



## Report to the Scottish Ministers

# TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

---

Report by Dannie Onn, a reporter appointed by the Scottish Ministers

- Case reference: PPA-390-2043
- Site Address: Airthrey Kerse Dairy Farm, Henderson Street, Bridge of Allan, FK9 4RW
- Appeal by R Graham & Son and Mactaggart & Mickel against the decision by Stirling Council
- Application for planning permission in principle, ref. 14/00595/PPP dated 24 September 2014, refused by notice dated 23 March 2016 and called in by notice dated 5 May 2016
- The development proposed: 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
- Date of accompanied site visit: 29 November 2016

Date of this report and recommendation: *01 June 2017*

---



## CONTENTS

## Page

Summary Report	2
Preamble	8
<b>Chapters</b>	
1. Background	9
2. Statutory requirements, policy and guidance	11
3. Green belt	17
4. Flooding	20
5. Roads and traffic	25
6. Other matters	29
7. Conditions and legal agreements	32
8. Conclusions	32
<b>Appendices</b>	
1. Heads of terms for an agreement under S75 of the Act	
2. Recommended Conditions	
3. List of interested parties who opted in to the examination process	

## Abbreviations

CC	Community Council
DPEA	Planning and Environment Appeals Division
EIA	Environmental Impact Assessment
ES	Environmental Statement
FRA	Flood Risk Assessment
HES	Historic Environment Scotland
LDP	Local Development Plan
S75	Section 75 of the Planning Act relating to legal agreements
SAC	Special Area for Conservation
SEPA	Scottish Environment Protection Agency
SG	Scottish Government
SNH	Scottish Natural Heritage
SPP	Scottish Planning Policy
SuDS	Sustainable Drainage Scheme
TA	Transport Assessment

**The erection of a public park, residential development (including housing) of 600 units, commercial space (neighbourhood centre), improvements to road and drainage infrastructure and a new primary school on land to the south of Airthrey Kerse Dairy Farm, Henderson Street, Bridge of Allan, FK9 4RW**

• Case reference	PPA-390-2043
• Case type	Recalled appeal
• Reporter	Dannie Onn
• Appellant	R Graham & Son and Mactaggart & Mickel Homes
• Planning authority	Stirling Council
• Other parties	Bridge of Allan Community Council Causewayhead Community Council Interested persons who opted into the examination process are listed at Appendix 3
• Date of application	24 September 2014
• Date case received by DPEA	25 April 2016
• Methods of consideration and dates	Written submissions Accompanied site inspection 29 November 2016 Unaccompanied inspection of the surrounding area on 29 November and 15 December 2016
• Date of report	01 June 2017
• Reporter's recommendation	That the appeal be refused

**Introduction**

The appeal site is relatively flat land in the North Stirling Green Belt, which is sandwiched between Bridge of Allan and Causewayhead, Stirling. I have examined the proposals against the relevant policies of the Stirling Local Development Plan (LDP) and all other material considerations. In particular I have looked at the relevant housing policies and the housing land supply in relation to Scottish Planning Policy. The issues in this appeal are the impacts of the proposed development in terms of the green belt; flooding and transportation. Other matters include economic benefits; enabling development; infrastructure improvements; the emerging replacement local development plan; the historic environment and visual impacts.

**Planning policy**

Development in the green belt would be contrary to policy 1.5 of the LDP, which seeks to keep green belts open. Only small scale housing may be permitted, but essential infrastructure will be supported, including transport where supported by regional and local transport strategies. Adopted supplementary guidance includes that the purpose of the

green belt includes to direct planned growth to the most appropriate locations and to protect and enhance the quality, character and landscape setting.

The site is also in the Core Area, as defined in the LDP, which is the preferred location for new development where close to transport routes. Of relevance in this case, the LDP also contains policies to keep development out of flood risk areas and to protect and enhance green networks.

The Stirling LDP does not allocate sufficient land for housing to satisfy the requirements of SPP that a five years' effective supply should be maintained at all times. In such circumstances it is Scottish Ministers' policy in SPP that the relevant policies in the LDP should be considered to be out of date. I have found that the proposed development would contribute in some ways to sustainable development. The SPP presumption in favour of development that contributes to sustainable development is thus a significant material consideration in this case. However, decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider SPP policies. SPP also supports designation of a green belt around the city to support the spatial strategy by, amongst other things, protecting and enhancing the character, landscape setting and identity of the settlement.

The LDP is being replaced and the proposed plan has been submitted to DPEA for examination. It intends to provide sufficient land for housing in accordance with SPP.

The proposed development would deliver around 600 homes over a period of around 10 years. In my assessment, the proposal would contribute around 175 houses to the shortage in the five year land supply. This is because of the significant infrastructure requirements, the legal complexities of providing them and the need to satisfy detailed conditions before planning permission is fully available. There is then a limit to the number of houses that can be built each year. On the assumption that the proposed replacement development plan should identify sufficient sites, the land supply shortage may be resolved before development commences on site.

With the emerging replacement LDP likely to become adopted this year, it is appropriate to consider whether allowing the appeal would prejudice the new plan.

I have examined the Environmental information accompanying the appeal and conclude that it is sufficient to explain the likely environmental effects of the proposed development.

The site is close by a Special Area of Conservation, where the Habitats Regulations apply. I consider that the qualifying interests of that site would be adequately protected by the construction methods and pollution prevention proposed.

### **The green belt**

The green belt at Airthrey Kerse separates Bridge of Allan from Causewayhead, Stirling. The appeal site covers around 60 hectares of the 90 hectare designated green belt between the two settlements. However, only about half of the site would be built upon, the remainder would be kept open as a proposed park. There is an apparent coalescence at Cornton Vale, where the prison and other buildings visually link the two settlements. The proposed development would extend this effect and would isolate the remaining part of the North Stirling Green Belt to the extent that it would lose visual connection with the rest of

the open ground to the west. The playing fields at Wallace High School and the proposed parkland, and even the remaining fields at the dairy farm, would then appear so surrounded that they would become suburbanised.

## **Flooding**

The flood risk assessment as reviewed on behalf of the council and as accepted by SEPA (subject to conditions) shows that the development can be designed such that the rainwater run-off from the site would be slower than existing. This would be achieved by the strategy of providing flood storage areas on site to overcome storm surge and controlling release to ditches, culverts and drains.

This is an application for planning permission in principle. The strategy for drainage is acceptable to the council and to SEPA. With the proviso that some further detail will be necessary and engineering solutions may need to be found, a permission in principle would not lead to flooding at the proposed development nor any increased flooding risk at surrounding properties. Indeed, it is quite likely that the proposed drainage solution would alleviate some of the problems currently experienced in the surrounding area.

The proposed drainage scheme to serve the development would require a maintenance and operational regime which would need to be secured by conditions and legal agreement.

## **Roads and transportation**

The main issues here are the impacts of the proposed development on the risk at local railway level crossings and increased traffic congestion.

The appellant proposes a new road bridge over the railway. That would be of great benefit to road and rail safety. Provided that the development is phased to ensure that a bridge is built before the traffic increases at the crossings, then the proposed development would not increase risk at the existing level crossings.

The council and independent consultants have assessed the impacts of the proposals on the surrounding road network. They find that the development could proceed subject to conditions and legal obligations to secure appropriate improvements at nearby roads and junctions. I see no reason to disagree.

The proposed development would include a part of a new link road which is planned by the council. Although this would effectively become a distributor road within the development, I see no reason why it could not also become part of the planned link and fulfil the role of connecting Stirling University, Forthbank College, local business and the M9 motorway.

## **Other matters**

In this case, the proposed development is planned to provide a profit to enable expansion of the dairy business at Grahams the family dairy on another site near Stirling. That in turn would provide an economic benefit in terms of investment and jobs.

Enabling development is that which allows other development to proceed. It is a term usually applied to development which is otherwise unacceptable. To be enabling development it must be securely linked to the desirable development so that the benefits will inevitably flow from it. In my experience, the main test of an enabling development is that the benefits it offers clearly outweigh the harm caused by the inappropriate development.

I consider that the proposal for a new dairy facility would be of benefit to the local and national economy. However, in planning terms the dairy facility is at an early stage, there is no application and no permission. Further, there is nothing to link the proposed housing-led development with the creation of the dairy facility. I cannot be sure therefore that the benefits of the proposed dairy facility would happen. This reduces the weight that can be attached to this matter in the planning balance.

The appellants say that working together, they propose to deliver a sustainable, housing led development on the application site for the social, economic and amenity benefit of the local community, council and region. This proposed development would invest in jobs, infrastructure and amenities within Stirling. The appellants have produced an economic impact study. This demonstrates the economic activity that would result from development on this scale and concludes that the proposed would play a significant role in growing the local food sector; help to safeguard existing jobs and create new ones; and grow population, with the socio economic benefits that would flow from that. However, the study does not arrive at a net economic benefit because, if the appeal is refused, the housing and associated infrastructure would need to be developed on another site or sites. It also includes the proposed new dairy business, which I consider to hold little weight in this appeal.

The proposed new link road between Airthrey Road and the M9 Motorway junction is an infrastructure requirement identified in the local transport plan, the LDP and the Stirling City Deal masterplan. It is planned for delivery by 2027. The proposed development would, effectively, provide the eastern part of this link. Irrespective of the appeal proposal, the council intends to seek the funding for the road. Delivering part of the road would not complete the link and in isolation would not provide any significant benefit. This reduces the weight attached to this matter as an additional benefit of the proposal.

The proposed development would provide essential education, medical and shopping facilities to support the new population it would generate. However this does not add weight as a benefit of the scheme.

The proposed parkland would enhance the green network by making it more accessible, which is supported by policy 1.3 of the LDP.

Historic Environment Scotland refers to the setting of Stirling Castle and the Wallace Monument as well as the archaeological potential of the Carse in relation to the Battle of Stirling Bridge. They conclude that the impacts would not be significant. I consider that conditions would ensure that the setting of the listed buildings would be preserved and that any archaeology on the site would be properly considered should the scheme go forward.

I have considered visual impacts in relation to the green belt and the setting of historic monuments. Apart from that, the proposed conditions should ensure that the visual impacts would be acceptable and that a high quality design would be achieved.

The LDP is being replaced and a proposed plan has been submitted for examination. The replacement plan may be adopted before the end of this year. It is expected to provide sufficient housing land for a five year effective supply. Additional planning permissions now are unlikely to contribute to the supply before the plan is adopted. The appeal site is not allocated for housing in the proposed plan but would remain in the green belt. The appeal proposal represents a substantial number of houses in the green belt at a sensitive location. Representations to the proposed LDP contest its allocations and the housing calculations supporting them. The site could thus have a significant role to play in decisions on where and how many houses are allocated. It is therefore appropriate to consider whether approval of the proposed development would be premature.

## **Reporter's Conclusions**

The appeal site is in the Green Belt, where the LDP restricts development. In this case the Green Belt provides an important gap between Causewayhead and Bridge of Allen, preventing further coalescence of settlements. Development as proposed would close the gap and increase the connection between the two settlements, contrary to the LDP.

Nevertheless, there is a current shortfall of housing land in Stirling. A five years' supply is not being maintained. In these circumstances, SPP allows for sustainable sites such as this to be developed for housing. In this case, the amount of land that can contribute to the shortfall is somewhat less than is sought in this appeal. The proposed development would provide a total of around 600 homes. In my assessment, less than half of these would contribute to the 5 year supply of land for housing. That would help to overcome a shortage of land identified in the latest housing land audit measured against the requirements of the adopted LDP, but on the assumption that around half the number of houses would require half the land take, the development would encroach into the Green Belt, and appear to further coalesce settlements unnecessarily.

The proposed development could be designed to avoid flooding within and reduce the incidence of flooding in surrounding areas. Although that would involve a complex scheme, both technically and legally, it would be of significant benefit.

The proposal, subject to conditions and legal obligations, could be developed without increasing the risk to road safety or road capacity. It would also provide a new bridge over the railway line, thereby removing the road safety hazard at the existing level crossings.

The appellants refer to the proposed housing being critical to plans by Grahams the Family Dairy to build a new dairy facility nearby. I have no doubt that would be of considerable benefit to the local economy and perhaps nationally. However, commercial matters such as this are not directly related to the development proposed. There is no obligation on the appellants' part to provide this development and no enforceable means of securing it. This matter therefore attracts little weight in the planning balance.

The proposed scheme is a major development at a strategic scale and if allowed could have significant implications for the green belt and housing strategies of the emerging LDP, which is currently with DPEA for examination and could be adopted before the end of this year. In accordance with paragraph 34 of SPP I consider that to allow the appeal now would be premature.

Weighing up the benefit of part of the scheme to housing land supply and the benefits of the scheme in terms of local infrastructure against the total harm to the green belt, I consider that the green belt in this location is of such sensitivity, that it carries considerable weight; housing should be planned for and provided in the context of the new LDP; the link road and bridge crossing are planned in any event; and that drainage infrastructure and public access to the land are of some weight. On balance I take the view that green belt protection outweighs the benefits.

## **Recommendation**

I recommend that the appeal be refused.

Should the Scottish Ministers determine to allow the appeal and grant planning permission in principle, I recommend that they signal that intention to the appellants, subject to the completion of an obligation under S75 of the principal planning Act following the terms set out in appendix 1. Once that has been duly completed and recorded or registered, I would further recommend that the planning permission be granted in principle subject to the conditions set out in appendix 2.

Scottish Government  
Planning and Environmental Appeals Division  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR

DPEA case reference: PPA-390-2043

The Scottish Ministers  
Edinburgh

Ministers

In accordance with my minute of appointment dated 11 October 2016, I have examined the appeal in connection with a proposed residential-led development at Airthrey Kerse, between Bridge of Allan and Causewayhead. You have recalled the appeal for your own determination by minute of 5 May 2016 because you place a high priority on the delivery of good quality housing that can contribute to the creation of successful and sustainable places. You continue to take an active role in monitoring the practical application of the Scottish Planning Policy, particularly the presumption in favour of development that contributes to sustainable development. As a result, you wished to recall appeals for housing proposals over 100 units to monitor how this national policy is being implemented. This appeal was recalled for Ministers' decision as it is over 100 housing units in size.

Following my appointment, I reviewed the documents and arranged an accompanied site inspection for 29 November 2016. This was attended by around 50 persons including representatives of the appellants, the Stirling Council, local community councils, SNH and local residents. I carried out unaccompanied inspections on two separate occasions to look at the site in its surroundings.

The local development plan (LDP) is being reviewed and a draft replacement LDP was published and submitted for examination during my consideration of the appeal. Reference was also made to a City Deal Masterplan for Stirling. I sought copies of these two documents and views on them in accordance with the procedure regulations. The final submissions were made by 23 February 2017.

My report, which is arranged on a topic basis, takes account of the written statements, documents and further representations lodged by the parties, together with my observations at my site inspections. It also takes account of the appellants' Environmental Assessment and its Addendum, as well as other information submitted by the parties and by statutory consultees.

## CHAPTER 1. Background

### The site

1.1 The appeal site<sup>1</sup> is an area of almost flat land, mostly in agricultural use and lying on the Carse of Forth to the north of Stirling. It consists of a series of fields divided by hedges and fences and accessed by tracks. The land is mostly drained by two burns. It covers around 63 hectares between Causewayhead, Stirling and Bridge of Allan. It is bounded to the east by the Wallace High School and the A91 Airthrey Road. To the south is the Causewayhead residential area and Easter Cornton Road. To the west is a main railway line between Stirling and Perth. To the north there is further land associated with Grahams The Family Dairy and residential areas at Bridge of Allan.

1.2 The site is within the green belt and countryside as designated by Stirling Council. The land is not allocated for residential development but is within the City Core Area as defined in the adopted Stirling Council Local Development Plan (LDP).

### The proposed development

1.3 The proposed development comprises 600 residential units of mixed tenure, of which 150 (25%) would be affordable to comply with the council's development plan policies and include social market rent, mid-market rent and low cost housing. Of the remaining 450 market houses, the tenure mix would include family housing, retirement properties and self/custom-build. The proposed development would have a mix of amenities, including: a neighbourhood centre with doctor's surgery and non-food retail centre; a two stream primary school; a sustainable drainage system (SuDS) which would also act as a flood attenuation scheme; 30 hectares of public park; internal road, footpath and cycle infrastructure; land and infrastructure to support Network Rail's upgrade of the Corton vehicle and pedestrian rail crossings; and offsite road and drainage infrastructure.

1.4 The proposed housing is planned to be developed at a rate of between 50 and 100 houses each year, with phasing linked to completion of the necessary infrastructure.

1.5 The [application](#) was made in 2014. Around 450 objections were received by the council along with 76 letters of support. The application was [refused](#) by the council in 2016. An [appeal](#) was duly lodged. Seventy-two representations were made in response to the appeal.

### Consultations

1.6 The Bridge of Allan Community Council and the Causewayhead Community Council each object to the proposed development. They submitted a joint response to the appeal. They object primarily because the site is green belt and not allocated for development in the LDP. There would be coalescence of settlements and loss of their identity. Local residents are concerned by the impact on existing flooding and further traffic congestion. The CCs also point out that the contribution to the shortfall in the five year housing land supply would be 225, not the 600 applied for. Local residents are seriously concerned that the regular flooding of the area will be made worse and the CCs consider that local knowledge has been ignored. In particular, the clay cap on the site is not as thick as the appellants claim, which means that development could puncture it, letting ground water flow to the surface. The CCs do not trust the traffic evidence prepared by the appellants.

1.7 Consultation responses were received from SEPA in relation to the appellants' flood risk assessment. SEPA considers that the information provided by the appellants is

---

<sup>1</sup> The location plan is attached to the [application](#) of 24 September 2014

sufficient to demonstrate that the principle of the development is acceptable. SEPA thus makes no objection subject to planning conditions and a legal agreement to secure detailed design of the drainage scheme and its maintenance.

1.8 Historic Environment Scotland advises concern over the potential impacts on the inventory battlefield site of Stirling Bridge and the setting of listed buildings at the Wallace Monument and Stirling Castle. However, they consider that these impacts are unlikely to be of national significance.

1.9 Scottish Natural Heritage raises concerns in relation to the landscape and visual impacts of the proposed development, in particular, the setting and identity of Stirling, and preventing coalescence between Causewayhead and Bridge of Allan. SNH also advise on the River Teith Special Area of Conservation, which I consider in Chapter 2 below.

1.10 Network rail says that the rail crossings at Cornton are high risk. Improvement to the barriers and operation of the road crossing would increase traffic congestion. A new road bridge to replace both crossings is supported by the LDP and would facilitate new development as well as the potential relocation of Bridge of Allan station. Land would need to be safeguarded for the proposed bridge and associated road. Network Rail notes that development of a road bridge is unlikely before late 2018 or early 2019 and may depend on a number of consents which cannot be guaranteed. Without this, the increase in risk from a greater number of people, including school pupils, as a result of the development would be unacceptable to Network Rail. Conditions would therefore be required: to safeguard land; to limit the number of houses built before a road bridge; alternatively to provide a footbridge if the catchment of the proposed new school were to extend over the railway; and to require measures to reduce car use.

1.11 The council consulted NHS Forth Valley in respect of surgery capacity and provision. A potential solution is identified within the proposed neighbourhood centre, which could be addressed by condition.

1.12 Scottish Water does not object to the proposed development.

1.13 Transport Scotland conclude that there would be no significant impact on the trunk road network provided conditions were attached to require a travel plan to be submitted and approved.

## CHAPTER 2. Statutory requirements, policy and guidance

### Planning policy

#### The development plan

2.1 The principal planning Act requires that the decision in this case is made in accordance with the relevant policies of the development plan for the area unless material considerations indicate otherwise. The relevant plan in this case is the Stirling Council Local Development Plan of 2014 (the LDP). The Local Development Plan identifies a spatial strategy, key diagrams and a settlement hierarchy which set the context for accommodating development within the development plan area up to 2024. In summary, the strategy aims to accommodate new development, primarily housing, within an identified core area where there will be consolidation and expansion of existing settlements, aligned with sustainable development principles. An indication of the future housing supply from 2024 to 2034 is also highlighted.

2.2 The settlement hierarchy differentiates between the identified settlements within the plan in terms of their role in helping to deliver the [development framework strategy](#) by identifying them as tier 1-5 settlements. Stirling City and Bridge of Allan are identified as tier 1 settlements, where the plan envisages a mixture of urban consolidation, strategic development sites and regeneration to take place.

2.3 With regard to new build development, [Primary Policy 2 – Supporting the Vision and Spatial Strategy](#), states that sufficient land is allocated to provide for a range and choice of sites and uses. Sites deemed to be non-effective (i.e. incapable of delivery) will be addressed in the first instance by advancing alternate developments earmarked for development in Phase 2 of the plan (2019-24) or from future supply (post 2024).

2.4 Primary Policy 2 also states that outwith those sites allocated for development in the plan, the Core Area will be the preferred location for new build development on sites located close to and easily accessible by, major public transport routes. The application site is within the Core Area and a Tier 1 settlement and as such, development would comply with Primary Policy 2.

2.5 Policy 2.1 – *Housing Land Requirement*, refers to a list of sites allocated for development in the plan and provides a commitment to maintain at all times a 5 year supply of land that is or can be shown to be capable of becoming effective. It relates back to Primary Policy 2 in instances where a shortfall in the land supply occurs. The proposed development would not comply with Policy 2.1 as it is not included in the list of sites allocated for development in the Plan.

2.6 The site falls within land designated as green belt. Policy 1.5 seeks to protect areas designated as green belt from development and states that development that is allowed should preserve the openness of green belts and should not undermine their core role and function by individual or cumulative impact. The policy envisages that only small scale housing would be acceptable in the green belt, but does allow for essential infrastructure, such as transport, supported by regional and local transport strategies.

2.7 [Primary Policy 5](#) of the LDP states that development proposals on areas shown to be at risk of flooding on SEPA Flood Maps should be avoided.

2.8 Further guidance on the role and purpose of green belts is provided in Supplementary Guidance SG03 – *Green Belts*, which forms part of the development plan. I am told that this includes that the purpose of green belt designation is to direct planned growth to the most appropriate locations, to protect and enhance the quality, character and landscape setting

and to protect and give access to open space within and around settlements. SPP also supports designation of a green belt around the city to support the spatial strategy by, amongst other things, protecting and enhancing the character, landscape setting and identity of the settlement.

2.9 Policy 1.3 – *Green Network and Open Space* applies in this case because the appeal site is located within the Stirling Green Network as outlined in Fig 5 of the LDP. In summary, the policy states that proposals which encroach upon the existing open spaces and green corridors should maintain or enhance functionality and connectivity, and that proposals resulting in a net reduction of open space should ensure that the remaining elements of the Green Network are enhanced. Whilst there is a presumption against the loss of open space, the above considerations should be taken into account. New development should also incorporate accessible multifunctional open space where necessary.

#### Other policy and guidance

2.10 Scottish Planning Policy (SPP) is a material consideration in planning appeals. Of particular importance here, SPP sets a presumption in favour of development that contributes to sustainable development and also requires that planning authorities should provide for a generous supply of housing land and that a minimum of 5 years' effective supply should be maintained at all times. Where this is not achieved, SPP considers the relevant policies in the plan to be out of date and the presumption in favour of development to be a significant material consideration. In those circumstances, decision makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in SPP.

2.11 Where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval

2.12 The housing land requirement identified in the LDP, minus completions to date, is 4,536 units, giving an annual target of 504 units to be completed over the remainder of the plan period to 2024. The performance of the land supply is monitored through the annual housing land audit process and this shows that there was a shortfall in the land supply of 896 units. The result is that the council now only has a land supply of 3.2 years. Given the current shortfall in the land supply, the LDP is out of date in that regard.

2.13 SPP states that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. SPP (at paragraph 29) outlines 13 principles that are guiding factors in determining whether a development contributes to sustainable development. These principles include; giving due weight to net economic benefit; supporting good design and successful places; making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities; supporting delivery of accessible housing, business, retailing and leisure development; supporting delivery of infrastructure; supporting climate change mitigation and adaptation including taking account of flood risk; improving health and wellbeing; protecting, enhancing and promoting access to cultural heritage, natural heritage, including green infrastructure, landscape and the wider environment; considering the implications of development for water, air and soil quality.

### The appellants' case

2.14 The LDP makes provision for sites to come forward from later phases of the Plan in the event of a shortfall in the land supply. With regard to sites allocated in the Plan which fall into later phases of the plan, these are largely 'strategic' in nature and comprise of large allocations of housing whose development will be spread over several years. In these circumstances, it is not possible to advance later phases of housing when the initial phases have not yet even been started.

2.15 Other sites identified for Period 2, such as those in Raploch, were identified for this later phase in line with the planned regeneration programme for the area. The development of housing in this area has been slow to date and there must be question marks over the marketability of this area and the ability of sites to contribute meaningfully to the shortfall in the land supply over the 5 year period.

2.16 The appellants say that the application site is consistent with the LDP Spatial Strategy and Primary Policy 2 in that it is within the Core Area and is in an accessible location. Information submitted with the application indicates that the development will support all required infrastructure including roads, drainage and education provision. There are infrastructure issues to be addressed, such as flooding and transportation, however, the phasing plan submitted with the application takes these matters into account and as such, there is a reasonable expectation that the site will be able to deliver housing within the 5 year period to address the shortfall in housing supply.

2.17 The proposed development is deliverable, meets the tests of effectiveness and can make a significant contribution to Stirling Council's 5 year housing shortfall. All technical matters associated with the proposed development have been considered by the relevant council services and outside agencies and none has raised objection. The impact of the proposed development can be satisfactorily mitigated through conditions and planning obligations consistent with the provisions of Circulars 4/1998 and 3/2012. The conflict between the proposed development and the Stirling Council LDP is limited to green belt. The benefits of granting planning permission in principle outweigh non-compliance with development plan policies on green belt because of Stirling Council's identified shortfall in its 5 year effective housing land supply.

2.18 In light of the failure of allocated sites within either Periods 1 or 2 of the LDP to come forward and maintain a 5 year effective housing land supply, the appellants say that a planning application on an unallocated development site located within the Core Area which promotes the principles of sustainable development and is effective, complies with the strategic policies of the Stirling Council LDP.

2.19 The application site and proposed development accord with the guiding principles for sustainable development promoted by the Scottish Planning Policy and are consistent with the principles underpinning Stirling Council's LDP Vision and Spatial Strategy.

### The council's case

2.20 Policy 1.5 of the LDP states that development should preserve the openness of green belts and should not undermine their core role and function by individual or cumulative impacts. Development in the green belt will only be supported where it supports diversification of the rural economy and is for specific purposes none of which, save the new transport and flooding infrastructure, would apply here.

2.21 The council acknowledges that the development plan policies for the supply of housing land are not up-to-date in terms of paragraphs 125 and 33 of SPP will be relevant. However, this does not change the principal task in terms of section 25 of the 1997 Act.

SPP is just one material consideration which must be taken into account, the weight to be attached to any material consideration in the decision-making process a matter for the decision-maker. The council acknowledges that there is currently a shortfall in its five-year effective housing land supply, therefore the development plan policies for supply of housing land are not up-to-date. The development would make a contribution to addressing this shortfall but in light of the appellants' proposed build out rate the council considers the appellants may be overstating the significance of this contribution.

2.22 Additionally, although policies for the supply of housing land are not up-to-date in terms of SPP, policies relating to other matters, including the determining issues (see further consideration of these points below), are up-to-date. The council had regard to the presumption in favour of development which contributes to sustainable development in the balancing exercise. However, in any case, in consideration of the council's conclusions that the impacts in relation to green belt, flooding and transportation would not be satisfactorily mitigated it is submitted by the council that the presumption in favour of sustainable development would not apply.

2.23 A replacement LDP is progressing towards adoption. All unresolved representations, council responses and supporting information were submitted to the DPEA on 1 February 2017 alongside a formal request for the plan to be examined. The preparation of this replacement LDP is therefore at a more advanced stage than when Stirling Council refused the planning application in March 2016. The council considers that the proposed plan is relevant to the assessment of this planning appeal as it represents its most up to date planning policy position for the future growth of the Stirling LDP area. The plan should hold weight in the determination of this planning appeal. Within the proposed plan, the appeal site is not identified for housing development and sits within the green belt. In terms of wider housing land supply issues, the proposed plan identifies a generous supply of housing land for the plan period 2015-2027 consistent with SPP, having a generosity level of 14.4%. A rolling 5 year effective land supply will be provided on adoption of the replacement plan.

2.24 There are, however, unresolved representations relating to the non-inclusion of the appeal site and other sites in and around the Stirling core area as housing development opportunities in the proposed plan. In addition to this, representations relating to the method of calculating housing land were also received. These will all be considered as part of the forthcoming LDP examination.

2.25 The council says that paragraph 34 of SPP is relevant in this case particularly given that the plan is now entering its examination phase. The planning appeal site is of a strategic scale and its inclusion or not as a housing site could have implications for the spatial strategy or housing strategy of the emerging plan.

2.26 Other matters include the City Development Framework, from which derives a City Deal bid and accompanying masterplan<sup>2</sup>. These include for a new link road across the site.

### Reporter's findings

2.27 The proposed development would be sustainable in terms of paragraph 29 of SPP would also comply with Primary Policy 2 of the LDP in its use of Core Area land. There is no dispute that the mix of uses and infrastructure proposed would comply with the relevant development plan policies other than green belt; that the development would provide for a school, local shopping and medical facilities generated by the proposed housing; and that the development would provide a contribution to infrastructure, including a new and safer

---

<sup>2</sup> See [part 1](#) and [part 2](#) of the City Deal Masterplan

rail crossing; flood alleviation; and improved road links around Stirling. These would further the aims and strategic policies of the development plan. The provision of a public park would comply with policy 1.3 on green network and open space because it would enhance the green network after the housing land had been taken.

2.28 There is no dispute between the appellants and the council that Stirling currently cannot meet the SPP requirement for a 5 year effective housing land supply. The parties agree that the presumption in favour of development that contributes to sustainable development applies and that this is a significant material consideration in support of the proposed development.

2.29 The appellant says that without the proposed housing in this case, an ineffective housing land supply situation will continue when the new LDP is adopted. The council currently has an effective land supply for housing of about 3.2 years. It is a matter for the development plan process, but the emerging LDP should provide an effective five years' supply, as the council intends and as required by SPP. The LDP process should increase the amount of land likely to become effective within the five year period and should do so before the existing supply can be used up. In the meantime, an increased supply of land would offer a choice and range of housing opportunities.

2.30 The proposed delivery of housing from this site would be spread over 10 years. Only that which can be delivered within the next five years would be effective in terms of the land supply required at all times by SPP. The application is for planning permission in principle and there are several constraints to be overcome before housing can be built. There is no certainty that these constraints can be easily and speedily be overcome. There would also be a legal obligation to complete before the issue of a planning permission. These matters could take more than a year to resolve. I deal with drainage issues in chapter 4, road infrastructure in chapter 5 and conditions and legal agreements in chapter 7. These constraints indicate to me that no housing would be built before the new LDP is approved. The appellants' development phasing strategy shows a maximum of 225 houses being built in the first four years and they say that 350 homes could be built within 5 years. However, with a lead time of more than a year to deal with the matters subject to planning condition and construct the essential infrastructure, I estimate a maximum of 175 houses would contribute to the current shortage in the five years' supply of land. I accept that with favourable market conditions the build rate could be higher with two house building companies involved, but at the same time, it might well take longer to get infrastructure matters resolved. Early delivery of housing cannot be relied upon in this case.

2.31 In terms of prematurity, the proposed development offers a substantial contribution to housing land supply and infrastructure. It would also make a significant change to the established green belt around Stirling. These matters are central to the emerging plan. Allowing the development now could easily undermine the process of assessing housing sites and reconsidering the extent and location of the green belt as a part of the plan-making process. The proposed new LDP has been submitted to DPEA and its examination is underway. The appeal site is not included as a housing allocation. Thus, I conclude that it is appropriate to consider whether granting permission would prejudice the emerging plan.

### **Environmental Impact Assessment**

2.32 The application is a major development subject to the Environmental Impact Assessment (Scotland) Regulations 2011 (the EIA Regulations). An Environmental

Statement<sup>3</sup> (ES) dated September 2014 was submitted with the application to cover environmental effects in relation to traffic, hydrology, and landscape and visual impacts. In summary, the ES finds significant levels of landscape and visual effect, particularly in close proximity to the site, but that a significant green wedge would be retained and enhanced. The ES also finds that the site is in a sustainable location and traffic and transport can be managed without significant environmental effect. In terms of Hydrology, the ES finds that flood mitigation and surface water management are required to allow development and mitigate existing flooding issues. The site can be drained effectively with any residual risk being acceptable and of minor significance.

2.33 Further Environmental Information<sup>4</sup> (FEI) was published in September 2015 to provide further assessment of the traffic impact and landscape and visual impact. The overall findings on landscape and visual impact were not changed to any marked degree. In relation to traffic and transport, the addendum relates the phasing of development to mitigation measures. The assessment acknowledges that the full development would have an impact on the local road network, but that the contribution of a significant part of the Cornton Road to Airthrey Road link and some funding for the City Transport Plan would provide suitable mitigation.

2.34 On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the appellant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. I am therefore reporting in accordance with the 2011 regulations as they applied before 16 May 2017.

2.35 I have considered the scope of the ES and its addendum. I find that the environmental information as a whole is sufficient to explain the likely effects of the development.

## **SAC**

2.36 The appeal site is 400 metres from the River Forth, which at this location is part of the River Teith Special Area of Conservation (SAC), which is designated for Atlantic Salmon and Brook, River and Sea Lamprey. The Conservation (Natural Habitats etc) Regulations apply.

2.37 SNH advise that the proposal is likely to have a significant effect on the SAC. The decision maker must therefore carry out an appropriate assessment to determine the effect on the site's conservation objectives for its qualifying interests. No part of the site is within the SAC, but construction and future drainage of the site could harm the water quality through sedimentation or pollution. However, SNH concludes that if all relevant SEPA guidelines and current best practice are followed, the protected natural features of the SAC would not be adversely affected. These measures could be secured by planning conditions.

---

<sup>3</sup> See the [non-technical summary](#)

<sup>4</sup> See the addendum [non-technical summary](#)

2.38 I take the view that the proposed development would not have a direct impact on the SAC and that the prevention of pollution under other legislation would be sufficient to avoid harm to the qualifying interests of the SAC. The SAC would thus be adequately protected by the construction methods and pollution prevention proposed in the planning conditions.

2.39 Under the legislation, Ministers must make an appropriate assessment were they minded to grant planning permission. They may wish to take further advice or seek further information before doing so.

## CHAPTER 3. Green belt

### The case for the appellants

3.1 In the core area, particularly from Dunblane to Bannockburn, green belt boundaries are tightly drawn around the built up areas. The prevention of coalescence (maintaining separation between settlements) is highlighted as a reason for designation in certain areas. For Bridge of Allan and Causewayhead, green belt is designated to ensure their separate identities are maintained and access to open space in this area can be enhanced.

3.2 The area currently covered by green belt is around 92 hectares. The application proposes a developable area of about 30 hectares. This, therefore, represents a 30% reduction in the total area given over to 'functional' green belt. Approximately 25 hectares is given over to parkland development and could remain within a green belt designation. As noted above, there would be a substantial closing of the gap between the two settlements should development be allowed. However, visual separation would still exist over the majority of the site and the creation of the parkland area would serve to reinforce this.

3.3 As highlighted in SG03, an objective of green belt designation is to allow for enhancement and access to open space. The land between Bridge of Allan and Causewayhead is currently used for grazing purposes, it is of low quality and provides no real opportunity for recreational use. Development of 25 hectares for parkland use would meet green belt objectives and provide a network of paths and cycle routes that currently do not exist.

3.4 With the proposed link road, intended as a key component of the strategy for growth in Stirling, the green belt would change at Airthrey in any event. This would benefit from being linked to the proposed development to co-ordinate the delivery of infrastructure, which would be absorbed in a public park, thereby strengthening the future form and function of the green belt.

### The case for the council

3.5 The Development does not comply with the green belt policies of the development plan, which seek to protect the green belt from most development.

3.6 The Council's LDP Supplementary Guidance SG03 in relation to green belts states at paragraph 2.4 that the small scale of the green belt around Stirling, Bridge of Allan and Dunblane, in relation to others in Scotland means that any built development within them is likely to have a significant impact, which could detract from their openness and undermine their objectives. At paragraphs 3.5 and 3.6, SG03 states that the area designated as green belt around Bridge of Allan reflects the important visual relationship between the wooded hill slopes to the north and the town, and in the west is important to protect the setting and identity of Bridge of Allan and Stirling and maintain views to important landmarks. The green belt between Bridge of Allan and Causewayhead, Stirling, ensures their separate identities are maintained and access to open space in this area can be enhanced.

3.7 Impacts on green belt in the Bridge of Allan and Causewayhead / Stirling area was examined by the Scottish Government Reporters during the examination of the existing LDP, as part of the consideration of Issue 41 (H056 – Airthrey Kerse). The Reporters concluded that Airthrey Kerse functions as an important part of the green belt, and releases of land from the Kerse for development would diminish its character and landscape contribution and thereby, also its value as green belt 5.

### The views of other parties

3.8 Scottish Natural Heritage (SNH) strongly resist any further encroachment onto this part of the Carse. SNHs previous assessment of the likely impact of the Wallace High School shows that this open area plays a central role in contributing to Stirling's setting and identity. The open area was designated green belt to prevent coalescence between Causewayhead and Bridge of Allan, and to protect important views to and from the city. If this land were to be developed then its existing function would largely be removed.

3.9 Almost all objectors to the application have highlighted the importance of the Green Belt to the continued separation and maintenance of the separate identities of Bridge of Allan and Causewayhead.

3.10 According to the Bridge of Allan and Causewayhead Community Councils the council confirmed that there should be no development on the green belt at Airthrey Kerse taking into account avoiding coalescence, impacts on flooding potential and the landscape impacts on the Wallace Monument, Stirling Castle and the Ochil Hills.

### Reporter's findings

3.11 At my site inspections, I noted that Stirling and Bridge of Allan are clearly visible from major transport routes, from roads and paths within the immediate area and from the high ground at Stirling Castle, the Wallace Monument and the Hills to the north-east. These settlements have clearly sprawled over the immediate landscape over the last 50 years or more, but retain a strong countryside setting of flat agricultural land and moorland hills. There is no shortage of green space around the city. Nevertheless, the green belt at Airthrey Kerse serves more specific functions. It separates Stirling from Bridge of Allan and it provides an open and green setting to the significant national monuments, which are raised magnificently above the Carse. This setting enhances the appreciation of their significance in the history of Stirling and Scotland. It prevents the appearance of further sprawl by coalescence of the nearby settlements. These functions are supported by the heavily-treed rising ground along the eastern side which disguises the university developments in the parkland beyond.

3.12 The proposed development would not conjoin Stirling (at Causewayhead) with Bridge of Allan. To some extent they are linked visually at Cornton Vale prison and the proposed would reinforce the appearance of that link to some extent. A strip of open ground, in part converted to public park, would remain to show separation between the two settlements. Although the proposed development would use about a third of the North Stirling Green Belt, this part of the green belt as a whole is already isolated visually by the prison and other development along Cornton Road. The proposed development would further isolate this part. In my view it would become so isolated that it would lose visual connection completely, which would diminish the value of the green belt as a whole.

3.13 The perception of separation and the impact of the proposed development varies with the point of view. From individual properties there could be a dramatic change, with views across the open space lost or largely obscured. I would give little weight to that because an individual's view is not a matter in the public interest and because the situation would be similar to many a house surrounded by others on all sides.

3.14 However, for those travelling along the eastern and western edges of this part of the green belt, the appearance of open space would be significantly reduced. The link between the settlements at Cornton Vale would be such that no significant gap would remain. On the eastern side, the existing playing fields would be separated from the open area of green belt. That would add to the loss of openness. The enhancement of the remaining area of

green belt as parkland, and in such a small and enclosed gap, would further suburbanise the land, reducing the impression of separation between the settlements.

3.15 From higher viewpoints, the hills to the north-east, the Wallace Monument and Stirling Castle, the impact on the relatively small and relatively enclosed gap between settlements would be more pronounced. What is currently clearly an open agricultural area of the Carse, with similarities to other riverside parts of the green belt, to the west in particular but also to the south-east, would appear as parkland with a few remaining fields in a conjoined urban setting.

3.16 I note that the likely new link road and railway bridge would have an impact, irrespective of the housing development proposed, but in isolation need not have the scale of impact I have described. Sufficient open ground of similar nature would remain either side of a road to avoid the impression of coalescence. It would also comply with the exceptions set out in policy 1.5 of the LDP.

3.17 In conclusion on this issue, the proposed development would not comply with green belt policy. Development at the scale proposed would significantly diminish the extent of green belt and the sense of separation between Bridge of Allan and Causewayhead, Stirling, and lead to increased coalescence of the settlements.

## CHAPTER 4. Flooding

### The case for the appellants

4.1 The appellants say that the proposed development, with the specific flood prevention and drainage proposals would deliver betterment in terms of flood risk.

4.2 The issue of flood risk is given extensive coverage by the [appellants](#), in the council's commissioned [report](#) and in detailed consultation responses from both [SEPA](#) and the [council's flood officer](#).

4.3 As outlined in the consultation responses from both SEPA and the council's flood officer, the site is complex and areas within the application site are subject to a combination of fluvial and pluvial flooding. There are, however, developable areas outwith these areas which are free from flooding but would require some land raising to enable adequate drainage connections to be made. The surface water drainage strategy to deal with this situation is complex and is designed to channel water using sustainable drainage design, wetland areas and swales before being discharged into culverts to exit the site.

4.4 The entire system utilises hydrobrakes (vortex flow control devices) to limit flows to greenfield run off rates. These have been agreed by the council's flood officer. To prevent flooding in receiving water bodies, floating arm valves are specified. These valves prevent discharge when the water level in the receiving ditch is high and are specified to prevent flooding. The appellant says that these devices are used throughout the UK by agencies including Scottish Water and, correctly maintained, should effectively operate for in excess of 20 years before requiring refurbishment. As noted in the operation and maintenance strategy submitted by the appellants, it is proposed that duty and standby units will be held by a trust to allow for rapid replacement if required.

4.5 The Community Council representatives mentioned the "raft of clay" which covers the Airthrey Kerse site and surrounding areas as being a potential constraint to development given that a large volume of water is held beneath this clay cap. Breaching of the clay could result in the release a large volume of underground water into the development site. The 'clay raft' is between 5-10 metres in thickness and as such a key consideration in the design of the development will be to ensure that the confining clay layer of 5-10 metres is not compromised, allowing artesian flow to the surface. This is covered in the Flood Risk Assessment (FRA) and it is concluded that even during the maximum excavation of wetland features at the shallowest point of the clay confining layer, a minimum confining layer of 3 metres of clay would be left in situ. This issue was addressed in SEPA's response. It is therefore considered that the risks associated can be managed through careful geotechnical investigation and design. A programme of ground investigations will be required to inform the detailed design of the development.

4.6 Stirling University is concerned that the application, if granted, would place a greater burden upon the University in terms of risk and its responsibilities under the Reservoirs (Scotland) Act 2011. Although a reservoir may be assigned a high risk designation it does not mean that the structure is likely to fail. It means that there are certain features that are in the downstream area, which would, in the unlikely event of an uncontrolled release of water, be impacted. In the case of Airthrey Loch, it is likely that the risk designation could increase this rating to High. The risk designation that is assigned to a reservoir will direct the statutory level of engineering inspection and supervision that is required at that site, with low risk reservoirs requiring a lower level of inspection than medium or high risk reservoirs.

4.7 To resolve this issue, a number of actions have been agreed between the appellants and the University regarding additional analysis and potential mitigation works which can be

included within a S75 agreement. This led to the University's objection being removed. It should be noted that SEPA, who have responsibility for reservoirs under the Reservoirs (Scotland) Act, raised this matter as part of their assessment of the application. The council's flood officer has confirmed that there is no information available to suggest that Airthrey Loch has over-topped or is at risk of breaching.

4.8 Other comments have been made in relation to the amount of standing water on the site and in particular at locations next to the Wallace High School playing fields and at Westerlea Drive. The Wallace High site is characterised by areas of pluvial flooding and the FRA identified this area as comprising a shallow depression where surface water collects. When rainfall exceeds the infiltration rate of the soil, water will pond on the surface as it has no surface flow pathway to the Causewayhead Burn. How this matter will be dealt with will be the subject of further assessment at the detailed design stage, although at this stage, the FRA indicates that the provision of two attenuation features to accommodate surface water will manage the flood risk.

4.9 With regard to the area of ground at Westerlea Drive, this is the site of the former clay brickworks area and there is a distinct depression in the ground here which encourages water to collect. This area is outwith the application site boundary although it immediately abuts it. Concerns have been expressed that development of the Airthrey Kerse site might lead to increased flood risk to this area. Both SPP and the Flood Risk Management (Scotland) Act 2009 require the relevant agencies and local authorities to look to reduce overall flood risk in the exercise of their duties and the planning process has a vital role to play in this. The applicant's FRA modelled pre- and post-development scenarios in order to assess the potential impact of the development on surrounding properties. Based on the results of the modelling exercise, SEPA are satisfied that there should be no increase in the risk of flooding to any areas outwith the development boundary as a consequence of the proposed development. The council's flood officer has also confirmed that the proposal has the opportunity to provide betterment to the surrounding area by reducing flood risk to surrounding properties.

4.10 A key issue in the successful management of flood risk and surface water on the site concerns the long term maintenance arrangements for the wetland areas and the outfalls from the site. As highlighted in the appellants' FRA, the applicants propose the establishment of the 'Airthrey Green Trust' along the lines of a traditional owners association model. The trust would be responsible for the management of the parkland and surface water drainage system and will comprise of the landowner and property owners in the development. The roles and responsibilities of the trust would be defined in the title deeds of each property owner.

4.11 A maintenance and management plan would be produced, which would be the subject of a pre-commencement planning condition, and a suitably qualified manager or factor would be appointed to deliver the obligations of the maintenance plan. An independent consultant would be appointed, paid for by the trust, but reporting directly to the council and SEPA, to carry out an audit of the surface water drainage system to ensure that it is being properly maintained and to recommend any remedial action if this is deemed necessary.

4.12 Finance for the maintenance of open space areas and the surface water drainage system would be secured through annual subscriptions from each property owner, currently estimated at around £100. The applicants have indicated that developers would place an agreed amount within the fund prior to commencement for working capital to enable these works to be maintained. The applicants estimate that annual maintenance costs to be around £25,000. In addition to this, the applicant has proposed the lodging of a financial

bond in favour of the council for a sum and period to be determined as part of a S75 legal agreement and designed to cover asset replacement in the event of maintenance failure.

4.13 Both SEPA and the council's flood officer have highlighted the need for a robust enforcement regime to ensure that the maintenance of these structures is effectively maintained in perpetuity. In this case, it is proposed that a S75 legal agreement and pre-commencement planning conditions are used to cover the design of the surface water scheme, construction method statement and the detailed maintenance strategy. These details would be required as part of any subsequent planning application and SEPA would be a consultee on this. In tandem with this process, the applicant would be required to obtain a Controlled Activity Regulations (CAR) licence from SEPA which would cover the same issues as above.

4.14 The legal agreement would also secure contributions payable to the council for the independent monitoring of the site maintenance and the amount and scope of the bond, held in favour of the council, in case of maintenance failure. Under the proposed S75 agreement, the obligation to provide the bond will rest with the landowners, with continuing liability placed upon successive owners.

4.15 In terms of the landowner failing to comply with the maintenance obligations, the council's step-in rights would be subject to the detail of the negotiation of the agreement under S75 of the planning Act in the event that the Scottish Ministers are minded to grant planning permission. Utilising the bond is intended to be the last resort and there would be a process to force the landowners to comply with the obligations before the council resorts to a demand under the bond. The proposal for a monitoring officer who should help to identify any non-compliance at an early stage would assist in this process. Enforceability of the S75 and the planning conditions will be against the landowner and not the trust.

4.16 The council's legal team were consulted on the proposed maintenance and management proposals. They confirmed that, subject to the contractual framework and planning conditions being suitably drafted, this would, in conjunction with the future review of the actual technological flooding solutions once brought forward by the applicant, provide an arrangement which gives the council comfort that it has suitable controls around the flood related risks which have been highlighted.

4.17 In summary, both SEPA and the council's flood officer, supported by independent consultants commissioned by the council, have concluded that the risks of flooding to the development site from fluvial, pluvial and groundwater sources have been thoroughly investigated and that a hydrological solution exists. The proposed surface water management scheme would store and release water in a controlled manner such that this would not pose a risk of flooding to the development site and should provide a significant reduction in the risk of flooding currently experienced in nearby areas.

4.18 The information provided is considered to be appropriate for a permission in principle application and further details in relation to the design of the scheme can be agreed at the detailed planning application stage. Both SEPA and the council's flood officer have stressed that the long term sustainability of development on the Airthrey Kerse site is dependent upon the maintenance regime that is put in place. As highlighted above the maintenance and management regime proposed by the applicant, enforced by a S75 obligation and planning conditions, provides the requisite safeguards to ensure that the maintenance and management of the scheme is carried out in perpetuity.

#### The case for the council

4.19 The council is concerned that the proposed flood management scheme would fail. The appellants' appeal statement suggests that the council's flood officer advised elected

members that the Commonwealth Village scheme included an operation and maintenance arrangement similar to that proposed in connection with the proposed development and that the trust model was well-established and had been successful. However, this is not an accurate representation of the flood officer's advice.

4.20 The flood officer simply advised elected members that the Commonwealth Village had a complicated SuDS arrangement that was managed on behalf of residents. The flood officer did not provide any advice on how the scheme operates or whether or not it had been successful.

4.21 The Council notes that the Appellants have provided a legal opinion in respect of the Appellants' proposed drainage and flood risk mitigation scheme ("Water Management Scheme"). However, this legal opinion is principally focused on the property and title issues associated with the Water Management Scheme. It is respectfully submitted that those issues are not the main issues for the council in its role as planning authority, particularly as the council would not have a property interest in the site.

4.22 As the Reporters who conducted the LDP examination highlighted, most of the Kerse is affected by some kind of flooding to some degree and the area also influences flood conditions and risk elsewhere. It is also worth noting that in relation to the flooding evidence presented as part of the examination, the Reporters suggested that taken together, this information suggests that more of the Kerse will be affected by fluvial flooding than some predict, and that will probably occur more frequently, albeit still only across a comparatively confined northerly area.

4.23 An underestimation of flood risk was one of the reasons for the council concluding that flood risk would not be satisfactorily mitigated by conditions and a legal agreement. Elected members were concerned that there was an underestimation of flood risk in respect of a number of issues, including:

- (a) field run off;
- (b) storm run-off from the existing sewer catchment;
- (c) capacity of the existing sewer network;
- (d) inadequacy of the existing 600 millimetre culvert to deal with flows from the Causewayhead burn; and
- (e) failure to take account of overtopping of the Forglen Burn at the Meadowpark, flash flooding in upper Bridge of Allan and snow melt.

4.24 The consultation response from the council's flood officer stated that the development would generally not be considered sustainable as it is within an area of high flood risk and is reliant on mechanical intervention. Whilst the consultation response recognised that there could be some flood management benefit, that was dependent on successful operation and maintenance of the Water Management Scheme. Experience has consistently proved that the operation and maintenance of SUDS features by factors, residents associations etc. has been and continues to be poor with several localised flooding problems arising.

4.25 This highlights the importance of the successful implementation of the proposed Water Management Scheme. The council has concerns about the complexity of the operation and maintenance arrangements. For example, the council could be left with an on-going maintenance liability in the event of exercising step-in rights and it has not been demonstrated how a financial bond could fully protect the council from liability.

#### The case for other parties

4.26 The Community Councils for Causewayhead and Bridge of Allan point to regular flooding across and near the appeal site. They are concerned that the proposed

development would not adequately mitigate the threat of flood risk to adjacent properties. These matters are also raised by many of the individual representations.

### Reporter's findings

4.27 The appeal site is drained by the Forglen Burn and the Causewayhead Burn as well as field drains and culverts, which connect to the Allan Water and the River Forth to the west. The land slopes to a depression on the southern boundary, which regularly floods and in extreme conditions overtops the railway and Easter Cornton Road.

4.28 Most of the site is outwith the flood risk area mapped by SEPA, although there are areas of low medium and high risk of flooding from river and surface water. The appeal site, surrounding streets and land are prone to flooding from high rainfall in the area. It is likely that existing field drains and culverts below the surrounding roads lack capacity.

4.29 The appellants propose to store water on site in the form of wetland depressions and sustainable drainage schemes, and to control the flow to surface the western outfall from the site and the sewer at Causewayhead. A new outlet to the Forglen Burn is proposed and a new culvert under the railway. Discharge would need to be controlled and back-flow from high levels in the River Forth would need to be prevented.

4.30 The council took advice from its flood prevention officer and an outside consultant. Their consensus is that the proposed drainage scheme should work in hydrological terms. SEPA recognised that the continued security of the scheme is key. SEPA acknowledged that the proposed scheme would reduce the current risk of flooding at and around the appeal site.

4.31 The scheme would be regulated by a licence under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

4.32 The appellants propose that the maintenance of the drainage scheme be owned and managed by them rather than individual homeowners, who would have their interests represented by a trust and who would contribute to the maintenance cost. A bond would be put in place to ensure compliance. The appellants sought a legal opinion on this matter, which confirmed that the appellants' proposal would be a robust way of ensuring that the agreed maintenance and finance would be in place. An obligation under S75 of the principal planning Act would be necessary before a planning permission could be issued.

4.33 I note the concerns of a number of local residents and their community councils. The area clearly suffers from road flooding, which can disrupt traffic. There is a common and understandable perception that increasing the amount of built development can only make matters worse. However, there seem to me to be two matters which count in favour of this proposal. The first is that it would be designed to reduce the flow of water to the areas where it now floods by storing water. The second is that the drainage from the site to the rivers to the west would be improved. The application is for permission in principle and much would need to be considered in detail at a later stage, including legal arrangements for ensuring proper management and funding of the continued maintenance and operation of the drainage. However, for the purposes of this appeal, the proposed drainage scheme should provide sufficient comfort that the proposed development as a whole would not increase the risk of flooding in the area.

## CHAPTER 5. Roads and transportation

### The case for the appellants

5.1 The traffic impacts of the development have been the subject of a [Transport Assessment](#) (TA) submitted with the application. The applicants' TA was the subject of an extensive [audit](#) carried out on behalf of the council.

5.2 As outlined in the transportation team's consultation response, the main considerations of their assessment of the proposals were:

- a safe and realistic choice of access to the development
- the impact of the development on accident risks at the Cornton Road and Easter Cornton Road rail level crossings
- the impact of development traffic on local roads and the Clock roundabout.
- The proposed Kildean to Airthrey Link Road
- Network Rail's aspiration to remove the crossings on Cornton Road and Easter Cornton Road and replace these with a new road bridge.

5.3 In summary, and based upon the assessment of the applicant's TA, the council's transportation team have concluded that the development could be accommodated within the existing (and proposed) road network, but subject to appropriate mitigation at key junctions and roundabouts and the imposition of planning conditions which restrict development numbers to the completion of infrastructure developments, such as the new bridge over the railway line, to be completed by Network Rail. This is required over and above those improvements to the road network proposed by the City Transport Plan. Developer contributions would also be required toward the City Transport Plan in accordance with development plan policy to be secured through a S75 legal agreement.

5.4 Local residents are concerned by the potential traffic impact of the development on the surrounding road network. In particular, reference was made to the impact of traffic flows on Henderson Street which local people had raised as a significant concern. Analysis of the TA has shown that peak traffic flows in the morning would increase by an additional 34 vehicle movements and 40 in the evening peak period, based on year 2019 with 250 houses built and without the Cornton to Airthrey link in place. Based on a base year of 2024 and with 450 houses built, the number of additional vehicle movements is predicted to rise to 67 in the morning peak and 42 in the evening peak period. This would be without the Cornton to Airthrey link in place also. With the Cornton to Airthrey link in place, at 2024 and with 600 houses built, it is predicted that vehicle movements along Henderson Street will reduce slightly at both the morning and evening peak periods.

5.5 In relation to specific junctions, clarification was sought from officers on the Causewayhead Road/Cornton Road junction where there is a proposal to remove the southbound bus stop just south of the junction. This is to enable the pedestrian phase at these traffic signals to be removed to enable additional capacity at this junction. This has been proposed with the assumption that southbound bus stops could be re-provided as part of the junction mitigation immediately to the north of the junction on both Cornton Road and Causewayhead Road.

5.6 A similar issue was noted in relation to Airthrey Road/Alloa Road / Causewayhead Road Roundabout where the proposed widening of the road would result in a loss of on street parking spaces on the south side of Alloa Road. Unless the additional space can be

found in this vicinity (e.g. through the purchase of land), this would result in a loss of parking for the local amenities.

5.7 In response, the appellants suggest that cars parked in the bus layby in the northbound lane to the west of the junction create congestion back into the junction. This is an existing issue, but could compromise the effectiveness of any proposed mitigation measure. This was not taken into account in the design of the proposed mitigation measure. It is suggested that the assessment of any further detailed planning application considers what additional mitigation measures are required to enable an effective solution.

5.8 A number of questions were also raised regarding the design of the link through the site to serve as part of the Cornton Road to Airthrey Road link as included in the City Transport Plan and the LDP. The City Transport Plan and LDP include Kildean to Cornton Road, and Cornton to Airthrey Road Links as major road capacity improvements required, along with the remainder of the City Transport Package, to enable the growth aspirations of Stirling to be realised without frequent and severe congestion.

5.9 The Airthrey Kerse proposal was considered as part of the 2014 LDP process, that is when the 2013 City Transport Plan (CTP) was being prepared. At that time it was proposed, as included in the LDP, that if any development came forward on the Airthrey Kerse site, the link road would be designed as a street rather than a distributor road. The modelling to inform the CTP and the transport assessment have both included the link as a 30 mph road. The more 'street like' the road is, then this will reduce its attractiveness, but the value of the link as a distributor road would not be reduced significantly.

5.10 The combination of the Kildean to Cornton Road and Cornton Road to Airthrey Road links could generate additional traffic on Causewayhead Road. However this was based upon traffic modelling done in 2007. Later model testing, incorporating 2011 Census data and revised traffic growth forecasts (2034 afternoon peak period example given) now highlight that without the Kildean to Cornton Road link, there would be frequent and severe congestion. Furthermore, without the links, journey times are significantly longer on Causewayhead Road compared to when the Cornton Road to Airthrey Road link is in place.

5.11 The conclusion of this is that sufficient justification exists for the Council to pursue the Cornton Road to Airthrey Road link through this application to complement the Kildean to Cornton Road link in future years.

5.12 Elected Members asked what plans were in place to reduce the travel demand on site and in particular on the car parking at Bridge of Allan and Stirling Rail Stations. In response to this, planning conditions are proposed that the applicant would work with Scotrail and Network Rail to look at measures which would encourage as many people as possible to use alternative modes of transport, thus reducing the impact on parking in and around the railway station. At present around 75% of the people using Bridge of Allan railway station travel there by car. In addition, conditions require travel plans to be developed for the site and the primary school.

5.13 Being located within the urban area, the site has the potential for a greater proportion of its travel demand to be met by sustainable modes as the site is within walking and cycling distance of local facilities and is located adjacent to good bus services.

#### The case for the council

5.14 The Development will result in an increase in traffic which will impact on the existing road network. A number of mitigation measures have been proposed but the council is not satisfied that these would mitigate the impacts of the proposed development. The concerns principally relate to the following:

- The existing road network is already under pressure and the Development will exacerbate difficulties currently faced by pedestrians and cyclists.
- A previous proposal to place traffic lights on the Union Street roundabout was trialled and abandoned within a matter of weeks.
- The widening of the Alloa Road (westbound) would result in the loss of parking spaces which are important to local businesses.
- Traffic lights on the Causewayhead roundabout will result in congestion and will not allow large vehicles, such as buses and HGVs, to turn right.
- The Development will result in the loss of an essential bus layby close to the Causewayhead Road / Cornton Road junction which is used by residents when not required for bus services. An alternative of relocating the bus stop would potentially obstruct traffic.

#### Other parties concerns

5.15 Network rail is concerned that an increase in pedestrians and vehicles as a result of the proposed development would be unacceptable at the high risk level crossings. However, they support the intention to provide a road bridge over the railway and also recommend conditions to control the amount of development that could be built without a footbridge or upgrade to the road level crossing.

5.16 Interested parties point out that the road design would be compromised by being a street within the residential development with a 30 mph speed limit and that the route of the link as proposed in this case would make the design of the wetlands and drainage more difficult. The representations point out that this part of the road in isolation would lead nowhere and that the route is peripheral to the key projects of the masterplan.

#### Reporters findings

5.17 The main traffic and transport concerns with the proposed development relate to increased risk at railway level crossings and increased traffic congestion.

5.18 The proposed new bridge over the railway would replace two high risk level crossings. It is desirable and sought by Network Rail. Providing this through the proposed development would benefit road and personal safety. Network rail says that the proposed bridge could not be built before late 2018 or early 2019. The intended phasing of the proposed housing, coupled with the likely earliest start on the development means that the bridge could be delivered effectively by this development and before additional risk is created. I therefore consider that the proposed development could proceed with no increased risk at the level crossings.

5.19 The impacts of the proposed development on the surrounding road network have been assessed by the councils specialist officers. They have found that the development could proceed subject to a number of conditions and an agreement to fund or complete off-site works. The development would need to be phased to ensure that additional traffic was not generated until the required improvements had been made. That could be secured by planning conditions.

5.20 I note that local residents and their community councils are concerned at the traffic implications. No doubt the construction on such a large site and the eventual increase in traffic will have an impact locally. However, the proposed road improvements, traffic management and travel planning, all secured by planning condition and legal agreement, would be sufficient to ensure that road safety would not be compromised and that the transport network would be able to cope with the additional demand.

5.21 The section of the proposed link road crossing the site would be a distributor for the housing and limited to 30 mph. Nevertheless, in my view, the road could be designed in such a way that it provided a section of the new link overall without compromising its value in terms of traffic reduction elsewhere and as a link between businesses, Forthbank College Stirling University and the motorway. I note also that the proposed conditions would prevent a road link between Airthrey Road and Cornton Vale until the full road link had been completed, unless an alternative is approved by the council. That would prevent any impact on Easter Cornton Road.

## CHAPTER 6. Other matters

### Enabling development

6.1 Enabling development is that which either physically or financially (or perhaps by some other means) allows other, currently constrained development to proceed. It is a term usually applied to development which is otherwise unacceptable. To be enabling development it must be securely linked to the constrained development so that the benefits will inevitably flow from it. In my experience, the test of an enabling development is that the benefits it offers clearly outweigh the harm caused by an inappropriate development.

6.2 The appellants say that the proposed development is of critical importance to Graham's, the Family Dairy, who are the primary land owner. The development will enable the construction of a [new dairy processing and research facility](#) at Hill of Drip farm, west of Craigforth, Stirling. The proposed facility would, they say, support 500 existing jobs and 98 farming partners, whilst creating a further 400 jobs and 50 apprenticeships at a critical time for the Scottish dairy sector.

6.3 The council says that no proposal for a new dairy is currently before the Council or the Scottish Ministers. The council does not consider this to be a material consideration in this appeal. If it is considered to be a material consideration by the Scottish Ministers, the council respectfully submits that only limited weight can be attached to it due to the lack of proposal for a new dairy.

6.4 I consider that the proposal for a new dairy facility would be of benefit to the local and national economy. However, in planning terms the dairy facility is at an early stage, there is no application and no permission. Further, there is nothing to link the proposed housing-led development with the creation of the dairy facility. I cannot be sure therefore that the benefits of the proposed dairy facility would happen. This reduces the weight that can be attached to this matter in the planning balance.

### Economic benefit

6.5 The appellants say that working together, they propose to deliver a sustainable, housing led development on the application site for the social, economic and amenity benefit of the local community, council and region. This proposed development would invest in jobs, infrastructure and amenities within Stirling. The appellants have produced an economic impact study. This demonstrates the economic activity that would result from development on this scale and concludes that the proposed would play a significant role in growing the local food sector, help to safeguard existing jobs and create new ones; and grow population, with the socio economic benefits that would flow from that. However, the study does not arrive at a net economic benefit because, if the appeal is refused, the housing and associated infrastructure would need to be developed on another site or sites. It also includes the proposed new dairy business, which I consider above to hold little weight in this appeal.

### The proposed new link road

6.6 The council proposes a new link road between Kildean and Airthrey, with a bridge over the railway at Cornton and the Cornton to Airthrey section of the road passing through the appeal site. The LDP safeguards the route for this link road, which has its origins in the Stirling Local Transport Strategy and is included in the City Transport Plan. This is also a project referred to in the City Deal Masterplan prepared by the council. The masterplan includes 6 projects, one of which centres around creating an active travel network to connect existing communities and assets. That includes new road links to connect the

university, college and business and to reduce congestion in the city centre. The masterplan shows a road broadly as included in the appeal proposals, which then continues beyond Cornton, across the river Forth and connects to the eastern M9 motorway access roundabout at Kildean. The road is planned for delivery by 2027. The road is not linked to the development and the council intends to seek funding for the road regardless of whether the proposed development is permitted.

6.7 The proposed development would secure the eastern part of the proposed link road between Airthrey and Kildean. The appellants say that providing part of this link road between Airthrey Road and Cornton Vale with the proposed development would release funds towards other projects.

6.8 The masterplan reflects and builds on the content of the LDP, which identifies the link road as an infrastructure requirement. I note that the masterplan does not identify this site as a residential opportunity, the road is not linked to development here and the council intends to seek funding for the development of the road regardless of whether the proposed development is permitted. As a key corporate strategy document for the council and because it is consistent with the LDP and its emerging replacement, the masterplan is of significant weight as a material consideration in this appeal.

6.9 I note that the proposed new road across the site would not complete the link envisaged in the City Deal masterplan, the transport strategies or the LDP.

#### Other benefits

6.10 The proposed development would provide a new primary school at Causewayhead, which would meet the needs of the proposed housing. This reflects a policy requirement to meet the infrastructure needs of the development and does not add weight as a benefit of the scheme proposed.

6.11 The application would encroach into the area covered by the Green Network area highlighted in the LDP, however, it is considered that the inclusion of the parkland proposal and the extensive areas of wetland and drainage channels required for the development would provide enhanced functionality and connectivity by providing footpath/cycle routes and habitat corridors. This matter weighs in favour of the proposed development.

#### The LDP review process and the issue of prematurity

6.12 The council has submitted a [proposed replacement LDP](#) to DPEA for examination. The Examination process is expected to take 6 months with the Plan not expected to be adopted before December 2017.

6.13 Adoption of the new LDP and the housing allocations that go with that may therefore be half a year away and will be closer still when this appeal is determined by Ministers. The new LDP should bring forward sufficient land for a 5 year effective supply of housing land to be available at all times, in line with SPP. Any additional sites to be brought forward by the new plan may take some time before they become effective and deliver output, but the plan should identify existing sites and other effective sites as well as those expected to become effective within 5 years.

6.14 The appeal site is not identified for housing development in the proposed LDP and would remain within the green belt as designated.

6.15 SPP states that where a plan is under review, in some circumstances, consideration should be given as to whether granting planning permission would prejudice an emerging development plan. Such circumstances are only likely to apply where a development is so substantial, or its cumulative effect would be so significant, as to undermine the plan

making process. This would occur by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. SPP states that the issue of prematurity will be more relevant the closer the emerging plan is to adoption or approval.

6.16 The council says that approval of the application would seriously undermine the plan making process and would be prejudicial to decisions on the scale and location of future housing development in the Plan area. The identification of the five year supply is a matter for the LDP. Examination of the proposed plan may find that the SPP requirements are met, or further land may need to be identified. These are matters for the examination.

6.17 However, the application represents a significant number of houses in a sensitive location. Representations to the proposed plan contest the housing land calculations and site allocations. Thus the site could have a significant role to play in decisions over where and how many houses are to be allocated. In this case, granting permission would effectively circumvent consideration of the site in the examination of the LDP.

6.18 SPP advises that issues of prematurity will be more relevant as a consideration the closer the plan is to adoption. The replacement LDP is close to adoption, although its final form remains uncertain. The disadvantages to the LDP process therefore need to be balanced against the pressing need to find significant reserves of housing land which a decision to grant permission would assist.

6.19 I note that the existing and proposed plans apply a similar approach to meeting a shortfall in housing land. That too would be a matter for the examination of the proposed LDP. It may be that the difficulties of finding effective housing land where there is a tightly drawn green belt boundary may persist in Stirling. That, however, relates to the merits of the proposal, which I have dealt with elsewhere in this report. It is also a matter for scrutiny in the LDP examination. It does not alter my assessment of prematurity under paragraph 34 of SPP.

#### The historic environment

6.20 Historic Environment Scotland refers to the impact on the setting of Stirling Castle and the Wallace Monument. The appeal site is relatively flat, which is significant to the commanding presence of Stirling Castle and the towering monument to William Wallace. Nevertheless, the Carse is already significantly developed and the housing could be kept to a low level when details are submitted for approval. HES does not dispute the findings of the ES and concludes that the impacts would not be significant. Having given this matter special regard, I see no reason to disagree with HES and therefore consider that the setting of these listed buildings would be preserved.

6.21 The council has noted the potential for archaeological remains below the site, particularly in relation to historic battlefields. Although the site is not a particularly significant site in terms of the battle of Stirling Bridge and impacts are unlikely to raise issues of national importance, there should be appropriate mitigation secured by planning conditions.

#### Visual impacts

6.22 SNH notes a significant effect on the setting of Stirling, coalescence of settlements and loss of definition and function of the Carse. I have considered the visual impacts in relation to the impacts on the green belt and the setting of the historic environment above. Aside from those, I see no other reason why the development could not be designed in accordance with the LDP requirements for place making and good design. The ambitions of SPP in that regard should also be met by compliance with those local policies.

## CHAPTER 7. Conditions and legal agreements

7.1 The council proposes a suite of [conditions](#) and these are not contested by the appellants. As an application for planning permission in principle, section 59 of the Planning Act requires a condition where certain matters are to be approved by the planning authority. To particularise those matters whilst making them clearer to understand, the council suggests a series of conditions setting out what matters are to be submitted and the detail required. These include a master plan; site planning; phasing; drainage; landscaping; noise; conservation interests; and archaeology. Other matters proposed for conditions include a restriction on what type of goods may be sold in the neighbourhood centre; control over unexpected site contamination; providing a new roundabout at the site junction with Airthrey road; travel plans; safeguarding land for the proposed link road; and other transport requirements.

7.2 I have adjusted the list proposed to remove duplication, to order the conditions into logical groups and otherwise to accord with the advice of circular 14 of 1998 on the use of conditions in planning permissions. In particular I have removed conditions relating to surface water management and parking standards because these are adequately addressed in other conditions. The amended conditions and reasons for them are in appendix 2.

7.3 The appellants and the council agree that a legal agreement under S75 of the planning Act should be completed. [Heads of terms](#) have been agreed between them. A primary school would be provided by the completion of 200 houses; a community medical hub would be built within the proposed neighbourhood centre; and affordable housing must be provided. The agreement would provide for financial contributions in respect of; education provision; flood management and maintenance; transport measures; and waste provision. There would be an agreement to carry out the necessary off-site road and other transport improvements. Flood management measures would also be in the agreement, to cover their design, construction and maintenance, and to ensure future maintenance by the provision of a bond and appointment of a monitoring officer.

## CHAPTER 8. Conclusions and recommendations

8.1 This section summarises my findings and my reasons for reaching the conclusions and recommendations of this report.

8.2 The factual background to the appeal is in Chapter 1 of this report, which includes a description of the site and its surroundings. The legislative framework and policy context is set out in Chapter 2. I have found that the proposed development would comply with Primary Policy 2 of the LDP in its use of Core Area land. The enhanced area of green network would comply with policy 1.3 of the LDP.

8.3 SPP introduces a presumption in favour of development that contributes to sustainable development. The Scottish Government have stated that in circumstances where there is a current and projected shortfall in the 5 year effective land supply, the specific provisions in SPP (at paragraphs 33 and 125) apply and the development plan policies relating to housing land must be considered out of date. It therefore follows that the presumption in favour of development that contributes to sustainable development is a significant material consideration in this application.

8.4 The 13 principles in SPP (paragraph 29) are the guiding factors in determining whether a development contributes to sustainable development. On the basis of the information provided, the proposal meets the objectives of SPP in a number of ways. There would be local and city wide economic benefit deriving from construction activity and the potential for other local jobs. The development could be well-designed and support accessible housing, business, retailing and leisure. The site is easily accessible by road, public transport and on foot. Infrastructure delivery would be supported. Flood risk would be taken into account and managed to improve the existing situation. Green infrastructure would be enhanced and greater access would be promoted. All these factors point to a sustainable development in the terms of SPP, which could be improved further through the detailed design phases of the proposal.

8.5 There is a demonstrated shortfall in the 5 year effective supply of housing land which this proposal would go some way to addressing. The current supply of housing land is largely reliant on strategic sites coming forward and it is not possible to bring forward later phases of these sites as envisaged by Primary Policy 2 because they are considered to be ineffective. However, the appeal proposals would only address this shortage in part, as the programmed delivery of the housing is mostly beyond the five years' supply shortfall. There is also an expectation that the proposed replacement LDP, currently under examination, will properly address the shortfall before any housing is built on this site if the appeal is allowed.

8.6 I have found in Chapter 3 of this report that the appeal proposal would be contrary to the provisions of the adopted Stirling LDP which seeks to protect the green belt from development. There would be a significant reduction in the separation of the settlements at Bridge of Allan and Causewayhead, Stirling. This would be noticeably more pronounced by the local topography and the isolation of the remaining section of green belt and its effective suburbanisation as parkland.

8.7 In Chapter 4 of my report I find that the proposed development could be designed to avoid flooding within its boundaries and to improve the drainage beyond the site. I acknowledge that this would be subject to conditions and legal agreements to ensure that the water management scheme was constructed and maintained effectively. I note that this could be a complex process, but consider that it could be achieved. A planning permission in principle could therefore be granted without risk of flooding impacts.

8.8 The concerns of local residents, particularly in relation to flood risk, have been considered carefully. However, these continuing concerns must be set against the fact that conclusions on flood risk are based on science and professional investigation and have been reached following an extensive and detailed investigation of the flood risk posed by the development. Further assessment of flood mitigation, based on detailed housing and road layouts, will be required as part of future submissions and SEPA have indicated that they will continue to have input through this process as well as through the CAR (Controlled Activity Regulations) process in relation to water treatment and its dispersal off the site.

8.9 In chapter 5 of this report I find that the provision of transport infrastructure and mitigation of traffic impact has been assessed and would be the subject of planning conditions and a S75 legal agreement to ensure contributions or direct provision is made at the relevant points in the phasing of the development. That would allow the proposal to be developed without additional risk to road safety or road capacity.

8.10 All other technical matters including noise and air quality have been considered by the relevant council services and outside agencies and none have raised objection, subject to conditions.

8.11 Taking all the issues into account, I consider that a judgement on the appeal comes down to the weight to be given to the current development plan policy in relation to the green belt, set against the expectations of SPP for sustainable development and providing a housing land supply. The importance of the green belt in this location has been highlighted above and there is no doubt that many local people value the contribution this site makes to the separation and retention of identity of the two communities of Bridge of Allan and Causewayhead. At the same time, the proposal would make a contribution to the shortfall in housing land supply, including affordable housing, whilst providing for the infrastructure requirements it would generate. The proposal would also contribute to sustainable development.

8.12 Although the applicants have highlighted the importance of the application to the expansion of their dairy business, this is not a matter to which I recommend much weight in the determination of this application. The new dairy proposal is at a very early stage, no planning application has been submitted and there is no certainty at this stage over the outcome of any application process. Whilst approval of this appeal may be an important step towards that goal, the potential economic benefits deriving from the new dairy proposal are not enforceably linked to the appeal proposals.

8.13 With regard to the matter of prematurity, a decision to grant permission in principle would have a prejudicial effect on a central aspect of the emerging LDP, namely, the location of sufficient housing land for a five years' effective supply and the extent of the green belt. Due to the size of the site, its impact on the current green belt and the number of houses it would deliver, this is a relatively significant and contentious issue which should be considered by the LDP examination. Given the circumstances, I consider that it would be premature to grant planning permission in principle.

8.14 Weighing up the benefit of part of the scheme to housing land supply and the benefits of the scheme in terms of local infrastructure against the total harm to the green belt, I consider that the green belt in this location is of such sensitivity, that it carries considerable weight. Housing should be planned for and provided in the context of the new LDP. The link road and bridge crossing are planned in any event. Drainage infrastructure and public access to the land are of some weight. The SPP presumption in favour of the development is a significant material consideration in this case, but, in the light of the scale of development related to its impact on housing land supply shortfall, I do not consider that this is sufficient to outweigh the development plan presumption against allowing the appeal.

8.15 Overall, I conclude that the appeal should be refused as being contrary to the development plan and that material considerations do not indicate that it should be allowed.

### **Recommendation**

8.16 I recommend that the appeal be refused.

8.17 Should the Scottish Ministers determine to allow the appeal and grant planning permission in principle, I recommend that they signal that intention to the appellants, subject to the completion of an obligation under s75 of the principal planning Act following the terms set out in appendix 1. Once that has been duly completed and recorded or registered, I would further recommend that the planning permission be granted in principle subject to the conditions set out in appendix 2.

*Dannie Onn*

Reporter

## Appendix 1

### Heads of terms for an agreement under section 75 of the Act

#### **Education:**

(a) Provision by the developer of a new double stream primary school by the completion of 200 houses in phase 1 assuming a pupil product of 75.6 houses.

(b) Break in house building at 300 houses unless and until the secondary school capacity is available and a financial developer contribution towards secondary school provision as per SG15: Education.

#### **Community Medical Hub:**

(a) The provision by the developer of the Community Medical Hub within the proposed neighbourhood centre or adjacent to the primary school, taking into account Supplementary Guidance 06: Health Care Facilities.

#### **Flood Management– Detailed Design and Maintenance Regime:**

(a) Detailed flood risk assessment and detailed proposals for operation and maintenance that takes into account the conditions and advice in the consultation replies from the council's flood officer and SEPA.

(b) Additional assessment and technical modelling undertaken in relation to the Airthrey Loch and the potential for dam breach inundation, and should this assessment recommend improvements to the dam or mitigation measures as a result of the proposed development, these off-site works will be a requirement of the developer.

(c) Requirement to update and review the maintenance plan.

(d) Operation of the financial bond, the council's step-in rights for access to the bond in the event of failure, and the time period for review of the bond amount.

(e) Appointment of an independent monitoring officer.

#### **Affordable Housing:**

(f) The provision of 150 affordable houses with a range, mix and size of houses and different tenures.

#### **Developer Financial Contributions:**

(a) City Developer Contribution – City Transport Plan: The council's Supplementary Guidance SG14: Ensuring a Choice of Access for New Developments requires a financial contribution from developments of this nature towards transport measures identified in the City Transport Plan to address the cumulative impact of new development across Stirling City. The level of contribution is calculated by multiplying the total peak period trips generated by the development (covering the peak hours 07:00-10:00 & 15:00-19:00) by a cost per trip identified in whatever is the most recent SG14. The developer contribution to be provided on a phased basis and be agreed and secured under a Section 75 legal agreement in accordance with the approved policy.

(b) Contributions to waste provision as per Supplementary Guidance SG19: Waste Management – Requirements for Development Sites.

#### **Green Space, Parkland and Landscape Maintenance:**

(a) The provision and maintenance of play facilities, parkland, and open space as per Supplementary Guidance SG 02 Green Networks.

#### **Traffic and Transport Matters:**

(a) Pedestrian and Cycle Improvement Plan (off-site works): Prior to the construction of any dwellings within the application site, those relevant parts of the approved Pedestrian and Cycle Improvement Plan related to the proposed development will be implemented in accordance with construction specifications agreed with the planning authority.

(b) Bus and Rail Improvement Plan: Prior to the construction of any dwellings within the application site, a bus and rail improvement plan (including any relevant construction specifications) shall be submitted to, and approved in writing by, the planning authority and Network Rail. The bus and rail improvement plan should be developed in consultation with relevant public transport operators and should investigate options for bus permeability through the site, together with the need for rail station improvements to accommodate the additional public transport trips from the development.

(c) Causewayhead Road / Airthrey Road Junction Improvements: Prior to the construction of the 250th dwelling, improvements to the junction of Causewayhead Road / Airthrey Road shall be laid

out and constructed, substantially in accordance with JMP Drawing No. SCT3957-CH-SIG-001 – Causewayhead Roundabout Proposed Signals, including the provision of a suitable means of automated traffic signal optimisation, or a financial contribution equivalent to the full delivery of said improvements shall be paid to the planning authority in lieu of the works, following submission of details to and approval in writing from the planning authority.

(d) Cornton Road / Causewayhead Road Junction Improvements: Prior to the construction of the 450th dwelling or at a point when the Airthrey to Cornton Link Road becomes operational (whichever occurs first), improvements to the junction of Cornton Road / Causewayhead Road shall be laid out and constructed substantially in accordance with JMP Drawing no. SCT3957-CHR-AWW-001, - Causewayhead Road / Cornton Road Amendments to accommodate Walk With, including the provision of a suitable means of automated traffic signal optimisation and relocation of the Causewayhead bus stop directly south of the junction, or a financial contribution equivalent to the full delivery of the said improvements shall be paid to the planning authority in lieu of the works, following submission of details to and approval in writing from the planning authority.

(e) Customs Roundabout Improvements: Prior to the occupation of the 450th dwelling or at a point when the Airthrey to Cornton Link Road becomes operational (whichever occurs first), improvements to the junction of Customs Roundabout shall be laid out and constructed substantially in accordance with JMP Drawing no. SCT3957-CR-SIG-001 – Customs Roundabout Proposed Partial Traffic Signals, or a financial contribution equivalent to the full delivery of said improvements shall be paid to the planning authority in lieu of the works following submission of details to and approval in writing from the planning authority.

(f) Network Rail: Closure of Cornton No. 2 At-grade Crossing: If the primary school on the site is built with a catchment extending west of the railway (i.e. on the Cornton side of the railway), prior to the provision of a road bridge and closure of Cornton No. 2, then the level crossing must be replaced by a fully accessible pedestrian bridge at the expense of the developer, the design of the new bridge shall be submitted to the planning authority and approved in writing.

## Appendix 2

### CONDITIONS and REASONS

**1 . Master Plan:** Prior to the commencement of development a further application for approval of matters specified in this condition shall be submitted to and approved in writing by the planning authority. This further application shall include the submission of a master plan that takes into account the green belt setting and reflect and include the following:

- a. The requirements of the Local Development Plan Policy SG01: Place making;
- b. Nine issues in the conclusion of the Landscape and Visual Impact Addendum;
- c. Phasing;
- d. Housing layout, design, mix, size and types;
- e. Structural landscaping;
- f. Design and function of open space and park;
- g. Sustainable urban drainage system;
- h. Public access;
- i. Parameters for development in relation to road link/rail bridge from Cornton Road to Airthrey Road which takes into account the noise impact from Airthrey Road on houses and gardens.

*Reason:* To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; to ensure that the overall layout and design are satisfactory for the site; and to safeguard the reasonable amenities of the green belt and the residential properties in the surrounding area.

**2. Site Planning:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority. This further application shall include the provision of a site plan for the whole application site, as derived from the master plan required by condition 1 of this planning permission, that shows the layout planning for the whole of the proposed development site relating to planning application reference 14/00595/PPP, including:

- a. Housing;
- b. Roads and footpaths;
- c. Primary School;
- d. Neighbourhood Centre;
- e. Sustainable Urban Drainage System;
- f. Telecom mast;
- g. Lighting;
- h. Public access within the site and links to public paths;
- i. Parkland;
- j. On-site play facilities.

*Reason:* To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; to ensure that the overall layout is satisfactory for the site; and to safeguard the reasonable amenities of the green belt and the residential properties in the surrounding area.

**3. Individual Phases:** Prior to commencement of development on site a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority. This further application shall include the following details for each individual phased proposal for development, all as derived from the master plan and site plan in conditions 1 and 2 of this permission:

- a) Drawings illustrating the layout of the site and position of all buildings including existing and proposed levels of the site and adjacent roads and finished floor levels of new buildings;
- b) Access and parking in accordance with the council's specification and standards;
- c) Foul and surface water drainage arrangements;

- d) Elevations and sections of all proposed buildings;
- e) External facing materials;
- f) Comprehensive landscaping of the individual schemes for all housing phases, school and neighbourhood centre development including tree planting and hard landscaping/boundary treatment and proposals for maintenance.
- g) Roof and Surface Water.

*Reason:* To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; to ensure that the overall layout and design are satisfactory for the site; and to safeguard the reasonable amenities of the green belt and the residential properties in the surrounding area.

**4. Surface Water Drainage System:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority in consultation with Scottish Environment Protection Agency and the council's bridges and flood team. This further application shall include the following for the whole of the proposed development site relating to planning application reference 14/00595/PPP:

- a) Detailed Design of surface water drainage system;
- b) Maintenance plan for surface water drainage.

The approved surface water drainage system shall be implemented to the detailed design prior to any built development taking place on site.

*Reason:* To ensure that adequate and timeous drainage arrangements are made available.

**5. Landscaping:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority. This further application shall include the provision of a detailed site plan that includes the layout, design and detailed site planning of:

- a. Structural and parkland landscaping including proposals for lighting;
- b. Maintenance of all landscape areas outwith garden grounds.

*Reason:* To compensate for the loss of green belt and countryside and to visually integrate the approved development into the surrounding landscape.

**6. Noise Impact Assessment:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority in consultation with the council's environmental health team. This further application shall include a report on the assessment of road traffic noise from Airthrey Road, the parameters for built development of houses and garden, school buildings and commercial properties, and the mitigation for the noise.

*Reason:* To safeguard the amenity at housing and gardens adjacent to Airthrey Road.

**7. Neighbourhood Centre:** The neighbourhood centre shall be restricted to Class 1 retailing, Class 2 Business, and Health Care facility uses only. The retailing shall be limited in scale to local general convenience provision designed to meet retail demand generated only by the approved development, to ensure that the proposed retailing will not impact adversely on existing local shopping provision at Causewayhead and Bridge of Allan.

*Reason:* To safeguard the network of centres at Causewayhead and Bridge of Allan as required by Policy 2.7 – Retail and Commercial Leisure development – Stirling Local Development Plan.

**8. Construction Method Statement and Impact on Conservation Interests:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority in consultation

with Scottish Natural Heritage. This further application shall detail the specific measures to prevent pollution and sedimentation and report on the Special Area of Conservation at the River Forth to facilitate an appropriate assessment to determine the effect on water quality and Atlantic Salmon and Brook, River and Sea Lamprey.

*Reason:* To safeguard the integrity of the of the conservation interests in the River Forth Special Area of Conservation.

**9. Archaeological Programme of Works:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority in consultation with the council's Archaeologist. This further application shall detail an archaeological programme of works in accordance with a written scheme of investigation which has been submitted to and approved by the planning authority. The developer shall ensure that the programme of archaeological works are fully implemented before the start of work on site and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the planning authority. Such a programme of works could include some or all of the following archaeological excavation, public engagement and open days, preservation in situ, post-excavation assessment and analysis, publication in an appropriate academic journal and archiving.

*Reason:* To safeguard and record the archaeological potential of the area.

**10. Drainage Impact Assessment and Suspensive Condition:** No development to commence on each phase until the developer has demonstrated to the satisfaction of the Planning Authority that adequate water and drainage capacity is available.

*Reason:* To ensure that adequate and timely drainage arrangement are made available.

**11 Restriction on Construction Hours:** No machinery shall be operated, no activity carried out and no deliveries received at or despatched from the site outwith the hours of 08.00 to 18.00 Monday to Friday, and 09.00 to 13.00 on Saturdays, nor at any time on Sundays; unless otherwise agreed in writing by the Planning Authority.

*Reason:* To protect the occupants of the nearby housing from excessive noise and disturbance associated with the implementation of this permission.

**12. Unsuspected or Unencountered contamination:** The presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the planning authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the planning authority and any mitigation required to address the findings of the report shall be carried out before further construction of that phase of the development.

*Reason:* In the interests of public health.

**13. Dust Management Plan:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the Planning Authority. This further application shall include Dust Management Plan that takes into account of the generation of dust and management and the amenities of adjacent properties during the construction period at each phase of development.

*Reason:* To protect the occupants of the nearby housing.

**14. Waste Storage and Collection:** Prior to the commencement of development a further application for approval of matters specified in the conditions shall be submitted to and approved in writing by the Planning Authority. This further application shall include the provision of a detailed

Site Plan that includes the layout, design and detailed site planning drawings of Waste storage provision and Roadside Collection which shall be in accordance with Supplementary Guidance SG19: Waste Management: Requirements for Development Sites.

*Reason:* For reasons of road safety and residential amenity.

**15. Provision of new roundabout at the site junction with Airthrey Road:** No dwellings within the application site shall be occupied unless the vehicular access into the site from Airthrey Road has been laid out and constructed substantially in accordance with JMP Drawing No. SCT3957/I/PL/01 – Proposed Roundabout Arrangement, or such other drawings as may subsequently be approved in writing by the Planning Authority.

*Reason:* In the interests of road safety and the effective management of the transport network.

**16. Travel Plan:** Prior to the occupation of any dwellings within the application site, a comprehensive Travel Plan will be submitted to and approved in writing by the Planning Authority and the approved Travel Plan be implemented within the timescales to be set out within the proposed Travel Plan. The Travel Plan shall set out proposals for reducing dependency on the private car (including trips to and from Bridge of Allan and Stirling Train Stations) against approved targets and identify measures to be implemented, the system of management, enforcement, monitoring, review and funding arrangement to sustain commitments for the duration of the plan.  
*Reason:* In order to comply with the requirements of SPP (June 2014) and Stirling Council's City Transport Plan (March 2013) or relevant updates to these policies, encouraging more sustainable forms of travel and ensure the level of private car trips generated by the development does not exceed that identified in the supporting Transport Assessment.

**17. Development of Cornton to Airthrey Road Link:** No more than 450 dwellings shall be constructed prior to the closure of Cornton Road (vehicular) Level Crossing (Cornton 1) and the construction of a link between the development road which forms the Cornton to Airthrey link Road within the development and Cornton Road.

*Reason:* In the interests of road safety and the effective management of the transport network.

**18. Pedestrian and Cycle Improvement Plan (on-site works):** Prior to the construction of any dwellings within the application site, a Pedestrian and Cycle Improvement Plan (including construction specifications) shall be submitted to, and approved in writing by, the Planning Authority. The Pedestrian and Cycle Improvement Plan should be inclusive of measures identified as part of the Transport Assessment including but not limited to the following:

- Widen the section of cycleway on the west side of Airthrey Road to 3 metres;
- Provision of a Toucan crossing on the Cornton to Airthrey through road, not more than 110 metres from the proposed access from Airthrey Road;
- Traffic calming or public realm improvements on the Easter Cornton Road to the benefit of pedestrian connectivity.
- Additional crossing facilities required to support the Primary School catchment beyond Airthrey Road and Causewayhead Road.
- Segregated pedestrian / cycle facilities alongside the development road which forms part of the Cornton to Airthrey link road.

*Reason:* In the interests of the effective management of the transport network, sustainability and integration with the development with surrounding pedestrian and cycle infrastructure.

**19. Roads design within the site:** No development shall commence on site until:

- The design and construction detail for the section of development road which forms the Cornton Road to Airthrey Road Link within the site, including details of its connection to Cornton Road shall be submitted to and approved by the Planning Authority, in consultation with Network Rail.

c. The design and construction of all roads within the proposed development should be in accordance with the requirements of this Authority's "Development Roads Guidelines and Specification", and incorporate the design guidance given in Designing Streets, and shall be offered for adoption upon satisfactory completion.

*Reason:* (a) For accordance with the Local Development Plan (September 2014) and the City Transport Plan (March 2013), (b) residential amenity and safety.

**20. Phasing and Traffic Monitoring Plan:** Should development at the application site not commence in line with the phasing assumptions assumed within the Transport Assessment (i.e. 250 dwellings by 31 December 2019 and 600 dwellings by 31 December 2024), a Traffic Monitoring Plan, providing updated baseline and validation of the outcomes of the Transport Assessment, shall be submitted to and approved by the Planning Authority.

*Reason:* In the interests of road safety and the effective management of the transport network.

**21. Easter Cornton Road Access (no vehicular connection):** No vehicular connection from Easter Cornton Road shall be made unless the full Kildean to Airthrey Link Road is operational. In the event that the development is seeking to establish a through vehicular connection between Easter Cornton Road and the Cornton to Airthrey Link Road, details of the access, its effects on traffic volumes on Easter Cornton Road and any associated mitigation measures shall be submitted for approval by the Planning Authority.

*Reason:* In the interests of ensuring there is no detrimental impact to residents living on Easter Cornton Road.

**22. School Travel Plan:** Prior to the occupation of the proposed primary school within the development site, a comprehensive School Travel Plan will be submitted to and approved in writing by the Planning Authority. The approved School Travel Plan will be implemented within the timescales to be set out within the proposed School Travel Plan. The School Travel Plan shall include, but not be limited to the following:

- Allocation of Travel Plan coordinator for the school;
- Clearly defined targets and objectives for mode share;
- Appropriate measures proposed and implemented in relation to safer routes to schools;
- An action plan including a timetable for the implementation of each element and further development of the plan including involvement of the head teacher, staff, pupils and parents.
- Annual reinforcement of the School Travel Plan by monitoring and review.

*Reason:* In the interests of sustainability and to encourage a reduction in the level of private car trips generated by the development.

**23. Safeguarding of Land for Planning and Delivery of Airthrey to Cornton Link Road:** Land shall be safeguarded within the development phasing zones 3b, 4a and 4b as shown on page 17 of the Development Framework Strategy – April 2015 to allow the delivery of a vehicular connection over the railway as part of the Airthrey to Cornton Link Road. Construction of any dwellings on these phases shall be subject to and in accordance with details of the connection having been prepared and approved by the Planning Authority in consultation with Network Rail.

*Reason:* In order to comply with the requirements of Stirling Council's Local Development Plan (September 2014) and City Transport Plan (March 2013) safeguarding land for the delivery of strategic infrastructure.

### **Appendix 3**

#### **List of interested persons who opted into the examination process.**

Mr CG Anderson  
Mr R Bond  
Mr J Cape  
Mr and Mrs G & E  
MacQuarrie  
Mr S Harfield  
Mr P Leeks  
Ms A G Logie  
Mr H MacPhee  
Mr D Mclean  
Ms J McQueen  
Mr M H Ruffell  
Councillor M Ruskell  
Ms L Sanchez  
Ms V Sinclair  
Mr P Skerry  
Mr W Strachan  
Councillor Jim Thomson  
Mr A Warrender