be approved subject to conditions.

9 RECOMMENDATION

Recommendation 1

- 9.1 A legal agreement will require to be concluded prior to the issuing of planning permission to agree a contribution in relation to education and the implementation infrastructure works outwith the application site.

Recommendation 2

- 9.2 It is recommended that consent be GRANTED subject to the following conditions:

- 1 **Condition** - prior to the commencement of work on site, details of the proposed boundary treatments and their location on the site shall be submitted to the Council for written approval. For the avoidance of doubt, the boundary treatments within the streetscape shall comprise stone dykes and beech hedging. Thereafter, the erection of the boundary treatments shall be carried out in strict accordance with the details approved by this condition.

Reason - in the interests of privacy and visual amenity.

- 2 **Condition** - prior to the commencement of work on site details of a scheme of public art to be provided within the development hereby approved shall be submitted to the Council for written approval. Thereafter, the approved scheme of public art shall be installed prior to the completion of the development hereby approved.

Reason - in the interests of enhancing the amenity and environmental quality of the development.

- 3 **Condition** – a Sustainability Statement demonstrating the extent to which the new build elements of the development will meet the requirements of Policy 29 of the Dundee Local Development Plan shall be submitted for the approval of the planning authority and the works shall be completed in accordance with the approved Statement.

Reason – in the interests of reducing carbon emissions associated with the proposed development.

- 4 **Condition** - development shall not begin until further risk assessment has been completed and a remediation strategy to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The strategy shall contain proposals to deal with contamination to include:

- a the nature, extent and type(s) of contamination on the site;
- b measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
- c measures to deal with contamination during construction works; and
- d verification of the condition of the site on completion of decontamination measures.

Reason – in order to minimise the risk of land contamination.

- 5 **Condition** - before any unit is occupied the remediation strategy shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.

Reason – in order to minimise the risk of land contamination.

- 6 **Condition** – no development shall take place within the development area until the applicant has secured the implementation of a staged programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant, agreed by the local Archaeology Service and approved by the Planning Authority

Reason – in order to determine the presence or absence of archaeological sites.

- 7 **Condition** - prior to the commencement of the development hereby approved, the required mitigation measures contained within the Ecological Impact Assessment dated August 2012 by Heritage Environmental Limited and Linlathen Breeding Bird Survey dated February 2018 by EnviroCentre Ltd shall be implemented in full.

Reason – in order to minimise impact of the development on ecology and to ensure that Giant Hogweed is removed from the site.

- 8 **Condition** – a treatment plan for the management of Giant Hogweed on this site shall be submitted to the council for written approval. The treatment plan must detail the measures required for the control/eradication of the plant including the frequency of such treatment. Given the nature of this plant the treatment plan must apply for a period of at least 5 years. Thereafter, the site must adopt a maintenance plan should the plant continue to grow. The treatment plan must be implemented prior to the occupation of the houses by the residents.

Reason – in order to ensure that Giant Hogweed is removed from the site.

- 9 **Condition** – prior to the commencement of the development hereby approved, a Phasing Plan detailing the construction and timing of completion of Core Path connections shall be submitted to and approved in writing by the planning authority. Thereafter, the proposed connections shall be fully implemented as the agreed details.

Reason – in the interests of vehicle and pedestrian safety.

- 10 **Condition** – details of the road layout within the site shall be agreed prior to any works on site. The roads shall be constructed in accordance with these details to Dundee City Council specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 11 **Condition** – a 20mph order shall be promoted for all roads within the site with appropriate signing and lining to support this provided to Dundee City Council specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 12 **Condition** – a Street Lighting system must be provided by the applicant to Dundee City Council standards and specifications.

Reason - to ensure an appropriate and publicly maintainable system is provided.

- 13 **Condition** – details of surface water treatment and written agreement on these matters from all relevant parties shall be agreed prior to any works on site.

Reason – to ensure an appropriate and publicly maintainable system is provided.

- 14 **Condition** – the applicant must provide a disposal route for road surface water to the satisfaction of Dundee City Council which discharges to a system publicly maintained/maintainable by the relevant authority, full details of which shall be submitted to and approved in writing by the planning authority prior to the commencement of development.

Reason – in the interests of vehicle and pedestrian safety.

- 15 **Condition** – details of the proposed road works on A92 Arbroath Road shall be agreed prior to any works on site and the works shall be constructed in accordance with these details and in accordance with Dundee City Council specifications.

Reason – in the interests of promoting sustainable transport.

- 16 **Condition** – a Residential Travel Pack must be in place and agreed with the Local Authority prior to occupation of the first property.

Reason - to ensure that the character of the application site and the surrounding area is maintained.

- 17 **Condition** – prior to the commencement of development hereby approved, full details of new planting and landscaping and an associated maintenance schedule, as well as a scheme for the timing of its implementation shall also be submitted to and approved by the planning authority prior to the commencement of development. An Arboricultural Consultant shall inspect all nursery stock and provide a report to the Council that it complies with the landscape plans hereby approved prior to it being planted. All tree planting to be carried out as per BS:8545:2014. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.

Reason – in order to prevent any construction impact on the trees on and around the site.

- 18 **Condition** – prior to the commencement of any works on site, an amended tree protection plan shall be submitted to the Council for written approval. Thereafter, the measures specified in the approved tree protection plan shall be implemented in full in accordance with BS5837:2012. Once implemented, the protection measures shall remain in situ and be maintained in full working order until the completion of the development unless otherwise approved in writing by the planning authority.

Reason – in the interests of flood prevention.

- 19 **Condition** – prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design and Independent Check Certification, and where appropriate SEPA comments shall be submitted to the Council

for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of any housing unit hereby approved.

Reason – in the interests of flood prevention.

- 20 **Condition** – prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of any part of the development hereby approved

Reason – in the interests of flood prevention.

- 21 **Condition** – prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity

Reason – in the interests of flood prevention.

- 22 **Condition** – prior to the commencement of any works on site, evidence of Scottish Water approval for the proposed drainage system for the development hereby approved shall be submitted to the Council for written approval.

Reason – in the interests of flood prevention.

- 23 **Condition** – prior to the commencement of any works on site, a Flood Risk Assessment and shall be prepared and submitted to the Council and SEPA for written approval along with signed Dundee City Council Compliance and Independent Check Certification. Any recommendations contained within the Flood Risk Assessment must be implemented thereafter prior to occupation of the development.

Reason – in the interests of flood prevention.

- 24 **Condition** – none of the houses hereby approved shall be completed before 1 January 2019.

Reason – in order to control the timing of development and in accordance with the Proposed Local Development Plan 2.

- 25 **Condition** – prior to the commencement of work on site, details of the proposed finishing materials of the development hereby approved shall be submitted to the Council for written approval. Thereafter, the proposed development shall be finished in strict accordance with the details approved by this condition.

Reason - in the interests of visual amenity.

- 26 **Condition** – electric car charging points shall be provided at a location and number to be approved prior to opening of the development.

Reason - in the interests of sustainable travel measures.