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DWF LLP

Our ref: PPA-390-2043-1  
28 November 2019

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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
PLANNING APPEAL: DEVELOPMENT OF A PUBLIC PARK, RESIDENTIAL  
DEVELOPMENT (INCLUDING AFFORDABLE HOUSING) OF 600 UNITS,  
COMMERCIAL SPACE (NEIGHBOURHOOD CENTRE), IMPROVEMENTS TO ROAD  
AND DRAINAGE INFRASTRUCTURE AND NEW PRIMARY SCHOOL ON LAND TO  
SOUTH OF AIRTHREY KERSE DAIRY FARM, HENDERSON STREET, BRIDGE OF  
ALLAN**

1. This letter contains Scottish Ministers' decision on the above planning appeal lodged on behalf of ██████████.

2. Under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010, the appeal came into a class to be determined by a person appointed by Scottish Ministers, rather than by Scottish Ministers themselves. However, in exercise of the powers under paragraph 3(1) of Schedule 4 to the Town and Country Planning (Scotland) Act 1997, Scottish Ministers directed, on 5 May 2016, that they would determine the appeal.

3. Following the decision by the Court of Session dated 23 January 2019 to quash the Scottish Ministers' previous Decision, to refuse planning permission in principle dated 18 June 2018, the case has been re-determined by the Scottish Government. The appeal was redetermined with unaccompanied site visits and further written submissions conducted by ██████████, a reporter appointed by Scottish Ministers for that purpose. A Report was submitted to Scottish Ministers on 16 October 2019 ("the Report").

**Scottish Ministers' Decision**

4. The Reporter recommended that the appeal be dismissed and planning permission in principle be refused. For the reasons given below Scottish Ministers accept the reporter's conclusions and recommendation and adopt them for the purpose

of their own decision. Scottish Ministers have decided to dismiss the appeal and refuse planning permission in principle.

## **The Proposal and Site**

5. This appeal relates to a proposed development of a public park, residential development (including affordable housing) of 600 units, commercial space (neighbourhood centre), improvements to road and drainage infrastructure, and a new primary school. The proposal is described by the appellants as enabling development to support future investment and expansion by the [REDACTED] business.

6. The site is located on the northern edge of Stirling, to the east of the River Forth, on part of an area of land which is known as the Carse of Forth. The site extends to approximately 63 hectares and forms part of an area of open, urban fringe agricultural land forming part of a green wedge between Causewayhead to the south, and Bridge of Allan to the north.

## **Development Plan Context**

7. Under the terms of section 25 of the Town and Country Planning (Scotland) Act 1997 all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Stirling Local Development Plan, dated October 2018. The site is designated as green belt.

## **The Report**

8. The contents of the reporter's report are listed on page 1. The reporter's findings and conclusion regarding the housing land supply position are contained in Chapter 3. The reporter's findings and conclusion regarding the green belt are contained in Chapter 4. The reporter's findings and conclusion regarding flood risk and drainage are contained in Chapter 5. The reporter's findings and conclusion regarding traffic and transportation are contained in Chapter 6. The reporter's findings and conclusion regarding economic benefits are contained in Chapter 7. The reporter's findings and conclusion regarding other matters including enabling development and impact on the historic environment are contained in Chapter 8. The reporter's findings regarding conditions and legal agreements are set out in Chapter 9. The reporter's overall conclusion and recommendation is set out in Chapter 10. A copy of the Report is enclosed as an Annex.

## **Summary of reporter's findings**

9. Overall, the reporter has found that the best available evidence indicates that there is an adequate effective housing land supply, and finds that the development would be contrary to the adopted development plan because of its green belt location. The reporter finds that this is a fundamental component of the Stirling LDP's spatial strategy, which would require exceptional justification to override. The reporter finds this conflict to be sufficient to conclude that the development would be contrary to the LDP overall, despite the development's compliance with all other relevant provisions of the LDP. The reporter does not consider that this conflict would be capable of being

outweighed by any other material considerations. The reporter recommends that the appeal should be dismissed, and planning permission in principle refused.

### Main Issues

10. Having regards to the provisions of the development plan, Scottish Ministers agree with the reporter that the main matters in this appeal are housing land supply, green belt, flooding and transportation, economic benefits and other matters including impact on historic environment.

### Housing land supply

11. Scottish Ministers agree with the reporter's conclusions that the best available evidence shows there is likely to be a modest surplus of effective housing land, relative to the minimum five-year supply requirement stipulated by SPP. This being the case, the provisions of Scottish Planning Policy paragraph 33 would not be engaged under the terms of SPP paragraph 125.

12. Scottish Ministers have taken into account that the reporter is mindful that any surplus in effective housing land is minimal. Scottish Ministers acknowledge that the findings of the council's 2019 housing land audit (HLA 2019) are expected to be published towards the end of 2019 but that is not a material consideration at this time.

### Green belt

13. Scottish Ministers consider that the proposal is a major development at a strategic scale. Scottish Ministers agree with the reporter's conclusions at Chapter 4 and overall conclusions in Chapter 10 that the proposal directly conflicts with LDP green belt policy, by virtue of its siting entirely within the green belt between Bridge of Allan and Causewayhead. Whilst the site is in the core area in the LDP, the reporter concludes this does not override the policy presumption against development in the green belt.

### Flood risk and drainage

14. Scottish Ministers agree with the reporter's findings at Chapter 5 and overall conclusions in Chapter 10 that sufficient survey work has been undertaken by the appellants to demonstrate that, in principle at least, an effective water management scheme focused on managing drainage and mitigating flood risk, would be achievable on the site. And that a flood risk assessment (FRA) and addendum have been submitted, the findings of which have been agreed by SEPA, which has raised no objection to the proposal, subject to conditions.

### Traffic and transport

15. Scottish Ministers agree with the reporter's findings at Chapter 6 and overall conclusions in Chapter 10 that the transport and access implications of the proposed development have been properly assessed, and that subject to mitigation including thresholds for housing numbers, the development could be satisfactorily and safely accommodated, and that subject to conditions to secure a variety of improvements, the development would be well connected and accessible by a range of modes of travel.

### Economic benefits

16. Beyond the supply of housing, Scottish Ministers agree with the reporter's findings in Chapter 7 and overall conclusions in Chapter 10 that the true benefits of the development (as opposed to mitigation measures) would be largely confined to provision of publicly accessible open space, and economic benefits arising from the construction phase. Scottish Ministers agree with the reporter's findings at Chapter 7 that there would be local economic benefit generated by the construction phase of development, but this would be the case wherever the development was located and so this aspect carries limited weight. Scottish Ministers note that in terms of enabling development to subsidise investments in the [REDACTED] business, the appellants have suggested a condition which could link the appeal proposal to various developments associated with the development. However, Scottish Ministers agree with the reporter that it has not been shown how the dairy's investment plans are reliant upon the appeal proposal and also noting the wide-ranging uncertainties in regard to these plans, that it would therefore be unreasonable to restrict the development by condition subject to other dairy-related developments first taking place, and the appeal proposal should not be considered as enabling development.

### Other matters

17. Scottish Ministers agree with the reporter's findings in Chapter 8 and overall conclusions in Chapter 10 in respect of school capacity, the impact on the River Teith Special Area of Conservation (SAC), and on the historic environment. The reporter states that it is now uncertain whether primary school capacity would be best on site or through the extension of Bridge of Allan primary school, but this decision could be taken if PPIp is granted and that a contribution would be required to address secondary school capacity. As the proposal is 400 metres from the River Forth, which at this location is part of the River Teith Special Area of Conservation (SAC), the reporter considers that an appropriate assessment would be required to be undertaken if PPIp was granted. However, as permission is not being granted, this is not necessary. In terms of the development's potential effects upon the historic environment, including on the Wallace Monument, Scottish Ministers agree with the reporter that no adverse effects are anticipated.

### **Conclusion**

18. Scottish Ministers agree with the reporter's findings that there is an adequate effective housing land supply. Scottish Ministers consider that the benefits of the scheme are material considerations to be taken into account but are not sufficient to outweigh the development plan particularly the harm to the green belt in this sensitive location and further coalescence of settlements. Accordingly, Scottish Ministers dismiss the appeal and refuse planning permission in principle.

19. The foregoing decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date hereof. On any such application the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

20. A copy of this letter and the reporter's report has been sent to Stirling Council, Scottish Natural Heritage, Bridge of Allan Community Council and Causewayhead Community Council. Those parties who lodged representations will also be informed of the decision.

Yours sincerely

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**Chief Planner**