



Report to the Scottish Ministers

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by Christopher Warren, a reporter appointed by the Scottish Ministers

- Case reference: PPA-390-2043-1
- Site address: Land to the south of 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
- The development proposed: Development of a public park, residential development (including housing) of 600 units, commercial space (neighbourhood centre), improvements to road and drainage infrastructure and new primary school
- Dates of site inspections (unaccompanied): 14 and 15 May 2019

Date of this report and recommendation: 16 October 2019



CONTENTS

Page

Summary Report	2
Preamble	7
Abbreviations used in the report	8
Chapters	
1. Background	9
2. Policy context	23
3. Housing land supply	31
4. Green belt	50
5. Flood risk and drainage	58
6. Traffic and transport	68
7. Economic benefits	76
8. Other matters	80
9. Conditions and legal agreements	83
10. Overall conclusions and recommendation	86
Appendices	
Appendix 1: Heads of terms for a section 75 agreement	89
Appendix 2: Conditions	92

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

• Case reference	PPA-390-2043-1
• Case type	Recalled appeal (for redetermination)
• Reporter	Christopher Warren
• Appellants	R Graham & Son and Mactaggart & Mickel
• Planning authority	Stirling Council
• Other parties	Bridge of Allan Community Council Causewayhead Community Council Network Rail Scottish Environment Protection Agency
• Date of application	24 September 2014
• Date case received by DPEA	23 January 2019
• Methods of consideration and dates	Unaccompanied site inspections on 14 and 15 May 2019 Procedure notice dated 16 May 2019, requesting further written submissions by 06 June 2019
• Date of report	16 October 2019
• Reporter's recommendation	That the appeal be dismissed, and planning permission in principle refused

Background

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

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

Policy

The adopted development plan is principally comprised of the Stirling Local Development Plan, dated October 2018. Having regard to its provisions, the main matters in this appeal

relate to the sufficiency of the effective housing land supply; the development's impact upon the green belt, including landscape and visual effects; flood risk and drainage considerations; and the adequacy of access and the development's traffic and transport impacts.

Housing land supply

Scottish Planning Policy (SPP) requires a minimum of a five-year effective housing land supply to be maintained at all times. Where a shortfall against this requirement is identified, SPP states that housing policies should be considered to be out of date, and the presumption in favour of development which contributes to sustainable development becomes a significant material consideration.

The appellants contend that there is a shortfall in the required effective housing land supply, whilst the council has identified a surplus. This stems from the use of different methodologies to calculate the current housing supply target, and from the use of different evidence in regard to the effectiveness and programming of other housing land.

There is not one single, definitive approach for how the housing land supply situation should be calculated. The appellants favour an approach which takes account of past housing completion rates. Completions have been lower than anticipated by the LDP, so this would have the effect of increasing the remaining housing supply target, and therefore the amount of land required to demonstrate an adequate effective supply. The council has put forward a calculation which takes no account of past completion rates.

The council has based its calculation of the adequacy of the effective land supply on its 2018 housing land audit (HLA 2018). The appellants consider that HLA 2018 is not sufficiently up-to-date and unduly optimistic. The appellants' own assessment suggests the current effective supply to be considerably less than that identified by HLA 2018.

In order to maximise the likelihood of the housing supply target for the full plan period being achieved, I consider the shortfall in past completion rates should be accounted for. I also consider HLA 2018 remains sufficiently up-to-date to be capable of being relied upon. I attach greater weight to HLA 2018 than to the appellants' assessment principally because of the collaborative way in which the HLA was produced, and because the programmed completions on effective sites has been agreed by Homes for Scotland. The appellants' assessment has not been validated in this way.

Using this approach, I find it likely that there is just over a five-year effective supply of housing land. The provisions of Scottish Planning Policy paragraph 33 would not be engaged under the terms of SPP paragraph 125; the development plan would not be deemed to be out of date and the presumption in favour of development which contributes to sustainable development would not be attributed additional, 'significant' weight. However, if Scottish Ministers consider HLA 2018 to be unduly optimistic, or otherwise prefer the appellants' own assessment, a shortfall could be considered to be the more likely situation.

Green belt

The appellants do not dispute that the proposed development would be contrary to policy 1.5 of the adopted 2018 LDP. The appellants do, however, assert that where there is a

shortfall in the five-year effective housing land supply, the policy would be rendered out of date, as it has the effect of restricting housing development.

Policy 1.5 has a direct bearing upon the supply of housing land, but this is not the primary purpose of the policy. The policy's purpose is more broadly focused on safeguarding the role and function of the green belt. It is therefore a policy which 'affects', rather than 'for' the supply of housing land, and so in my view the policy should be regarded as up-to-date, even in the presence of an effective housing land shortfall. The relative weight of the policy conflict in the overall planning balance may however be affected by a finding of a shortfall in the required effective housing supply.

In physical terms, I find that the development would maintain some degree of separation between Bridge of Allan and Causewayhead, but the contribution this area of the carse makes to the setting and identity of the settlements it relates to would be significantly compromised.

If the development was to go ahead, I consider the overall integrity of this area of green belt would be permanently weakened, but not lost altogether.

The development would increase public access and recreational opportunity, but this benefit, when considered in the context of the wider development proposals, would not lessen the degree of conflict with the overarching policy objective of preserving the green belt as undeveloped land.

Flood risk and drainage

A flood risk assessment (FRA) and addendum have been submitted, the findings of which have been agreed by the Scottish Environment Protection Agency (SEPA), which has raised no objection to the proposal, subject to conditions.

The council's flood officer had previously adopted a similar stance, but latterly and in response to a ground investigation report prepared for Network Rail, considers further investigations are needed. That report was submitted by Bridge of Allan and Causewayhead Community Councils, both of which have wide-ranging concerns including in regard to the credibility of the FRA, the capability for flooding and drainage to be properly managed, and the unsuitability of ground conditions. SEPA meanwhile has maintained its position.

It is significant that this appeal seeks planning permission in principle, and not detailed planning permission. I am satisfied that sufficient survey work has been undertaken by the appellants to demonstrate that, in principle at least, an effective water management scheme focused on managing drainage and mitigating flood risk, would be achievable on the site.

Some uncertainties over aspects of the design, maintenance and management of a water management scheme will remain until a detailed scheme has been formulated, but this is not a barrier to the potential granting of planning permission in principle, as development would not be able to commence unless and until an effective, detailed scheme had been expressly approved. This could be secured through a legal agreement and conditions.

Traffic and transport

The council is concerned that the development would place additional pressure on the local road network, which would not be adequately mitigated. The council's transport team had not objected to the development (subject to conditions and a legal agreement), which reflected the findings of an independent audit of the appellants' transport submissions, commissioned by the council.

The council and Network Rail have recommended that further assessment work be undertaken in light of Network Rail's decision to upgrade the 'Cornton 1' level crossing, rather than replace it with a road bridge. However, the appellants have shown that a similar scenario had already been accounted for in its transport assessment addendum.

It has been recommended that development be limited to 450 units until a road bridge over the railway is in place. Despite Network Rail's decision to not proceed with the bridge, it remains part of a wider proposed project in the LDP to provide a link road between Airthrey Road and Cornton Road. In addition to and despite the green belt designation, the appeal site is identified in the LDP for this purpose.

I find that the transport and access implications of the proposed development have been properly assessed, and that subject to mitigation including thresholds for housing numbers, the development could be satisfactorily and safely accommodated.

The nearby centres of Bridge of Allan and Causewayhead would be easily accessible on foot or by cycling from the development. Bus services to Stirling city centre from Airthrey road are already frequent, and there is considerable scope to improve accessibility to Bridge of Allan railway station. Subject to conditions to secure a variety of improvements, the development would be well connected and accessible by a range of modes of travel.

Economic benefits

There would be local economic benefit generated by the construction phase of development, but this would be the case wherever the development was located and so this aspect carries limited weight.

The appellants have asserted that the proposal should be considered as enabling development, as it would subsidise local investments in the Graham's The Family Dairy business. The appellants have suggested a condition which could link the appeal proposal to various developments associated with the development.

The importance of the dairy business to the national and local economy is not questioned. However, it has not been shown how the dairy's investment plans are reliant upon the appeal proposal. There are also wide-ranging uncertainties in regard to these plans. It would therefore be unreasonable to restrict the development by condition subject to other dairy-related developments first taking place, and the appeal proposal should not be considered as enabling development.

Other matters

The proposed development includes a new primary school. It is now uncertain whether primary school capacity would be best met through the provision of a new school on the site

or through the extension of Bridge of Allan primary school, but this decision could be taken if/once planning permission in principle is granted. A contribution would be required to address secondary school capacity.

The proposal is 400 metres from the River Forth, which at this location is part of the River Teith Special Area of Conservation (SAC). An appropriate assessment would be required to be undertaken, and a favourable conclusion reached, before planning permission in principle could be granted.

The development's potential effects upon the historic environment, including the setting of the nearby Wallace Monument, have been considered, and no adverse effects are anticipated.

Conditions and legal agreement

In the event that Scottish Ministers are minded to allow the appeal, a legal agreement to secure various measures and contributions would be required. The heads of terms have been outlined as an appendix to report. A schedule of conditions is also provided. Many (but not all) of the conditions have been agreed between the council and appellants. The schedule in appendix 2 sets out the conditions, with some amendments, that I consider to be reasonably necessary should planning permission be granted.

Overall conclusions

The development would be contrary to the adopted development plan because of its green belt location. This is a fundamental component of the Stirling LDP's spatial strategy, which would require exceptional justification to override. This specific conflict is sufficient to conclude that the development would be contrary to the LDP overall, despite the development's compliance with all other relevant provisions of the LDP. Based on a finding that the best available evidence indicates that there is an adequate effective housing land supply, I do not consider that this conflict would be capable of being outweighed by any other material considerations.

If Scottish Ministers reach the opposite conclusion and find that the existence of a shortfall in the five-year effective housing land supply is more likely, this would have a significant bearing on the overall planning balance. In such a situation, greater (and significant) weight would be attributable to the presumption in favour of development which contributes to sustainable development. In this scenario, weight would also need to be attached to the development's contribution to addressing the housing shortfall.

Whether or not these favourable aspects of the development would be capable of outweighing the green belt policy conflict, and the physical effects upon this area of green belt, would be a matter for Scottish Ministers to determine.

Recommendation

It is recommended that the appeal should be dismissed, and planning permission in principle refused.

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

DPEA case reference: PPA-390-2043-1

The Scottish Ministers
Edinburgh

Ministers

In accordance with my minute of appointment dated 28 March 2019, I have prepared a report, including my recommendations, in connection with an appeal against Stirling Council's decision to refuse planning permission for a residential-led development at Airthrey Kerse, between Bridge of Allan and Causewayhead.

You recalled this appeal in 2016, because at that time you wished to recall all appeals for housing proposals of over 100 units, to enable you to monitor the implementation of national policy. You previously determined this appeal (under DPEA reference PPA-390-2043) on 18 June 2018, having considered a report prepared by another reporter, Dannie Onn, who was appointed on 11 October 2016. That decision was quashed by the Court of Session on 23 January 2019.

My report, which is ordered on a topic basis, has been informed by extensive unaccompanied inspections of the site and surrounding area. My report takes account of the findings of the environmental statement and addendum, and other environmental and technical evidence in relation to the proposal.

I have had regard to all of the submissions, representations and consultation responses which had originally been lodged, as well as more recent submissions which have been received the first decision was quashed. I also sought wide-ranging further written submissions from parties.

Whilst I have had regard to the previous reporter's report, and the quashed decision, I have considered all relevant matters afresh, applying my own professional judgement.

Abbreviations

AA	appropriate assessment
DPEA	Planning and Environmental Appeals Division
EIA	environmental impact assessment
ES	environmental statement
FRA	flood risk assessment
HES	Historic Environment Scotland
HLA	housing land audit
LDP	local development plan
m	metres
PAN	Planning Advice Note
S75	Section 75 of the Planning Act relating to legal agreements
SAC	Special Area for Conservation
SEPA	Scottish Environment Protection Agency
SG	supplementary guidance
SNH	Scottish Natural Heritage
SPP	Scottish Planning Policy
SuDS	sustainable drainage scheme
TA	transport assessment

CHAPTER 1: BACKGROUND

The proposal

1.1 This appeal relates to a proposed development of a public park, residential development (including affordable housing) of 600 units, commercial space (neighbourhood centre), improvements to road and drainage infrastructure, and a new primary school. The proposal is described by the appellants as enabling development to support future investment and expansion by the Graham's The Family Dairy business. The proposal would be major development as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

1.2 The proposed development is more than 0.5 hectares in area and it is therefore categorised as an urban development project by Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. In its screening opinion, the council concluded that an environmental impact assessment (EIA) would be required, and identified the required scope of the EIA.

1.3 Accordingly, the proposal is accompanied by an environmental statement (ES) (dated September 2014) (volumes [1](#) and [2](#)), which includes an assessment of the proposal's effects in relation to landscape, townscape and visual impacts including a landscape and visual impact assessment; traffic and transport; and hydrology. An addendum to the environmental statement was also undertaken, dated September 2015 (volumes [1](#) and [2](#)). Taken together, I am satisfied that these adequately describe the main environmental effects of the development. Various other documents have been submitted which provide relevant background and technical assessment on a range of matters, and I have referred to these as appropriate in subsequent chapters of this report.

1.4 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 applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. The present appeal should therefore be determined in accordance with the 2011 regulations as they applied before 16 May 2017.

Site description

1.5 The environmental statement (ES) provides a succinct description of the site and surroundings, and therefore the following description of the site is largely taken verbatim from the ES, with some additions and other minor changes. The red line [site boundary](#) also identifies the extent of the appeal site.

1.6 The site is located on the northern edge of Stirling, to the east of the River Forth, on part of an area of land which is known as the Carse of Forth. The site extends to approximately 63 hectares and forms part of an area of open, urban fringe agricultural land forming part of a green wedge (and which is designated as green belt in the adopted local development plan) between Causewayhead to the south, and Bridge of Allan to the north. The site comprises pastoral fields associated with the Graham's The Family Dairy business,

defined with hedgerow field boundaries and small watercourses.

1.7 The southern boundary of the site is formed by Easter Cornton Road and the recently developed Wallace High School, in the Causewayhead area of Stirling. There are clear views from the site towards the Wallace Monument, and similarly views are afforded from the Wallace Monument across the Carse of Forth.

1.8 To the east the site boundary follows Airthrey Road (A9) as it passes the University of Stirling, excluding the existing Graham's The Family Dairy business.

1.9 To the west the site boundary is formed by the now electrified Stirling to Perth railway line and a public footpath/cycleway, which connects Stirling and Bridge of Allan. Outwith the site, there is a pedestrian level crossing (referred to as 'Cornton 2') which provides a link to Easter Cornton Road. Beyond the site and to the west of the railway, the B823 Cornton Road follows a broadly north-south alignment, and links Cornton with Bridge of Allan. It crosses the railway at a barrier-controlled level crossing (referred to as 'Cornton 1') west-north-west of the site.

1.10 The northern boundary of the site is formed by Westerlea Drive, Bridge of Allan, extending around the Strathallan Games Park.

Chronology of events and the requirement for the appeal to be re-determined

1.11. An application for planning permission in principle was refused by Stirling Council on 23 March 2016. An appeal against the council's decision was duly lodged on 25 April 2016. On 05 May 2016 a [recall direction](#) was issued, requiring that the appeal be determined by Scottish Ministers. At that time, Scottish Ministers were recalling all appeals for proposals of more than 100 housing units, to monitor how national policy was being implemented. This was set in the context that Scottish Ministers place a high priority on the delivery of good quality housing that can contribute to the creation of successful and sustainable places.

1.12 On 11 October 2016, Scottish Ministers appointed a reporter, Mr Dannie Onn, to examine and report to them with respect to the appeal. A [report](#) was submitted by that reporter on 01 June 2017, with a recommendation that Scottish Ministers dismiss the appeal and refuse planning permission in principle.

1.13 In the interim period between the submission of the reporter's report and the determination of the appeal by Scottish Ministers, Stirling Council approved a new local development plan in May 2018, which had been the subject of an examination. This replaced the 2014 local development plan, which up until that point was the adopted development plan against which the appeal was required to be assessed, noting the provisions of section 25 of the Act. It was in this context that the reporter's report had been correctly framed. At the time of submitting his report, the reporter had envisaged that the emerging (now adopted) local development plan (LDP) would address the then identified shortage of effective housing land before any housing was completed on the appeal site, and this formed a key aspect of his reasoning and recommendation that the appeal be dismissed.

1.14 On 18 June 2018, the [appeal decision](#) by Scottish Ministers was issued. The letter accepted the reporter's conclusions and recommendations, and stated that Ministers were

adopting them for their own decision.

1.15 The appellants appealed the decision taken by Scottish Ministers. The appeal was allowed and the decision to refuse planning permission was quashed by the [Court of Session](#) on 23 January 2019. This was because the Court of Session found that the decision "...failed to take into account a relevant material consideration; that the LDP process had been practically completed and produced a housing land supply shortage for which no solution was offered. [Scottish Ministers] purposed to take into account an irrelevant consideration; that there was an ongoing LDP process which would resolve the shortage in the relatively short term" (paragraph 33).

1.16 As a consequence of the decision having been quashed, it is necessary for the appeal to be re-determined. Accordingly, on 28 March 2019 I was [appointed](#) by Scottish Ministers to report to them in respect of the appeal, and to recommend whether or not planning permission should be granted. It remains the same appeal as before, and the previous reporter's report is capable of being a material consideration to which I have had regard to insofar as I consider appropriate, in my assessment below.

1.17 However, it is important to clarify that I have reached my own findings independently and I have applied my own professional judgement; I have not been restricted by the previous reporter's assessment or recommendation. In any event, due to the passage of time since that previous report was written, there have been wide-ranging material changes in circumstances, policy and additional and revised evidence which has subsequently emerged, all of which could potentially be capable of leading to findings that would differ to those of the previous reporter.

Summary of consultation responses

1.18 A wide range of [consultation responses](#) were received in relation to the proposal, which are summarised below. As the case was returned to the Scottish Government's Planning and Environmental Appeals Division (DPEA) following the decision by the Court of Session to quash Scottish Ministers' decision, the DPEA [wrote](#) to all parties to advise them of this. This correspondence confirmed that all representations previously made would still be fully taken into account, but gave parties an opportunity to submit any further comments. This was in recognition of the relatively significant time that had elapsed since responses had previously been made. Where further comments were received, these have also been summarised below.

1.19 Additionally, in May 2019 I sought [further written submissions](#) from a number of parties in regard to various matters. In some instances, the responses received alter the position of parties as summarised below. For the avoidance of doubt, I have not attempted to aggregate consultation responses with the responses to the procedure notice. The summaries below relate solely to consultation responses. Where necessary, I deal with the content of further written submissions in the applicable chapters below.

1.20 [Bridge of Allan Community Council](#) objected to the proposal in October 2014, and reiterated its position in October 2015. This was for reasons relating to:

- conflict with the (now superseded) local development plan;
- loss of designated green belt, permanently and significantly reducing the physical separation between Bridge of Allan and Causewayhead;

- increases in pedestrian, cycle and motor vehicle traffic, and resultant congestion on the A9 trunk road and other roads;
- the proposal to build on a flood plain would be likely to cause flooding within the site and in adjacent areas. There is significant doubt that a sustainable drainage system could address the flooding and drainage constraints;
- the effect of an increased population upon local public transport and other existing services; and
- detrimental impacts upon indigenous flora and fauna.

1.21 The response also asserted that the determination should not be influenced by the promise of commercial investment; it should be considered on a 'stand-alone' basis.

1.22 Causewayhead Community Council objected initially in October 2014, with supplementary responses received in June and October 2015. The reasons given relate to the following points:

- The site is not listed in the (now superseded) local development plan (LDP) for housing or other development; the developer has cited LDP policy support relating to the city strategic development investment plan to circumvent the policy that there should be no development on the site;
- local residents have concerns over flooding, and displacement of flood waters;
- the constraints of local infrastructure, sewerage, and traffic congestion are of concern; and
- the environmental impact assessment is not a balanced analysis, but is biased in favour of the project. The community council is convinced that the environmental impact on the local communities would be massive and unacceptably disruptive for a number of years.

1.23 On behalf of both of the foregoing community councils, Mr McDougall submitted further representations which were specifically focused on rebutting a number of points made by the appellants, principally relating to local hydrology, flood risk and supporting technical evidence and calculations. In May 2019, [a ground investigation report](#) undertaken for Network Rail was also submitted on behalf of the community councils.

1.24 The following internal Stirling Council consultation responses were made:

- Archaeology: The findings of the submitted archaeology report are endorsed. No further work is required pre-determination but as the site potentially contains a variety of significant archaeological remains, a programme of archaeological work should be required by condition, in advance of construction.
- Economic development: There is inconsistency between the planning statement and economic impact assessment in regard to jobs safeguarded and created. The economic impact assessment is probably on the optimistic side, particularly in the assessment of job creation/safeguarding, from a local impact perspective. Construction sector jobs would have a minimal impact, as they are short term.

From the dairy perspective and new product development plan, there is the potential for 150 additional jobs but there is no defined time scale and no guarantee that these would be filled with local people. Similarly, supply chain jobs may very well be saved/created

in different parts of the country. However, in the case of the dairy itself, there is a greater chance that these jobs would be using local people.

Creating and attracting high value jobs, in a key sector with new product development would give Stirling a nice claim to a centre of excellence in dairy. This project fits neatly with the aim for the investment strategy for Stirling having a bold statement of what the city is famous for.

- Education service: There is some short term limited capacity in Bridge of Allan primary school. As a strategic growth area the education authority envisages every development of over 500 houses delivering primary school education on site. In this case the provision of on-site education is crucial, as Bridge of Allan primary school has limited capacity beyond meeting short-term demand. If Bridge of Allan primary school would be used in the short term to allow initial development, safe walking routes to school would be needed, without the necessity to walk through ongoing development.

The preference would be for zoning the whole development to a new primary school, this would reduce the impact of children starting at Bridge of Allan and then an expectation that younger siblings would also attend the school. It is however recognised that this does need to be balanced by the necessity to facilitate development in the short term.

In regard to secondary education, the education service advised that the development would be expected to make a developer contribution in line with supplementary planning guidance 15 on education contributions, and as a strategic development area, identify a suitable site for a school within the development. The site should meet both the statutory site size for a double stream school with all other provisions that would be expected by planning and roads officers.

- The flood officer advised that the concept is hydrologically achievable. However, there remain concerns over the long term sustainability of a developed site, which would rely entirely on the operation and maintenance of large retention areas, mechanical structures at discharge points, and the suitability of onward transmission culverts. These features would require to be managed and maintained by the household owners. The fine detail of the design, scale and operation of these retention features will not be fully developed until a detailed application has been submitted therefore the residual risk cannot be fully assessed at this stage.

The Airthrey Green site is recognised as having a high pluvial flood risk; some risk of fluvial flooding from the Forglen Burn as well as localised groundwater concerns. These concerns have been addressed by the applicant through design and the utilisation of zones that are considered to be outwith the areas that flood.

Planning authorities must take a precautionary approach to safeguard people and property by locating development away from the functional floodplain in medium to high risk areas. This is normally considered to be in relation to fluvial flooding but in this case a precautionary approach makes it applicable to the pluvial flooding on this site. The applicant has demonstrated that they can manage the flows through landscaping and creation of retention features within the site.

The parcels of land proposed for residential development lie outwith the areas that have

in the past and are predicted in the future to flood. It should be noted that these parcels could have a tendency to be surrounded by flooding. It will be necessary to design and manage these features such that they do not put the new residences at risk or worsen the existing risk of flooding to properties adjacent to the development.

Development within an area of high flood risk would not normally be considered sustainable. It could be argued that the proposed drainage system and its reliance on mechanical intervention is not sustainable. However if designed, maintained and managed properly the retention features proposed could provide local flood benefit and reduce the impacts of climate change on the existing flooding problems adjacent to and within the site.

Having reviewed the supporting flood risk assessment iterations and drainage assessment carried out in accordance with section 266 and 267 of Scottish Planning Policy it has been demonstrated that the site can be managed to mitigate flood risk by using engineered storage and mechanical means of restricting outflows. There are inherent risks of failure which can be minimised but not eliminated. Current legislation does not give local authorities appropriate legal powers to enforce maintenance of sustainable drainage systems, nor is there a method by which it can recover costs whenever the local authority is required to resource reactive maintenance. This would need to be addressed by an individual agreement between the landowner and the local authority which can be enforced.

A range of planning conditions are recommended in the event of planning permission being granted. Advice on the sequential stages to be followed as part of any subsequent detailed application has also been outlined.

- Environmental health recommends conditions relating to: noise from road traffic, the railway and dairy activity, and during construction; and contaminated land. It is anticipated that a construction management plan would address short term potential for dust, during construction.
- Housing: 25% of the 600 houses to be provided (150) would be required to be affordable housing. The other 450 market houses should provide a range of house sizes and types, including the provision of smaller houses, houses that meet the needs of those on low incomes, houses that meet the needs of older people, particularly those looking to downsize, and houses that meet the varying needs standards.
- Land services: Consideration should be given to the mechanism for long term maintenance of all greenspace. The quantity of proposed open space is generous but appears peripherally located to maintain a green belt. Conditions would be required relating to the detailed design and timetable for its delivery. A financial contribution towards the enhancement of open space in Causewayhead should be sought in accordance with policy 1.3(e) of the (now superseded) local development plan and (now non-statutory) supplementary guidance ([SG02](#)).
- Policy advised that the then adopted 2014 local development plan was supportive of sustainable economic development, but not at any cost. An appropriate balance must be struck between the costs and benefits of a proposal over the longer term. The recent adoption of the 2014 LDP and the policy context within the Scottish Planning Policy (SPP) will have an influence on the relative weight to accord to the development plan

policies and the significance of other material considerations.

The status of the green belt has policy significance and the proposal is considered to be contrary to both local and national green belt policy. Concerns remain about the overall landscape impact of the development relative to its sensitive green belt status, its location relative to the urban edges of Stirling and Bridge of Allan, and its wider role in the setting of important cultural and historic features.

With regard to housing land, in order that an effective and generous supply is maintained at all times, effective and deliverable housing sites are required. The proposed development has the potential to contribute to the maintenance of a generous land supply and the sustainable principles set out within SPP and the vision and spatial strategy of the (now superseded) LDP. However, careful consideration should be given as to whether the approval of housing of this magnitude and in this location, would be premature and prejudicial to the LDP review process.

At various stages of the plan making process of the 2014 LDP, the area of the application site had been recognised as a potential location for housing development. The reporter's conclusions during the examination of that LDP acknowledge that the area has scope to absorb "some limited development linked to the necessary road link and rail crossing" and that "any form of development ... should be a consideration in a future plan, once the infrastructure and flooding issues have been progressed and resolutions are found".

The policy team response went on to advise that the review of the LDP, which took place in advance of the adopted plan's normal 5 year life span, was considered to be the most appropriate way to ensure that the identification of any additional housing sites was undertaken on a planned basis, consistent with the development strategy and to ensure the provision of infrastructure required for the area.

Investment in the dairy is certainly of strategic economic importance to the Stirling economy and supports the key objectives of the Stirling Economic Strategy 2014. However, the inextricable links between the investment in the dairy and the extent of housing development proposed at Airthrey Kerse has not been adequately demonstrated. If a robust business case can be made for both proposals and the net economic benefit proven, then consistent with SPP, this could also be material in the determination of this application.

- **Roads authority:** The development has the potential to ensure that there is a reasonable choice of access by walking, cycling and bus to local facilities in Bridge of Allan, Causewayhead and Cornton, to Stirling city, and to Stirling and Bridge of Allan rail stations. Conditions are recommended to ensure adequate routes and improvements are made; to ensure delivery of adequate travel plan and school travel plan measures; and to ensure the development supports bus and rail use.

To minimise the risks presented by Cornton 1 and 2 level crossings, conditions are required so: development would not exceed 450 dwellings until Cornton 1 crossing is replaced by a road bridge; and development should not encourage the increased use of Cornton 2 crossing ahead of its closure (e.g. through school catchments).

The council would normally seek a minimum of two accesses for a development of

over 300 houses. However, a roundabout on Airthrey Road would adequately facilitate the full development of 600 dwellings.

Various mitigation measures would be required by condition, to accommodate traffic generated by the development. These would be focused on three main junctions, and to manage the impact of development on residential streets in Causewayhead.

Conditions are required to protect the alignment of the proposed Cornton Road to Airthrey Road link, and for a road bridge to replace the Cornton level crossings and/or the link road.

A financial contribution should be sought towards addressing the cumulative impact of new development, in line with the 2014 LDP and supporting supplementary guidance.

Whilst the council investigates the potential for relocating Bridge of Allan rail station, land may need to be protected for such until it is determined whether or not this is to be progressed.

- Urban design: Detailed advice was provided, caveated by the fact that only planning permission in principle was being sought, and so detailed matters would be considered at the appropriate time. In conclusion, it was recommended that should the principle of development be accepted and the proposal be considered for approval, the layout as indicated within the development framework should not be endorsed. It was recommended that a condition be attached to require the submission of a comprehensive masterplan, the content of which should reflect the requirements of supplementary guidance [SG01](#): Placemaking.

This should include a development layout which ensures that the site boundaries are positively addressed by buildings and their frontages, and that important entrances, such as that off Airthrey Road and Easter Cornton Road are appropriately addressed. The layout should also adequately integrate open space, including SuDS within the scheme, and avoid instances where rear boundaries and treatments define and address these features. The masterplan should provide sufficient details regarding building designs and materials, which should demonstrably draw from an analysis of the surrounding context. It should also provide details relative to the design and function of the proposed open space, including the public park; set out the proposed development phasing; whilst its content should take account of the conclusions within the landscape and visual impact assessment addendum of March 2015.

1.25 Historic Scotland (HS) initially responded to the application on 12 December 2014. HS confirmed it had no objection to the principle of the development, but noted what it considered to be significant omissions in the environmental statement for the historic environment. The HS response made more detailed comments relating to the potential direct impacts upon the Stirling Bridge inventory historic battlefield, and potential impacts on the setting of Wallace Monument (A-listed), Stirling Castle (scheduled monument) and Airthrey Castle (inventory garden and designed landscape). In conclusion, whilst there would be a degree of impact, HS did not find these to be so significant for its interests at the national level that it would warrant an objection.

1.26 On 01 October 2015, Historic Scotland ceased to operate and was replaced by Historic Environment Scotland (HES). In a response dated 21 October 2015, HES

confirmed that it did not wish to amend the advice previously given by Historic Scotland. HES responded to the appeal, but only to confirm that it had no further comments to add. HES reconfirmed that it had no further comments to add, in [response](#) to the opportunity given to make further representations in March 2019.

1.27 In its [response](#) dated 21 December 2015, [Network Rail](#) provided detailed advice. This, amongst other matters, advised that investigations into whether Cornton 1 and Cornton 2 level crossings could be replaced by a bridge over the railway were underway, rather than simply proceeding with the scheduled renewal of Cornton 1 level crossing in 2020. The required full barrier control (rather than half barriers) would extend the time the barriers would be down, causing further delay and congestion.

1.28 Strategically, the construction of a bridge in place of both level crossings would facilitate planned and potentially further developments in the local area. It would also offer the opportunity to relocate Bridge of Allan station if the council so wished. The impact upon any such aspirations to relocate the station should be clarified, so a potential alternative site is not lost to other development.

1.29 Any bridge and approach could not be constructed entirely on Network Rail land. The local development plan safeguards land for bridging the railway, but this is not reflected in the masterplan contained in the submitted [development framework strategy](#). Safeguarding of land could be controlled by condition.

1.30 In regard to the proposed development's impact on the existing crossings, Cornton 2 crossing is high risk, and this would increase significantly even with a small number of additional users. Development phasing must be linked to the closure of this crossing and provision of a bridge, and the detailed design should physically limit access to the crossing in the interim. For the Cornton 1 road crossing, a condition limiting the development to 450 units should be imposed until it is replaced with a bridge.

1.31 Parking at Bridge of Allan station is oversubscribed, and outwith recommended walking distances from the site. The transport assessment addendum proposes a mechanism to reduce car use which may reduce demand for car parking. This should be dealt with by condition.

1.32 A range of asset protection issues can be dealt with as the detailed applications are dealt with. Subject to the above matters being dealt with, Network Rail confirmed that it would have no objection to the proposal.

1.33 In a [further response](#) by Network Rail, dated 12 February 2016, it advised that if the proposed primary school is constructed with a catchment which crosses the railway and prior to closure of the Cornton 2 crossing, this would present an unacceptable risk to which Network Rail would object. It therefore recommends that consent must only be granted subject to a condition which ensures that in such circumstances, the level crossing must be replaced by a fully accessible pedestrian bridge at the expense of the developer and/or council. This should be secured by a legal agreement.

1.34 A meeting note between [NHS Forth Valley](#) and the council details that there would be limited capacity to accommodate patients generated by the development at existing medical practices, and there was no appetite for a branch surgery within the development from any of the three nearest practices.

1.35 However, NHS Forth Valley are developing a new concept, in accordance with latest government guidance for a Community Medical Hub, which essentially would comprise accommodation in a proposed community facility/neighbourhood centre/pharmacy which could be utilised for clinical purposes. There would be a requirement for 1.2 medical staff with one support staff. Co-location within the proposed neighbourhood centre or close to the primary school would be acceptable. A condition or legal agreement would focus on the land required, its trigger for delivery and means of being provided.

1.36 Scottish Water does not object to the proposal. At the time of its response in 2014, capacity for the development was available at Stirling and Turret water treatment works. A range of technical requirements for the development are outlined in the response.

1.37 The Scottish Environment Protection Agency (SEPA) has [no objection](#) to the proposed development. SEPA is satisfied that the risks of flooding to the development site from fluvial, pluvial and groundwater sources have been thoroughly investigated and the proposed areas of built development will be limited to those parts of the site with no significant risk of flooding.

1.38 There will be a water management scheme integrated into the development to deal with surface water on the site from pluvial and overland flow sources. The main features of the scheme will be the wetlands which will intercept and store floodwaters on the site and release these waters in a controlled manner such that they will not pose a risk of flooding to the proposed development and should provide a significant reduction in the risk of flooding currently experienced in nearby areas, for example in Easter Cornton Road.

1.39 SEPA is satisfied with the principle of the water management scheme and the most recent proposals for the discharge of water from main wetland storage area on the site to the River Forth. It is satisfied that the detail of the design of the scheme can be agreed at the detailed planning stage and that the wetland features will be constructed and in place before other parts of the proposed development will be in place.

1.40 SEPA strongly believes that the sustainability of development on the Airthrey Kerse site is dependent on the maintenance of the water management scheme on the site and it is therefore important that careful consideration be given to the roles and responsibilities for its regular inspection and maintenance.

1.41 There is a requirement for detailed conditions on any planning permission in principle to address the detail of the flood risk issues and maintenance regime.

1.42 Given the exacting and detailed nature of the necessary assessments and technical detail which will be required to support development of this site, it is important to recognise that SEPA require to reserve the right to object to subsequent planning applications if it is found that the supporting assessments and technical detail does not remove the potential for increased flood risk.

1.43 Critically important to the successful delivery of the proposed scheme, is the maintenance in perpetuity of the surface water management system and SEPA understand that to date a trust is considered to be the vehicle to deliver a robust and effective maintenance scheme. Whatever mechanism is used to provide maintenance in perpetuity, it must be robust and able to deliver on the ground the necessary actions and expertise to sustain the surface water management system.

1.44 SEPA's position is reliant on the accuracy and completeness of information supplied by the appellants.

1.45 Scottish Natural Heritage (SNH) advised that the proposal could affect internationally important natural heritage interests of the River Teith Special Area of Conservation (SAC). The response identifies a range of further information which should be included at the detailed planning stage, to allow an appropriate assessment to be carried out.

1.46 The carse of Stirling at Causewayhead/ Bridge of Allan has a central role in contributing to the setting and identity of Stirling, and in preventing coalescence between Causewayhead (city of Stirling) and Bridge of Allan. The proposed development would result in a significant change to the landscape of the carse, in addition there would be significant effects on visual amenity from both adjacent communities and routes, and the elevated viewpoint at the Wallace Monument. This position was maintained in a subsequent response by SNH dated 30 April 2015.

1.47 The response contains a detailed assessment of the landscape and visual effects of the proposal, which reinforces the position of SNH summarised above.

1.48 Transport Scotland responded in June 2015, requesting that a condition be attached to any permission to require a travel plan. Transport Scotland responded again in October 2015. This stated that an audit of the submitted transport assessment was undertaken by consultants CH2M, on behalf of Transport Scotland, in June 2015. The main conclusion of the audit was that there would be no significant impact on the trunk road network. The environmental statement addendum confirms this conclusion, and is therefore acceptable.

1.49 In response to the opportunity given to parties to make any further representations (in March 2019), consultants Jacobs responded on behalf of Transport Scotland. This response confirmed that its position, as outlined above, remains unchanged.

Representations

1.50 The council received 445 representations objecting to the proposed development, and 76 of support. 72 representations were also received in response to the appeal, ahead of the quashed decision. Subsequently, 10 further representations have been received from parties who had previously made representations. This was in response to a letter sent to parties (including consultees, as referred to above) in March 2019, allowing for any further representations to be made.

1.51 The representations cover wide-ranging matters. In summary, the objections refer to the following relevant considerations:

- Loss of green belt, resulting in the coalescence of Bridge of Allan and Causewayhead, and a resultant loss of community identity;
- the proposal is contrary to the local development plan, identified as green belt rather than for development;
- other sites in and around Stirling are more appropriate for housing. These include brownfield sites;

- the development would set a precedent for further development at Airthrey Kerse and other green belt sites adjacent to Stirling;
- flooding on the site and the potential for displacement to surrounding areas and properties;
- the drainage ponds which form part of the sustainable drainage system would become stagnant;
- inadequacy of sewage treatment capacity;
- additional traffic would result in severe congestion, particularly at peak times. The traffic through Bridge of Allan from the Keir roundabout to Causewayhead is already heavy; more traffic would be unsustainable;
- Bridge of Allan rail station car parking is already inadequate. This would increase pressure for parking and lead to additional parking on local surrounding roads;
- loss of iconic views of Stirling Castle, Wallace Monument, the Ochil hills and the Trossachs from and across the area proposed to be developed. The carse forms part of the ancient agricultural setting of Wallace Monument and Stirling Castle;
- concerns over capacity of local amenities and infrastructure, including doctors, hospitals, schools and libraries;
- the development would provide poor residential amenity. Too many homes are proposed. There would be overlooking, a loss of privacy and daylight at adjacent housing;
- air pollution, noise and smell need to be considered;
- there is potential for the land to be contaminated by the old clay pits;
- the proposal would adversely affect local wildlife and lead to a loss of habitat;
- the proposal should not be considered as enabling development for investment by the dairy. There is no specific investment proposal with which this development could be linked, and nor has it been shown that enabling development is necessary. At the most, the dairy's intentions should be given limited weight. The proposal should be considered on its own merits;
- the benefits of the proposed link road, which is recognised by the local development plan, would be of limited benefit relative to the cost.

1.52 The representations in support of the proposal raise the following relevant points:

- The development would enhance the green belt by providing a parkland that is open to the public to use;
- existing flooding on the site will become managed;
- the development would make provision for meeting affordable housing needs, and the needs of the elderly;
- the proposed new primary school would be more safely accessible, by walking and cycling, from Causewayhead. It would reduce the number of return car journeys to nurseries and other schools;
- it would provide jobs for local people, including apprenticeships, and would generate growth in Stirling's economy;
- the existing dairy at Airthrey Kerse is at capacity. This development would enable a new dairy to be built, securing the future dairy industry in Scotland in line with Scottish Government ambitions to grow the industry.

1.53 Further representations received since March 2019 raised the following points of objection:

- Insufficiency of car parking at Bridge of Allan rail station would be exacerbated by the development, affecting surrounding residential roads;
- 'rat-running' and parking on side roads, including overspill from the university campus, already occurs. This will be worsened by the development;
- assessments have not taken account of the traffic impact on Airthrey Road and Causewayhead Road. Since previous representations were made, traffic in the area has increased substantially;
- as the site is prone to flooding, home insurance would be expensive or impossible to obtain, affecting the saleability;
- the claimed thickness of the 'clay cap' above ground water is disputed. It is much thinner than suggested by the appellants;
- other sites are available in Stirling, including brownfield land, so there is no requirement for housing in this area. The council's housing land audit proves there is sufficient land to meet the requirements of the local development plan;
- planning conditions are not able to control urban creep;
- the previous quashed decision by Scottish Ministers should be observed, noting the amount of opposition to the proposal;
- numerous calculations, assumptions and conclusions made by the appellants in regard to flooding and drainage are challenged;
- one of the fields proposed for development was previously arable. Since Wallace High School was built, the field floods continually. Reeds are now growing on the land, indicating a continuation of a water course;
- Network Rail's plan to build a road bridge to replace the level crossings have been abandoned because the ground conditions were so poor, making its cost unaffordable;
- Wallace High School does not have sufficient capacity;
- sewers and surface water drainage is at capacity. The need for a new system needs to be taken into account.

1.54 One further representation was received in support:

- NFU Scotland confirmed its support for the plans for a new dairy and product development facility, the progression of which is dependent on the success of the proposed development. Investment in the dairy industry is important to secure jobs and economic activity.

Consideration by Stirling Council

1.55 The application for planning permission in principle was refused by the council on 23 March 2016. The [decision notice](#) gave two reasons for refusal, as follows:

“1. In the opinion of the Planning Authority, the benefits of granting Planning Permission in Principle do not outweigh non-compliance with Development Plan policies.

2. In the opinion of the Planning Authority, the proposed Section 75 Legal Agreement and planning conditions do not satisfactorily mitigate the impact of the development, in particular considering the erosion of the Green Belt and risks arising

from the impact of the development in respect of flooding and transportation.”

Grounds of appeal

1.56 The appellants’ [grounds of appeal](#), as outlined originally in April 2016 at the time this appeal was lodged, are summarised below:

- Significant weight must be given to Scottish Planning Policy (SPP) (2014) and its presumption in favour of sustainable development, where a local authority does not have a 5-year effective housing land supply.
- Stirling Council has less than a 5-year effective housing land supply, so SPP says LDP policies on this matter should be treated as out of date.
- The proposal accords with the guiding principles for sustainable development in SPP, and it is consistent with the principles underpinning the LDP vision and spatial strategy.
- The reasons for refusal neither question the sustainability of the proposed development, nor its effectiveness.
- The development has been demonstrated to be deliverable, it meets the tests of effectiveness and can make a significant contribution to the 5-year housing shortfall.
- All technical matters have been considered by relevant council services and outside agencies, none of which object to the proposal.
- Impacts of development can be satisfactorily mitigated through conditions and planning obligations.
- Conflict with the LDP is restricted to it being located in green belt. This non-compliance is outweighed by the shortfall in the 5-year effective housing land supply.
- In light of the failure of allocated sites coming forward and maintaining a 5-year effective housing land supply, development on this unallocated effective site, within the ‘core area’ identified by the LDP, complies with the strategic policies of the LDP.
- The proposal would deliver betterment in terms of flood risk, investment in local infrastructure including a new primary school, road and rail improvements.
- There would be significant economic benefit in terms of job creation through both the development and its enabling role in the delivery of a national dairy processing, and research and development facility, in Stirling.
- The council could not reasonably refuse planning permission in principle, and the reasons given are neither complete, precise nor relevant.

1.57 There are no regulatory provisions which would allow for the grounds of appeal to be amended, despite the appeal requiring re-determination, and of course, the reasons for refusal given by the council remain the same. However, through further written submissions, I have sought up-to-date submissions from relevant parties, to take account of policy changes and other contextual changes which may be material to the case. In chapter 2 below, I set out the relevant provisions of the development plan, together with the broader policy context insofar that it is pertinent to the consideration of the appeal.

CHAPTER 2: POLICY CONTEXT

2.1 As required by section 25 of the Town and Country Planning (Scotland) Act 1997, this appeal must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The local development plan

2.2 The adopted development plan is principally comprised of the Stirling Local Development Plan, dated October 2018 ([the 2018 LDP](#)). This replaces, in full, the previous 2014 local development plan (the 2014 LDP), although many aspects of the two versions are substantially the same. The [appellants](#) and the [council](#) have identified the main differences between the superseded and adopted policies in the respective versions. These differences are relevant to note, insofar as they relate to the context of the council's decision and the previous reporter's report (at which time the 2014 LDP was still in place), but beyond this, the 2014 LDP should now be disregarded. My summary of policy provisions below relates solely to the 2018 LDP because it is this document which is now engaged by section 25 of the Act.

2.3 The 2018 LDP establishes a vision for what the plan will achieve by the year 2037. In support of this vision, the plan contains a spatial strategy for development. The appeal site falls within the 'core area', where the development approach supported by the plan is:

- urban consolidation;
- strategic development at identified locations within and on the edge of Stirling's 'city corridor'; and
- redevelopment of identified regeneration areas.

2.4 The 'city corridor' is not delineated, beyond the conceptual illustration in figure 4 of the plan, which indicates its position and includes the area between Stirling and Bridge of Allan. One of the reasons for the 'strategic development' approach is "to reduce pressure on more sensitive Green Belt and historic areas" (cited in table 1 of the plan).

2.5 In the settlement hierarchy set out in figure 5, Stirling is 'tier 1' (the highest tier) and Bridge of Allan is one of three 'tier 2' settlements. There are five tiers in total, which differentiates between the relative roles of identified settlements in helping to deliver the spatial strategy.

2.6 The key diagram for the core area identifies the entirety of the appeal site as green belt. However, it also indicates that a new primary school or extension, and a new road link, are envisaged to be accommodated on the area of green belt which is the subject of this appeal.

2.7 The LDP establishes the housing supply target and housing land requirement for period 1 of the plan (2015-2027). Beyond 2027, to 2037, is referred to as period 2. The plan also outlines the scale of future housing land supply envisaged for this period.

2.8 The LDP's 'overarching policy' and sustainability criteria bring the main themes of the plan together, to support good quality development in the right place which meets community needs. They are intended to link national policy aims with the LDP's own objectives and policies. The policy explicitly states that there is a presumption in favour of

development that contributes to sustainable development. It places reliance on the sustainable development criteria to define the term.

2.9 Under the 'Placemaking and implementing the spatial strategy' theme, primary policy 1 ('Placemaking') establishes a range of expectations for development of all scales. Matters relating to design, site context, built and natural heritage and air quality are identified. Pertinent to this appeal, the policy also refers to the need to minimise encroachment onto greenfield land and for development to respect the green belt.

2.10 Policy 1.5 'Green Belts' states that development should preserve the openness of green belts and should not undermine their core role and function. It also contains criteria setting out the limited circumstances where development in the green belt would be supported. Reference is made to supporting supplementary guidance which sets out the objectives, role and function of designated green belts. This supplementary guidance is currently in draft form, as explained below.

2.11 Supporting policies 1.1 to 1.3, which relate to site planning; design process; and green infrastructure and open space respectively, are also of relevance to the proposal.

2.12 Primary policy 2 'Supporting the vision and spatial strategy' directs development to sites identified in the plan. Outwith allocated sites, 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.

2.13 Policy 2.1 'The 5 year effective housing land supply' states that a 5-year effective housing land supply will be maintained at all times through the annual housing land audit process and LDP action programme. It goes on to establish criteria against which proposals should be assessed in the event of there being less than a 5-year effective housing land supply. Proposals are required to:

- a) Be consistent with the LDP Vision and Spatial Strategy; and
- b) Meet the provisions of the LDP Overarching Policy, its accompanying Sustainable Development Criteria, and all other relevant LDP policies; and
- c) Be proven to be effective and capable of delivery within the 5-year period under consideration; and
- d) Be over 30 units in size in order to make a reasonable contribution to the overall identified shortfall; and
- e) Demonstrate that development of the proposed site will not compromise delivery of necessary infrastructure supported by the LDP strategy.

2.14 The policy encourages detailed planning applications, and advises that any consents for planning permission in principle may have shorter timescales imposed, in order to maximise the likelihood of development contributing to the shortfall in the identified 5-year period.

2.15 Policy 2.2 set out requirements for meeting a broad range of housing needs and demands, including affordable housing. Policy 2.3 is focused on provision of housing for particular needs.

2.16 In addition to the green belt designation, policy 2.10 'Housing in the countryside' is directly applicable to the proposal, as the site falls within the countryside policy boundary on

the proposals map. The policy supports new houses where one or more requirements are satisfied. This includes permitting houses that would be within or well related visually to existing groups and clusters of buildings.

2.17 Primary policy 3 'Provision of infrastructure' highlights the importance of infrastructure to meet the needs of development. It states in criterion (b) that where land is necessary for the provision of identified and anticipated infrastructure, it will be safeguarded and shown in the settlement statements. The Stirling settlement statement identifies that land within the appeal site should be safeguarded for a primary school, for a road link from Cornton to Airthrey Road, and for a road bridge to enable the closure of the Cornton level crossing(s).

2.18 Policies 3.1 'Addressing the travel demands of new development'; 3.2 'Site drainage'; and 3.3 'Developer contributions' set out a range of requirements and considerations of relevance to this appeal.

2.19 Under the LDP's 'climate change adaptation and mitigation' theme, primary policy 4 'Greenhouse gas reduction' requires all development to be in a sustainable location and where accessibility to active travel opportunities and public transport is optimised. More detailed requirements relating to construction materials and methods are not relevant to this appeal, given it is only planning permission in principle that is sought.

2.20 Primary policy 5 'Flood risk management' states a precautionary approach to flood risk from all sources will be taken. The policy sets out the approach to be taken to establishing the nature of flood risk, and requirements of development to minimise the potential for flooding on-site and elsewhere.

2.21 Primary policy 6 'Resource use and waste management' seeks to reduce waste and demand for new resources. Criterion (a) favours brownfield land for development where appropriate, on this basis.

2.22 Under the LDP theme 'conservation of historic and natural heritage', primary policy 7 'Historic environment' recognises the importance of such assets, and resists development that would have a negative impact upon them, including their setting. This principle is elaborated upon further by policy 7.1 'Archaeology and historic building recording (designated and undesignated buildings/sites)'.

2.23 Figure 13 shows the site's proximity to the Stirling Bridge inventory battlefield. Policy 7.8 'Development affecting battlefields, garden and designed landscapes' safeguards the overall integrity and character of identified battlefield areas.

2.24 Primary policy 8 'Conservation and enhancement of biodiversity' is engaged by the site's proximity and hydrological links to the River Forth, which in this location is part of the River Teith Special Area of Conservation. The policy clarifies that designated sites will be protected in line with associated statutory requirements. Policy 8.1 requires the implications of development, upon biodiversity interests more widely, to be assessed.

2.25 Landscape considerations are principally captured by primary policy 9 'Managing landscape change', which protects the integrity, character and special qualities of key areas of nationally and locally valued landscapes. Criterion (ii) states that outwith designated landscape areas, the capacity of the local landscape to accommodate the proposed

development must be shown to have been taken into account, with reference to landscape character assessments. Criterion (iv) requires appropriate landscape and planting works to maintain and enhance landscape quality, and to enhance the green network.

2.26 Policy 9.3 'Landscaping and planting in association with development' is of limited relevance given it is planning permission in principle being sought. However, criterion (a) requires existing landscape or planting features which make a valuable contribution to local landscape character, biodiversity, cultural heritage or amenity, to be identified and safeguarded. Policy 10.1 'Development impact on trees and hedgerows' has similarly restricted applicability to an in-principle proposal, but also like policy 9.3, criterion (a) of the policy is relevant. This seeks to protect important trees and hedgerows that contribute to local amenity, or have nature conservation or historic interest.

2.27 Finally, under the theme of managing and utilising local resources, primary policy 14 'Soil conservation and agricultural land' states that larger scale developments located on areas of better quality productive soils will only be supported where they conform to the spatial strategy of the plan, and subject to more detailed requirements in regard to the use of soils.

2.28 The plan contains a detailed settlement statement for Stirling. This describes the city, its relationship with the spatial strategy in the plan, and infrastructure considerations. It also identifies allocated sites for housing, employment and retail uses, and safeguarded land for infrastructure, which are shown on the proposals map alongside other spatial policy considerations.

Supplementary guidance

2.29 The council has a suite of supplementary guidance documents to support the interpretation and application of various policies within the local development plan. Only one of these documents, which is of any relevance to the appeal, is currently statutory guidance; the [historic environment](#) supplementary guidance was adopted in 2019 and so it forms part of the adopted development plan.

2.30 All other supplementary guidance is non-statutory, either being in draft form, or under review before being adopted having originally been written to support the superseded 2014 local development plan. The council has provided a [table](#) which provides a comprehensive list of supplementary guidance titles, and the status of each document (as of April 2019). It also outlines how some guidance documents are intended to be consolidated.

2.31 These documents individually and together are capable of being material considerations in this case. However, unless adopted, they are not part of the development plan and the weight which may be attached to such documents is potentially reduced. I have referred to supplementary guidance in the following chapters, where this is pertinent to my assessment, but in any event, overall there is nothing within any of the statutory or non-statutory guidance which deviates from the policy position established in the adopted LDP.

Other relevant guidance

2.32 [Scottish Planning Policy](#) (SPP) (2014), whilst a non-statutory document, is a material consideration capable of being afforded weight in planning decisions. SPP sets out national planning policies which reflect Scottish Ministers' priorities for the planning system and

development.

2.33 Central to the provisions of SPP is the explicit presumption in favour of development that contributes to sustainable development. Paragraph 29 of SPP establishes a range of principles to achieve the right development in the right place.

2.34 Of particular importance to this appeal is the requirement, in paragraph 110, to maintain at least a 5-year supply of effective housing land at all times. Paragraph 125 states that where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date, and paragraphs 32 – 35 become engaged; the presumption in favour of development that contributes to sustainable development is, in paragraph 33, elevated to a “significant” material consideration in these circumstances.

2.35 Planning Advice Note (PAN) [2/2010](#) ‘Affordable Housing and Housing Land Audits’ provides advice and information, in section 2 of the document, on good practice in the preparation of housing land audits. Paragraph 41 of PAN 2/2010 states that, in the context of the requirement in Scottish Planning Policy for a 5-year effective housing land supply at all times: “Planning authorities should therefore carry out regular monitoring of housing completions and the progress of sites through the planning process. This can be achieved through the preparation of a housing land audit, carried out annually by the planning authority in conjunction with housing and infrastructure providers.”

2.36 The council’s most recent [housing land audit](#), published in 2018, is not ‘guidance’, but is noteworthy here, being a published document and an important aspect of the evidence base in assessing this appeal.

The main points for the appellants

2.37 This planning application accords with the vision and spatial strategy of the 2018 LDP and complies with the relevant development plan policies other than green belt. There are important material considerations - notably a serious shortfall in the 5-year effective housing land supply - which point to approving the appeal. The planning balance is in favour of allowing the appeal and granting planning permission in principle.

2.38 The appeal site is within the core area in 2018 LDP, as it was in the 2014 LDP, where the focus is on urban consolidation. Outwith allocated sites, primary policy 2 confirms the core area as the preferred location for new build development on sites located close to, and easily accessible by, major public transport routes.

2.39 The appeal site is within the ‘city corridor’ where the aim of urban consolidation includes concentrating higher density, mixed-use development. The provision of a new primary school is also part of the 2018 LDP strategy for the area which was not in the 2014 LDP. In his report to Scottish Ministers, the previous reporter for this appeal acknowledged the location of the appeal site within the core area and raised no concerns about the relationship between the proposal and the 2014 LDP vision and spatial strategy. There is no reason to depart from this position with respect to the vision and spatial strategy in the 2018 LDP.

2.40 The Stirling settlement statement (in the 2018 LDP) states that the city is best placed to meet the majority of new housing need and demand given the scale of the settlement, its

strategic transport connections and the potential for new development to make best use of available infrastructure.

2.41 The previous reporter (for this appeal) concluded that the proposal would be sustainable in terms of paragraph 29 of SPP (paragraph 2.27 and 8.4 of reporter's report). Council officers, in their report to the meeting of Stirling Council, also concluded that the proposal met the objectives of the SPP sustainability principles in a number of ways ([paragraph 3.84](#)). It is considered the same conclusion should be reached in respect of this proposal when assessed against the 2018 LDP for essentially the same reasons.

2.42 The 2018 LDP prioritises unallocated sites to maintain a 5-year housing land supply. In effect, unallocated sites would "jump the queue" to maintain that supply because the allocated sites were already not coming forward or were delayed, for whatever reason. This means that 2018 LDP policy 2.1 awards higher preference to unallocated sites coming forward than the previous 2014 LDP to address a shortfall in supply.

2.43 The policy's emphasis on the current housing land audit to identify a shortfall in the 5-year housing land supply can only realistically apply where the audit provides a realistic picture. The current housing land audit 2018 cannot be relied upon.

2.44 Where a shortfall in the 5-year housing land supply has been identified, policy 2.1 of the 2018 LDP sets out five criteria that require to be met. The appeal proposal would arguably meet all of these criteria, albeit that it lies within the green belt where it could give rise to conflict with one element. As a policy for the supply of housing land, policy 2.1 would be rendered out-of-date by SPP whenever a situation arises in which it could be used. Thus, even if there was a conflict due to the location in the green belt, which would be picked up in any event by assessment against that specific policy, it should carry significantly less weight.

2.45 Green belt policy 1.5 is a development plan policy for the supply of housing land, in the context of Scottish Planning Policy. In light of this, in the event of a shortfall in 5-year effective housing land supply, policy 1.5 would be rendered out-of-date, triggering the SPP "presumption in favour of development that contributes to sustainable development" (paragraph 33). The effect of this would be that policy 1.5 should carry significantly less weight in the determination of the appeal.

2.46 Many of the policies of 2014 LDP were supported by statutory supplementary guidance. Following the adoption of the 2018 LDP, the guidance does not form part of the development plan and is now non-statutory. This reduces the weight which can be given to these documents in the decision-making process.

2.47 The proposed development accords with all aspects of the development plan and its policies, other than green belt. There are important material considerations – notably a serious shortfall in the 5-year effective housing land supply - which point to approving the appeal. The planning balance is in favour of allowing the appeal and granting planning permission in principle.

The main points for the council

2.48 In its [response](#) to the appeal submitted in May 2016, the council set out its position that, at that time, in the context of paragraph 125 of Scottish Planning Policy (outlined in

paragraph 2.34 above), development plan policies contained in the 2014 LDP were not up-to-date, and so paragraph 33 of Scottish Planning Policy (also outlined in paragraph 2.34 above) was relevant.

2.49 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 acknowledged that there was, as of May 2016, a shortfall in its five-year effective housing land supply, therefore the development plan policies for supply of housing land were not up-to-date.

2.50 Although policies for the supply of housing land were accepted as not up-to-date in terms of Scottish Planning Policy, policies relating to other matters, including the determining issues of green belt, flooding and transportation, were up-to-date.

2.51 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 that the presumption in favour of sustainable development would not apply.

2.52 The council concluded, in its 2016 response to the appeal, that that development is significantly contrary to the development plan. The council did not consider that material considerations justify a departure from the development plan and a grant of planning permission.

2.53 In [further written submissions](#) lodged in June 2019, the council has set out its position that with the exception of Policy 2.1, all relevant policies in the superseded 2014 LDP have had only minor changes made to them in the 2018 LDP. Policy 2.1 had more substantial changes made to it, which was reworded to provide criteria for development where a shortfall in the 5-year effective housing land supply exists.

2.54 In addition to the policies, both the superseded and adopted LDP allocate a range of housing sites to meet the housing land requirement. Neither LDP identifies this land at Airthrey Kerse as a site to meet this requirement.

2.55 The council is currently in the process of reviewing all supplementary guidance for the local development plan, with many that were adopted in 2014 but which are now non-statutory, being condensed or amalgamated into new supplementary guidance that will all eventually be adopted alongside the adopted local development plan.

2.56 The council's most up to date assessment on housing land supply is the 2018 housing land audit, published in November 2018. This identifies that the effective housing land supply is 6.5 years.

Reporter's findings

2.57 Having regard to the provisions of the adopted development plan, and taking into account the points raised by parties summarised above, I consider the main matters in this appeal to be:

- the sufficiency of the effective housing land supply;
- the impact upon the green belt, including landscape and visual effects;
- flood risk and drainage considerations; and
- the development's traffic and transport impacts.

2.58 I have addressed each of the above topics in separate chapters below. This is followed by consideration of a range of other relevant matters, before I draw upon my findings in respect of these matters to reach my overall conclusions and recommendation.

CHAPTER 3: HOUSING LAND SUPPLY

Summary of evidence

3.1 At the time of the council's determination of the application for planning permission in principle (in March 2016), the council and appellants were in agreement over the existence of a shortfall against the requirement to maintain a five-year effective housing land supply, established in Scottish Planning Policy. The council accepted that the policies within the 2014 local development plan, relating to the supply of housing, were not up-to-date on that basis. The parties agreed that the presumption in favour of development that contributes to sustainable development applied and that this should be a significant material consideration in support of the proposed development. However, the council's position was that other policies and material considerations indicated that planning permission should nevertheless be refused.

3.2 It is also relevant to note that the previous reporter's [report](#) of June 2017, made clear that it was envisaged that the emerging local development plan (which was at that point in time under examination) would address the effective housing land supply issue. In paragraph 8.5 of his overall conclusions the previous reporter remarked that:

“...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.”

3.3 Further to the above, the previous reporter concluded in paragraph 8.13 that:

“...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.”

3.4 The adoption of the 2018 local development plan (in October 2018) has changed the context in which this appeal must now be determined, noting again the provisions of section 25 of the Town and Country Planning (Scotland) Act 1997. For this reason, the previously agreed position relating to the housing land supply situation has effectively been superseded by the positions of the appellants and council outlined in their respective responses to a procedure notice issued in May 2019, which sought updated submissions on this matter. Similarly, whilst the previous reporter's findings in regard to this matter are relevant to note, they have been substantially overtaken by events.

3.5 Tables 2 to 4 of the adopted 2018 LDP identify the overall housing supply target for the period 2015 – 2027 as 5,532 homes, taking account of past completions. This equates to a remaining housing supply target of 461 homes per annum. A 16% generosity margin is added to establish the housing land requirement for the 2015 – 2027 period, which equates to 6,417 homes. Against the overall housing land requirement, table 4 in the plan indicates that there is a calculated shortfall of land for 169 homes in the established land

supply (6,248 homes), including windfalls, over the whole plan period.

The main points for the appellants

3.6 A key issue in this appeal is whether there is a shortfall in the five-year effective housing land supply which might justify approval of the proposed development, despite the appeal site's location within the green belt.

3.7 The appellants' assessment of supply is set out in its '[housing land supply schedule 2019](#)' (June 2019). Based on this information, Stirling's current five-year effective housing land supply can be calculated. It is the appellants' case that the current supply is in the order of 3.4 years.

Stirling Housing Land Audit 2018

3.8 It is the appellants' opinion that the Stirling housing land audit 2018 ([HLA 2018](#)) cannot be relied upon for a number of reasons:

- i. As stated in [PAN 2/2010](#), "decisions and assumptions around effectiveness and programming are crucial to the accuracy and usefulness of the data in the audit and therefore merit careful attention" (paragraph 54). Careful consideration should take place as part of the development management process;
- ii. HLA 2018 has not been accepted by Homes for Scotland;
- iii. an audit can only provide a snapshot at a particular moment in time, but LDP policy 2.1 and SPP require a five year housing land supply to be maintained "at all times";
- iv. the council confirmed that the base date of HLA 2018 is 01 July 2018 despite its publication in November 2018. The council's next housing land audit is unlikely to be published until late 2019 (with a base date of 1 July 2019). This means that without any further assessment of the housing supply position as part of the development management process then a decision on this appeal would be based on information which is over 12 months old.

3.9 HLA 2018 cannot be considered either to be recent or a reasonable basis for taking a decision on this appeal and a refresh of the audit must be undertaken as part of the development management process such as the appellant has provided.

Methodology for calculating supply

3.10 There is no standard methodology for calculating the level of effective housing land supply. In HLA 2018, the council has adopted the non-compound approach (i.e. it does not take account of past under supply) for calculating the five-year effective housing land supply. This contrasts with the approach taken in the 2016 housing land audit, and the 2018 LDP itself, both of which do have regard to past under supply.

3.11 The council's approach simply takes the five-year effective supply and divides it by the annual housing supply target from the 2018 LDP to arrive at the supply in years. This ignores past shortfalls in housing completions against planned housing targets since 2010, cumulatively amounting to 1,116 homes.

3.12 The appropriate method of calculation must take into account past shortfalls. Homes for Scotland has also raised concerns with the council's approach. At the examination of the LDP in 2017, the council sought to ignore the shortfall in completions for the period 2010-2015. The reporter disagreed and recommended that the housing land calculation should include the shortfall of completions to be spread over the remaining 12 years of the 2018 LDP period up to 2027. This resulted in an increase in the annual housing supply target from 416 homes per annum to 461.

3.13 The appeal should adopt the same method as the LDP, otherwise there will be a disjuncture between the plan's targets and the assessment of supply. The shortfall should be calculated from the 2010 base date and spread over remaining years to 2027.

3.14 The appropriate method of calculating the five-year effective housing land supply is the compound approach, similar to the one preferred by Homes for Scotland as set out in HLA 2018. The appellants' method takes the total housing land requirement from the LDP minus completions for the plan period, and divides this by the number of years left in the LDP. The five-year effective supply is then divided by this number to arrive at the supply in years.

3.15 The appellants' [comments](#) on the council's response contends that the council has provided no justification for their preferred non-compound methodology, except saying that it is within the HLA 2018. It is not sufficient to simply rely on the council's approach, which is not justified and is disputed by the appellants and Homes for Scotland. There is nothing in government policy (e.g. PAN 2/2010) that obliges the reporter to accept the methodology adopted by the council. If the council's approach is accepted that would require significant justification (per the Inner House in the [Gladman v Scottish Ministers](#)) as it is (a) contrary to the approach in the LDP and (b) would be tantamount to reducing the housing target without any adequate justification, particularly as that issue had just been considered in the LDP examination and the council's case rejected.

3.16 There are also planning appeal decisions which consider the methodology to calculate the five-year effective housing land supply, and whether past completions should be considered in calculating the five-year requirement in the future. These decisions, which are also a material consideration in the determination of this appeal, and which were considered by the Inner House in *Gladman v Scottish Ministers*, are:

- Murieston, Livingston ([report](#) and [decision](#));
- Wellhead Farm, Murieston Road, Livingston ([notice of intention and subsequent decision](#));
- [Hornhill Farm Road](#), Stepps, North Lanarkshire.

Generosity margin

3.17 The council's approach measures the level of housing supply against the housing supply target, rather than the housing land requirement. This means that the level of supply is not targeting to achieve a generous amount of land, effectively reducing the requirement set out in the LDP. At the LDP examination in 2017, the reporter recommended that a margin of 16% should be added to the overall housing supply target to establish the housing land requirement, to ensure that a generous supply of land for housing is provided.

3.18 The appropriate method is to measure against the housing land requirement, for the basic reason that this is the quantum of housing the LDP is based upon and reflects the reporter’s view, in the LDP examination, of what Stirling was required to provide.

3.19 PAN 2/2010 states in paragraph 58 that “Planning authorities should use the information from the audit process to ensure that at all times sufficient effective land is available to meet the housing land requirement for at least the following 5 years”.

Effectiveness and programming of sites

3.20 The appellants’ housing supply assessment has analysed the effectiveness of individual sites in the HLA 2018 and the programming of expected annual housing completions on each of those sites over the next five years, and has reached materially different conclusions. The assessment has been carried out using professional judgement as well as the advice set out at paragraphs 55-58 of PAN 2/2010 (which relate to establishing site effectiveness and programming).

3.21 The assessment shows that there is a five-year effective housing land supply of 2,100 homes, 608 fewer than the equivalent council figure in HLA 2018. The re-assessment is realistic, not pessimistic. However, the council is continuing to overestimate the likely completions.

3.22 Some of the main differences in programming on housing sites over the next five years between the HLA 2018 and the appellants’ assessment are set out below. Most of the difference is from just two strategic sites at Durieshill and South Stirling Gateway, which reflects an over-reliance on difficult, large strategic sites to meet the five-year effective housing land supply, particularly in the core area:

HLA ref.	2018 LDP ref.	Site	Total effective 2018/19 – 2022/23 (HLA2018)	Total non-effective post 2022/23 (HLA2018)	Adjusted total effective 2018/19 – 2022/23 (appellants’ assessment)	Adjusted total non-effective post 2022/23 (appellants’ assessment)
SC074	H057	Durieshill	325	2175	125	2375
SC203	H055	South Stirling Gateway	320	480	193	607
SC206	H059	Cultenhove	95	0	43	60
SC213	H080	Throsk	30	45	0	75
SC252	H069	East Plean	172	328	117	383
Total			942		478	

3.23 Homes for Scotland agreed the programming set out in HLA 2018 but not the methodology. Even so, because the housing land audit is only a ‘snap-shot’ in time, it is perfectly possible that a different view on programming can be taken when, for example, new information comes forward or because of a change in circumstances. The longer the time period since any agreement the more likely that circumstances could have changed, and a different view made on programming.

3.24 The council should be in a reasonably informed position to provide an indication of current programming. It is not dependent on knowing the intentions of private developers. On many of the housing sites there is a live planning application and the information available with these applications might help inform programming. Also, HLA 2018 names Stirling Council as either the developer or joint developer on many housing sites so it should have an awareness of current programming.

3.25 The appellants maintain that a reasonable review of programming of expected annual completions on housing sites can and should be carried out as part of this appeal otherwise the appeal will be determined on out of date information. This would be contrary to the approach endorsed by the Inner House in Gladman Developments Ltd vs Scottish Ministers (2019). An out-of-date housing land audit is not determinative and is also of little evidential value.

3.26 The council's position is without any merit. In its response to the May 2019 procedure notice, the council is also to be noted that whilst maintaining their reliance on HLA 2018, it seeks to provide updated information in terms of windfall sites and current planning applications. This is an inherently inconsistent approach and demonstrates why the appellants' approach should be preferred. The appellants' comments on the specific windfall sites referred to by the council, and sites under consideration, are set out in its [response](#) to the procedure notice in paragraphs 2.7 – 2.32.

3.27 In relation to development at Durieshill and South Stirling Gateway, the appellants' analysis shows that the council has been consistently overly optimistic about housing delivery rates at these two strategic sites, without any justification. The appellants have provided detailed justification for why its programming of housing on these sites should be preferred. The council has highlighted that the current Durieshill planning application is for 3,042 housing units, 542 higher than the LDP allocation. For the purposes of the council's five-year housing land supply, the lower 2018 LDP figure should be used. The higher amount has not been endorsed by the council and has not been fully tested.

3.28 A further error in the council's figures are derived from its flawed approach to windfall sites. Some sites in the HLA 2018 are not allocated for housing in the 2018 LDP, so qualify as windfalls. It is estimated these amount to 68 homes on 10 sites in the claimed five-year effective housing land supply. However, as the HLA 2018 already makes an allowance for windfall sites of 35 homes per annum, this appears to be double-counting. It is also unclear how demolitions have been taken into account on relevant sites.

Calculations to establish the five-year effective housing land supply

3.29 The calculation, using the compound method and based on the housing land requirement (which adds a 16% generosity margin), and based on the appellants' assessment of site effectiveness and programming in the HLA 2018 as of June 2019, results in an effective housing land supply of 3.4 years. Using the same approach based on HLA 2018, there is an effective housing land supply of 4.4 years.

3.30 For reference, three further calculations based on different scenarios and methods have been provided. If the reporter agrees that the compound method should be used, but a generosity margin should not be applied, there would be an effective housing land supply of 4.0 years (using the appellants' site assessments) or 5.2 years based on HLA 2018.

3.31 Using the non-compound approach, based on the annual housing supply target of 416 homes established in the 2014 LDP and referred to in the 2018 LDP, the effective land supply would be 5.0 years or 6.5 years, when using the appellant’s assessment of sites or HLA 2018 respectively. If an annual housing supply target of 461 is used, as specified in the 2018 LDP, this would result in an effective housing land supply of 4.5 years or 5.9 years, again dependent on whether figures from the appellants’ assessment or HLA 2018 are used.

Airthrey Kerse completion rates

3.32 The previous reporter (at paragraph 2.30 of the report to Scottish Ministers), estimated that a maximum of 175 houses on the appeal site would contribute to the current shortage in the five-year supply of land. The appellants disagree with this finding and considers it underestimates likely supply.

3.33 The annual housing completions presented in response to the procedure notice dated May 2019 are considered robust and fully justified, and replace all previous estimates. They are based on development by two house builders and a registered social landlord, and are set out in the table below:

	2019 Year 1	2020 Year 2	2021 Year 3	2022 Year 4	2023 Year 5	Total effective (2019 to 2023)	Total (post 2023)
Phasing (Units)	0	0	50	125	125	300	300
Zones			1a	1b, 1c	1c, 2a, 2b		

3.34 The appellants have reviewed the anticipated phasing of the proposed development, and is detailed in the accompanying schedule (in appendix 3 of the [response to matter 2](#) in the procedure notice). This sets out pre-development tasks, construction and sales over the life of the construction. The schedule demonstrates that within four years, the development will deliver 175 new homes (no infrastructure thresholds) and by 5 years, 300 new homes (linked to a new primary school).

Conclusion

3.35 The appellants’ case is that the five-year effective housing land supply figure which should be adopted by the reporter is 3.4 years, representing 69% of the housing supply target. This is the most up-to-date housing land supply position and equates to a shortfall of 945 homes over the relevant period under consideration. The Airthrey development would help address this shortfall. This is a serious and pressing shortfall in housing land supply which should be a very weighty consideration in favour of both a speedy decision on this appeal and a positive one.

The main points for the council

3.36 The council’s most up to date assessment on housing land supply is the 2018 housing land audit ([HLA 2018](#)), published in November 2018.

3.37 The HLA 2018 identified that the council has an effective supply of 2,708 units which equates to 6.5 years supply. The council's methodology for calculating the 5 year supply is set out below. The programming of sites within the HLA 2018 was agreed in full with Homes for Scotland with no disputed sites.

A	5 Year Effective Programming (from HLA 2018)	2,708
B	Annual Housing Supply Target (as set out in 2018 LDP)	416
C (B x 5)	5 Year Housing Supply Target	2,080
D (A/B)	Years supply	6.5

3.38 In line with the guidance in PAN 2/2010 the council produces the HLA on an annual basis to get a 'snapshot' of the land supply at that point in time. The base date for the HLA is 01 July. The 2019 audit will commence on this date with developer intention surveys issued to landowners, agents or developers of all sites with a capacity of 4 units or more. It is expected that the next audit will be completed by the end of 2019.

3.39 As preparation of the 2019 audit has not yet commenced, the council is unable to comment on the intentions of all private developers with regard to the latest programming information for their sites. It is standard practice to rely on the latest agreed audit until it has been updated. In this regard, the council maintains the position as set out above with reference to its current effective land supply.

3.40 In terms of planning activity since the audit was prepared, the council has a number of residential sites under consideration or recently approved that have the potential to, or are expected to, enter the 5 year land supply for the housing land audit 2019 (HLA 2019).

3.41 As of the 20 May 2019, the council has approved 6 windfall applications for residential development totalling 44 units that will be added to the HLA 2019.

3.42 Whilst the HLA 2019 will confirm the status and programming of all sites within the audit, the council notes that there are currently seven applications under consideration (not including planning permission in principle applications) for allocated sites, including two detailed applications for South Stirling Gateway (297 of a planned 800) and one at Durieshill (3,042, 542 more than the 2,500 allocated). Both are large-scale strategic allocations within the 2018 LDP.

3.43 In addition a number of windfall applications for a total of 46 units are currently under consideration, that if approved may enter the supply.

Reporter's findings

Methodology to calculate housing supply

3.44 There is not one single, definitive approach for how the housing land supply situation should be calculated. The appellants and council have both presented different overall approaches, the fundamental difference being whether or not the number of housing completions in past years should be taken into account when establishing the five-year effective supply target, against which the current adequacy of the effective supply of land may be determined.

3.45 The way in which the housing land supply should be calculated is not specified in national or local policy, and so Scottish Ministers are free to apply either approach in determining this proposal, based on the circumstances of the case and the evidence presented by parties; whichever approach is ultimately favoured, there is a need for the choice to be clearly justified. On this basis, in my findings below I have set out what I consider to be the relative merits of each approach. At the end of the chapter, having considered other variables which may affect the calculation, I have set out how both approaches affect the calculated five-year effective housing land supply situation.

3.46 The council favours what is referred to in submissions as the ‘non-compound’ approach. This establishes the required five-year effective supply simply by multiplying the annualised housing supply target by five. This approach is often referred to elsewhere as the ‘average’ method, but I have adopted the same terminology used by parties in this case, for the avoidance of any confusion. The appellants favour the ‘compound’ approach (more commonly referred to as the ‘residual’ method). This takes account of the number of completions in past years during the plan period, and adjusts the annualised and required five-year effective supply accordingly to reflect any previous deviation from the annual target specified by the LDP.

3.47 Both approaches bear relation to the 2018 LDP. Turning to the non-compound approach first, the council has used the annualised housing supply target of 416, which is identified in table 2 of the LDP. This is one-seventeenth of the housing supply target for the overall 17-year plan period of 2010 to 2027 (which is 7,072). By multiplying this annualised figure by 5, the council has established that 2,080 homes would be required to be built over the next five years.

3.48 The council’s explanation of why it considers the non-compound approach to be the most appropriate is limited to a reference to the 2018 housing land audit (HLA 2018), where the same calculation of supply is favoured by the council. In HLA 2018 itself the council goes only a little further in justifying its use of the non-compound approach, stating on page 14 that:

“The precise method of calculation is disputed, with varying approaches being demonstrated across Scotland at both local and national level, and the private sector”.

3.49 It goes on to state:

“At the time of publication (of HLA 2018) there was no finalised guidance from the Scottish Government in place. This audit utilises the calculation method as outlined in the Planning Performance Framework”.

3.50 Whilst there is no standardised or preferred approach to the calculation of supply set by national policy, this in my view reinforces the need for a clear justification to be provided for whichever methodology is favoured. However, the explanation provided by the council does not set out a clear case for why the non-compound approach ought to be preferred, but instead relies on the fact that policy does not stipulate the approach to be followed.

3.51 In my view, a significant limitation with the non-compound approach is that by taking no account of the shortfall in past completions against the council’s annualised housing

supply target, past shortfalls are essentially 'written off'. If the annualised housing supply target is not adjusted to reflect the shortfalls that have occurred since 2010, the required five-year effective housing land supply is not adjusted. As such, there may not be sufficient effective land to accommodate housing required over the remainder of the plan period, in addition to the housing completions required but not delivered in previous years.

3.52 The appellants have asserted that the council has used this non-compound approach because it provides a lower housing supply target, which in turn makes it easier to identify a five-year effective housing land supply. Whilst there is little value in me speculating over the council's basis for preferring the non-compound approach, there is no doubt that its effect is as described by the appellants.

3.53 Unless future years between now and 2027 (the end of the plan period) over-perform in terms of housing completions, the non-compound approach reduces the likelihood of the overall housing supply target of 7,072 being achieved. This is because it potentially delays, or even prevents, the triggering of policy responses (as set out in Scottish Planning Policy paragraphs 125 and 33, and LDP policy 2.1) to facilitate the release of additional sites, where a shortfall against the required five-year effective land supply exists.

3.54 The council's reliance on the non-compound approach does also appear to have some inconsistency with the LDP. Whilst, as noted above, table 2 identifies a housing supply target of 416 homes per annum, the same table then makes adjustments based on completion figures during the 2010 – 2015 period. Due to completions being less than required during the 2010 – 2015 period (relative to the target of 416 each year), in LDP table 2 the remaining housing supply target to 2027 is adjusted upwards by a corresponding amount, which is then split equally across remaining years to provide an annualised figure (to 461 homes rather than 416). Despite this, no explanation has been provided by the council over why it favours an approach which deviates away from what would appear to be its adopted position in the LDP.

3.55 Turning to the compound approach favoured by the appellants, I consider that this provides a closer alignment to the LDP than the non-compound approach, given that table 2 of the plan accounts for past completions, adjusting the annual housing supply target upwards from 416 to 461 for this reason. In support of its position, the appellants have highlighted that the LDP's approach, accounting for past completions adopted by the LDP, is the compound approach which they advocate. If Scottish Ministers support this approach, logic dictates that the adjusted annual housing supply target of 461 ought to be adjusted again to also reflect subsequent completion figures for the subsequent three years (2015/16 – 2017/18) detailed in the 2018 housing land audit (HLA 2018).

3.56 The appellants have drawn attention to HLA 2018 and the fact that Homes for Scotland would not agree the council's non-compound approach. HLA 2018 therefore presents calculations using the council's favoured approach in table 9a on [page 14](#) (taking no account of any previous shortfalls, using an annual housing supply target of 416). The compound approach advocated by Homes for Scotland (without any generosity margin applied, which I return to below) appears in table 9b of the HLA for comparison. The difference between the respective five-year effective supply targets generated by each approach is marked. The non-compound approach gives a figure of 2,080 homes, whilst the compound approach increases this to 2,626 homes (a difference of 546).

3.57 The appellants have referred me to other appeal decisions where reporters have favoured the compound approach. A recent Court of Session judgement ([Gladman Developments Ltd vs Scottish Ministers](#)) has also been submitted, which considers matters relating to such calculations and the considerations to be taken into account in appeal decisions.

3.58 I have reviewed the appeal decisions submitted by the appellants. I acknowledge that, in those specific cases, the findings support the appellants' favoured approach in this appeal. There may of course be other cases where the opposite may be true. In any event, the submitted appeal decisions do not irrefutably confirm what should be taken to be the 'correct' approach to the calculation; they are simply examples of where a particular approach has been favoured.

3.59 In the Murieston, Livingston case (DPEA reference PPA-400-2067) the reporter noted that there was, at the time of the [report](#) dated 20 June 2017, no approved guidance which specified how the required five-year effective housing land supply should be calculated. This remains the case. The reporter recognised that an approach which takes account of previous completion shortfalls is the most commonly used, but also identified this matter as essentially a policy issue for Scottish Ministers. In paragraph 3.98 of her report, the reporter stated "It would be open to Scottish Ministers to conclude which methods were the most appropriate for establishing the 5-year effective supply". The reporter also recognised that in certain economic circumstances, an approach which takes account of past shortfalls may not be the most satisfactory. In making their [decision](#) dated 16 August 2017, Scottish Ministers adopted the reporter's conclusions and recommendations for their own purposes, without elaborating further upon methodological options.

3.60 The Wellhead Farm appeal (PPA-400-2071) related to the same council area as PPA-400-2067 (West Lothian), with the reporter's [notice of intention](#) being issued on 13 November 2017, less than three months after Scottish Ministers' decision on the foregoing appeal. The reporter acknowledged that whilst he was not bound by previous decisions, they were material considerations. Where findings of fact were made in other appeals, this was recognised as being evidence in the appeal before him. Whilst some different evidence was presented, the situation being considered by the reporter in regard to housing land supply was very similar to that endorsed by Scottish Ministers in PPA-400-2067. In these circumstances, I consider it would have been surprising if an alternative approach to the calculation of the five-year effective supply had been favoured in this case. However, the reporter still recognised that he was not bound by previous decisions on planning appeals.

3.61 In the [Hornshill Farm Road](#) appeal (PPA-320-2118) in North Lanarkshire, in a notice of intention dated 17 November 2017 the reporter supported an approach which took account of past shortfalls in annual completion rates. The reporter's assessment was clearly based on the specific evidence before him; there was no suggestion that an alternative approach could not be contemplated. Indeed, the absence of a requirement to follow a specific policy approach was alluded to by the reporter.

3.62 All told, rather than setting a precedent which must be followed, I find these appeal decisions simply affirm the need to consider which calculation method would be most appropriate in the circumstances of the specific case. The terms of the Court of Session judgement also does not dictate that a particular approach must be followed when calculating the five-year housing land supply requirement. It does though make clear that

whichever approach is followed, it must be justified and where appropriate may be distinguished from other approaches in other cases.

Generosity margin

3.63 In addition to the need to take account of past shortfalls when calculating the required five-year effective housing land supply, the appellants' position is that the calculation should include a 16% uplift, to reflect the generosity margin applied to the housing supply target in the LDP, which generates a plan period housing land requirement of 6,417 homes. The council has not commented on the appellants' position, but it has not applied a generosity margin to its calculation so it is a fair assumption that the council takes an opposing view to the appellants in this regard.

3.64 When considering whether the calculation should be measured against the housing supply target or housing land requirement, it is helpful to consider their respective functions and purpose.

3.65 The housing supply target is defined in the glossary of Scottish Planning Policy (SPP) as "the total number of homes that will be delivered". Paragraph 115 of SPP elaborates further, which identifies the housing supply target as the number of homes the council has agreed to deliver over the periods of the development plan. It makes clear that the figure should be reasonable, taking account of wide-ranging considerations relating to sustainability and deliverability. It also states that the housing supply target should be reflected in the local housing strategy.

3.66 The housing land requirement is generated by adding a margin to the housing supply target, which SPP paragraph 116 states should be between 10 and 20%, to ensure a generous supply of housing land is provided. This provides flexibility and also some scope for some sites to not come forward as envisaged during the course of the total plan period, without this jeopardising the achievement of the housing supply target. It is principally therefore a development planning tool. In paragraph 117, SPP clarifies that the housing land requirement may consist of a wide range of sites, which do not necessarily have to be effective currently but can be expected to become effective.

3.67 This last point is an important one. In paragraph 123, SPP explains the need to maintain a five-year effective land supply, and outlines how this should be achieved. As paragraph 117 identifies that the housing land requirement may be met, in part at least, with sites which may not currently be effective, it seems to me that it would be incompatible with SPP to add a 16% generosity margin when calculating the required supply, when only effective sites may be taken into account for that period. It is a five-year effective land supply which must be maintained, but in adding a generosity margin to the calculation, this would inflate the figure without also broadening the criteria for the types of sites that may contribute to achieving the increased figure, as envisaged by SPP.

3.68 As all sites must be effective in order to contribute to the five-year effective housing land supply, I find it would be unjustified to base the calculation of the current required supply on the housing land requirement. In light of this, the housing supply target, adjusted to take account of previous shortfalls as discussed above, is in my opinion the most robust approach to take in this appeal. In reaching this conclusion, I also draw some support from HLA 2018 and the preferred calculation of Homes for Scotland in table 9b. Whilst Homes for Scotland supported the compound approach, its calculation was based on the adjusted

housing supply target and did not add any further generosity margin.

Effectiveness and programming of sites

3.69 I already have before me the council's 2018 housing land audit (HLA 2018) and the appellants' assessment of the housing supply situation of June 2019, derived from but 'updating' HLA 2018. I can see no practical way of meaningfully or credibly undertaking my own standalone assessment of the effectiveness and programming of all the sites which feature in these submissions, which would be necessary for such an approach to be relied upon. It would in effect require me to replicate the audit process, outlined in planning advice note 2/2010 ([PAN 2/2010](#)) which is unachievable and disproportionate in determining a single appeal. This level of scrutiny is most properly directed to the housing land audit process itself, and where necessary, local development plan examinations.

3.70 It is however appropriate for me to test the robustness of the different evidence being relied upon by the appellants and council. It would also be legitimate to reach conclusions which do not align with either HLA 2018 or the appellants' reassessment, if there is evidence which would justify such a position.

3.71 The appellants have asserted that the findings of HLA 2018 cannot be relied upon, principally because of the time which has passed since the audit was undertaken, and because it considers the programmed housing completions on several sites to be unrealistic.

3.72 Any housing land audit, regardless of when it was undertaken, can only ever be a snapshot of the current housing land supply situation. I do recognise that with the more time that has passed since its production, the more potential there is for the supply situation to have changed, but I also consider it important to take a pragmatic approach and acknowledge the limitations of being able to refresh this information every time an individual planning application or appeal needs to be determined.

3.73 I consider that in normal circumstances, a published housing land audit can be accepted as up-to-date for the purposes of individual development decisions, where it was produced within the last year. This is because both PAN 2/2010 and Scottish Planning Policy expect that housing land audits should be produced annually, thereby indicating that they can be considered to be up-to-date where an annual cycle is adhered to.

3.74 Stirling's 2018 housing land audit (HLA 2018) was published in November 2018. Therefore, my assessment contained in this report has been undertaken comfortably within the twelve month window, within which I consider HLA 2018 should be accepted to be up-to-date, unless there are compelling reasons to conclude otherwise.

3.75 I note that the 'base date' for the audit is stated by both the appellants and the council to be 01 July 2018, as this was the date developers and landowners were requested to provide programming information. However, this would have then subsequently taken time to compile, review, and reach agreement over what could be deemed to be realistic programming for each site. Given the iterative nature of the audit process, I consider its publication date of November 2018 to be a more appropriate base date to rely upon.

3.76 The appellants have dismissed the programming of a number of sites in HLA 2018 as unduly optimistic. I return to the appellants' own assessment of June 2019 below, but in

regard to HLA 2018, I attach weight to the fact that in terms of site programming, complete agreement has been reached with Homes for Scotland. If the (presumably negotiated) programmed completions on any of the sites in HLA 2018 had not been considered to be realistic by Homes for Scotland (which represents the interests of the housebuilding industry), these would have been identified and would have remained as disputed aspects of the audit. The fact that there were no such disputes is, in my opinion, of significance.

3.77 The appellants consider that HLA 2018 is also deficient in its approach to windfall sites, and has asserted that double-counting may be occurring. I accept the appellants' assertion that HLA 2018 identifies some unallocated sites which are, by definition, windfall sites, and these are included in the effective five-year supply.

3.78 I do not agree with the appellants that this suggests double-counting of windfalls. Where development on a specific site is expected to take place within the next five years, whether an allocated or windfall site, it is logical and helpful for the HLA to identify it specifically. The HLA makes a relatively modest allowance for 35 further homes per annum on as yet unidentified windfall sites, which is in addition to any specifically identifiable and demonstrably effective windfall sites captured by the HLA. There is no evidence before me to suggest that such a figure is unrealistic and nor does it strike me as unduly optimistic.

3.79 The reassessment undertaken by the appellants presents a markedly different situation to that of HLA 2018. This is principally because of the changes it makes to the programming of various sites, based largely on professional judgement and notwithstanding the agreed position of HLA 2018. If this reassessment by the appellants is accepted to represent a more accurate and up-to-date position than the official audit, this would have a direct bearing on the adequacy of the effective land supply, and in turn whether or not the adopted development plan policies in respect of housing should be deemed to be out of date.

3.80 I have difficulty with the appellants' contention that the reassessment it has undertaken should be considered to be a more reliable evidence base than HLA 2018. There is only very limited evidence of any developer and/or landowner input, and critically there is no evidence of the council or Homes for Scotland having had involvement.

3.81 No audit or assessment of this kind can be considered to be infallible, as it is always possible to apply assumptions and expectations in a different way. Rather than being an exact science, housing land audits are really a 'best guess', with their credibility generated by the collaborative way in which they are expected (by PAN 2/2010 and SPP) to be produced. By drawing upon all available information, knowledge and experience held by developers, landowners, Homes for Scotland, the council and other relevant parties as may be applicable, an agreed and sufficiently up-to-date audit sets out as robust a picture of the current supply situation as is possible to provide, despite the inherent limitations of the process.

3.82 Where in my opinion the appellants' reassessment therefore falls somewhat short of HLA 2018 in terms of robustness, is that the programming assumptions it uses have not been adequately validated through the collaborative input which is required by PAN 2/2010 and SPP, the importance of which is described above. It has to be borne in mind also that it is in the interests of the appellants for the findings of the reassessment to indicate that HLA 2018 over-estimates the current effective housing supply. Whilst I have no reason to suspect that this has influenced the appellants' programming assumptions in practice, it

emphasises the importance of wider collaboration for the information to be treated as credible and unbiased.

3.83 Ultimately, it is highly unlikely that any audit would prove to be a perfectly accurate prediction of the housing completions that become realised. The appellants' reassessment undertaken in June 2019 has used actual completion figures for the 2018/19 period. I am neither surprised nor concerned that the number of completions in that year (148 homes) differs from what had been envisaged by HLA 2018 (233 homes), excluding an allowance for completions on small sites in both cases. This difference is not, in my view, so great as to cast doubt over the credibility of HLA 2018, particularly again noting the collaborative way in which it was produced and the agreement with Homes for Scotland over the programmed output of all sites. Whilst I would acknowledge that past housing land audits have also to varying degrees over-estimated the speed at which some sites would be developed, aside from the professional judgement applied by the appellants there is an absence of substantive evidence on a site-specific basis to challenge the credibility of the overall five-year programming set out in HLA 2018.

3.84 Both the appellants and the council have referred me to uncertainties and possible outcomes at certain strategic sites, which are not necessarily reflected by the HLA 2018 programme. However, I consider it important that these submissions should not become an unnecessary distraction; in my view it is essential that a base date for establishing the effective supply is used rather than continuously seeking to update the supply figure outwith the HLA process, which is fraught with difficulty and risk. I consider that such submissions reaffirm my position on this point, as they highlight that the housing supply situation can change (upwards or downwards) rapidly, with the appellants' assertion of undue optimism being countered by the possibility of the Durieshill allocated site delivering 542 more homes than previously anticipated. The only way of properly accounting for changes affecting all sites is the housing land audit process, where the necessary scrutiny can be given to site programming, and the cumulative effect of this programming understood.

3.85 I have concerns over another aspect of the appellants' approach to its reassessment. As noted above, the appellants have applied actual completion figures to the 2018/19 period, and so it is not purely a view on what HLA 2018 should have said in terms of programming at the time of its publication. It is based on information gathered subsequent to the November 2018 publication of the HLA, up to June 2019. It must therefore be purporting to be a 'new' assessment, updating the position as the appellants see it, with a June 2019 base date.

3.86 A number of sites have been reprogrammed in the appellants' assessment, reflective of the fact that development has not progressed as envisaged by HLA 2018 during the 2018/19 period. Whilst this is logical in principle (notwithstanding the lack of wider input to inform the reprogramming by the appellants), it would be essential to look ahead over a full five years from the June 2019 base date of the reassessment. However, it only looks ahead to 2022/23, which aligns with HLA 2018 but fails to reflect that the reassessment was undertaken at a later date than the HLA. It is not therefore a five-year forecast, but instead programmes expected completions over four years. This may have had the effect of reducing the expected five-year effective supply.

3.87 All told, I consider HLA 2018 provides the most credible and robust evidence base for establishing the current effective housing land supply, given it is sufficiently up-to-date and contains fully agreed site programming. For the various reasons explained above, I do

not find the appellants' calculations and programming to be as robust as HLA 2018, particularly in light of the lack of involvement and agreement of stakeholders in its production, and the absence of a full five years of programming looking ahead from its June 2019 base date.

Housing supply calculations

3.88 Having considered all the reasonable variables presented by parties, that would influence the calculation of the effective housing supply situation, I have set out below four tables to set out the following calculations:

- Table 1: compound (or 'residual') approach using HLA 2018 information
- Table 2: non-compound (or 'average') approach using HLA 2018 information
- Table 3: compound approach using appellants' site programming
- Table 4: non-compound approach using appellants' site programming

3.89 Scottish Ministers would be open to adopt any of these four approaches. I have not however included calculations to show the effect of adding a generosity margin, as I cannot agree that this would be an appropriate step for the reasons already outlined.

Table 1: compound approach using HLA 2018 information

Step	Description of calculations	Method	Figures
A	Housing supply target 2010 - 2027		7,072
B	Completions (2010/11 – 2014/15)		1,540
C	Completions (2015/16 – 2017/18)		807
D	Remaining housing supply target (2018/19 – 2026/27) (9 years)	A - B - C	4,725
Land supply			
E	Annual housing land supply 2018/19	D / 9 years	525
F	Five-year housing supply target	E x 5	2,625
G	Five-year effective supply (2018/19 – 2022/23)	Programmed in HLA 2018	2,708
H	Surplus (+)/ shortfall (-) in 5-year effective housing land supply	F - G	+83
I	Supply in years	G / E	5.2 years (rounded)
J	% of required five-year effective housing supply met	(G / F) x 100	103%

Table 2: non-compound approach using HLA 2018 information

Step	Description of calculations	Method	Figures
A	Housing supply target 2010 - 2027		7,072
B	Remaining housing supply target (2018/19 – 2026/27) (9 years)	$(A / 17 \text{ years}) \times 9 \text{ years}$	3744
Land supply			
C	Annual housing land supply 2018/19	B / 9 years	416
D	Five-year housing supply target	C x 5	2,080
E	Five-year effective supply (2018/19 – 2022/23)	Programmed in HLA 2018	2,708
F	Surplus (+)/ shortfall (-) in 5-year effective housing land supply	D - E	+628
G	Supply in years	E / C	6.5 years (rounded)
H	% of required five-year effective housing supply met	$(E / D) \times 100$	130%

Table 3: compound approach using appellants' site programming

Step	Description of calculations	Method	Figures
A	Housing supply target 2010 - 2027		7,072
B	Completions (2010/11 – 2014/15)		1,540
C	Completions (2015/16 – 2017/18)		807
D	Remaining housing supply target (2018/19 – 2026/27) (9 years)	A - B - C	4,725
Land supply			
E	Annual housing land supply 2018/19	D / 9 years	525
F	Five-year housing supply target	E x 5	2,625
G	Five-year effective supply (2018/19 – 2022/23)	Appellants' programming	2,100
H	Surplus (+)/ shortfall (-) in 5-year effective housing land supply	F - G	-525
I	Supply in years	G / E	4.0 years
J	% of required five-year effective housing supply met	$(G / F) \times 100$	80%

Table 4: non-compound approach using appellants' site programming

Step	Description of calculations	Method	Figures
A	Housing supply target 2010 - 2027		7,072
B	Remaining housing supply target (2018/19 – 2026/27) (9 years)	$(A / 17 \text{ years}) \times 9 \text{ years}$	3744
Land supply			
C	Annual housing land supply 2018/19	$B / 9 \text{ years}$	416
D	Five-year housing supply target	$C \times 5$	2,080
E	Five-year effective supply (2018/19 – 2022/23)	Programmed in HLA 2018	2,100
F	Surplus (+)/ shortfall (-) in 5-year effective housing land supply	$D - E$	+20
G	Supply in years	E / C	5.0 years (rounded)
H	% of required five-year effective housing supply met	$(E / D) \times 100$	100%

3.90 These tables demonstrate that using three of the four approaches, there is likely to be an effective five-year housing land supply, ranging from between 5.0 and 6.5 years.

3.91 However, table 3 shows that where a compound approach is used, and the appellants' site programming is applied, the effective supply would be likely to fall to 4.0 years.

3.92 In order for Scottish Ministers to conclude that there is currently a shortfall in the required five-year effective housing land supply, it would firstly be necessary to favour the compound approach, to take account of past shortfalls in housing completions since 2010. In my view, the compound approach should be followed in this case. It would recognise past shortfalls and therefore the housing supply target would be adjusted. This in turn increases the required five-year effective land supply, in order to accommodate additional development over remaining years, to assist with making up for previous shortfalls in housing completions. If past shortfalls are not accounted for in this way, I consider it likely that the overall housing supply target for the 2010 to 2027 plan period would not be achieved.

3.93 If the compound approach is followed, as illustrated in tables 1 and 3, the question of which available evidence should be preferred becomes pivotal to the likely existence or otherwise of a five-year effective housing land supply. It is my opinion, based on my earlier findings, that the 2018 housing land audit provides the best available evidence. I am not persuaded that the appellants' own assessment provides a sufficiently robust and credible position, for the reasons explained above.

3.94 All told, I favour the calculation set out in table 1, and I consider it likely on this basis that the effective land supply is currently somewhere in the order of 5.2 years. I do however acknowledge that this is only a modest surplus of 83 units in the five-year effective supply.

Airthrey Kerse completion rates

3.95 LDP policy 2.1, criterion (c), requires that where a shortfall exists, proposals on sites not identified for housing should “Be proven, through detailed supporting information, to be effective and capable of delivery within the 5 year period under consideration”. This is logical because if a proposal would not make any meaningful contribution towards addressing an identified shortfall in the required effective supply, in this regard there would be little benefit to be had from its approval.

3.96 As part of its response to the May 2019 procedure notice, the appellants provided more detailed information than had previously been submitted in regard to how its completion rates had been estimated. In particular, the development programme schedule (May 2019), in [appendix 3](#) of the procedure notice response, gives a clearer breakdown of the considerations and staged applied to the phasing of the development and corresponding annual completions.

3.97 Given the previous absence of detailed information of this nature, I can clearly see why the previous reporter had reached a different view to that of the appellants on the likely completion rates over a five-year period immediately following any granting of planning permission in principle. In his view, a maximum of 175 homes would be able to be completed within five years.

3.98 The appellants maintain that within four years, 175 new homes would be built, and within five years, and linked to the provision of a new primary school if needed (which I discuss later), a total of 300 homes would be built. The remaining 300 homes for which consent is sought would be built beyond the next 5 years (i.e. post-2023).

3.99 Notwithstanding the additional detail provided by the appellants, in my view the programme is ambitious. For example, it anticipates that the required section 75 legal agreement would be concluded during 2019. From experience, even relatively straightforward legal agreements typically take three months or more to finalise and register. In this case, the heads of terms relate to wide-ranging matters, and progress is unlikely to be made on any legal agreement unless and until Scottish Ministers have first indicated that they are minded to grant planning permission. On this basis, the expectation that the legal agreement would be concluded in 2019 is unrealistic in my opinion.

3.100 Similarly, the appellants’ programme allows limited time to resolve some potentially highly complex and challenging infrastructure requirements during 2020, as well as for undertaking a more detailed masterplan stage, which would include public consultation. I consider it likely that at least some of the stages identified in the schedule for 2020 would extend into 2021, noting again that I would expect the legal agreement to take longer to finalise than the appellants anticipate, which would have a knock-on effect for these later stages.

3.101 All told, I consider a more realistic estimate of completions over the next five years would be somewhere in the order of 175 homes. This aligns with the finding of the previous reporter, but my own conclusion is based on the appellants’ programming schedule but allowing for an additional year to complete the pre-commencement stages referred to above.

Housing supply conclusions

3.102 The housing land supply situation is a potentially pivotal matter in this appeal case, as if there is a shortfall against the required five-year effective land supply, Scottish Planning Policy (SPP) stipulates that development plan policies for the supply of housing land should be treated as out of date. Simultaneously, the weight to be given to the presumption in favour of development which contributes to sustainable development established by SPP would also be elevated to a “significant” material consideration.

3.103 However, based on my assessment above I find that the best available evidence shows that there is likely to be a modest surplus of effective housing land, relative to the minimum five-year supply requirement stipulated by SPP. This being the case, the provisions of Scottish Planning Policy paragraph 33 would not be engaged under the terms of SPP paragraph 125; the development plan would not be deemed to be out of date and the presumption in favour of development which contributes to sustainable development would not be attributed additional, ‘significant’ weight in the determination of this appeal.

3.104 In reaching this conclusion, I am mindful that any surplus in effective housing land is minimal. If Scottish Ministers’ find the 2018 housing land audit to be optimistic, or if the appellants’ evidence is favoured, it would be possible to draw the opposite conclusion that there is a greater likelihood of there being an inadequate housing land supply. Scottish Ministers may also wish to note that the findings of the council’s 2019 housing land audit (HLA 2019), expected to be published towards the end of 2019, could alter the position and this could be material to the consideration of this appeal, if it has not been determined ahead of HLA 2019’s publication.

CHAPTER 4: GREEN BELT

4.1 In this chapter, I consider the proposed development's effect upon the green belt, in terms of its role, function and policy protection afforded to it, and also in terms of landscape and visual matters relevant to the green belt.

Summary of evidence

4.2 Whilst the council accepted that, at the time of its decision, there was less than a five-year effective housing land supply, it concluded that the development would have a significantly detrimental impact on the function of the green belt between Bridge of Allan and Causewayhead. This was sufficient for the council to find this outweighed the contribution the development would make to addressing the housing supply shortfall at that time. The council concluded in its reasons for refusal that the development would be contrary to the 2014 local development plan, and that the erosion of the green belt could not be satisfactorily mitigated.

4.3 Policy 1.5 'Green Belts' of the superseded 2014 local development plan had substantially the same wording as policy 1.5 'Green Belts' in the adopted 2018 local development plan (LDP). For this reason, whilst many of the submissions by parties were made under the previous LDP, they remain valid when considering the proposal's policy implications against the 2018 LDP.

4.4 Both the superseded and adopted versions of policy 1.5 refer to supplementary guidance ('SG: Green Belts'). Presently, this supplementary guidance has not been adopted as part of the 2018 LDP and therefore does not form part of the statutory development plan.

4.5 In support of the original planning application, a landscape and visual impact assessment ([LVIA](#)) (September 2014) and an LVIA [addendum](#) (March 2015) were provided. These had a broader scope than assessing landscape and visual effects solely relating to the green belt, but are still of direct relevance to this more specific matter.

4.6 During the course of this appeal, the appellants submitted a document entitled 'Planning appeal green belt report – [landscape and visual matters](#)' (dated June 2016).

4.7 In response to the May 2019 procedure notice, the appellants also provided some [commentary](#) on the policy provisions relating to green belt in the adopted LDP.

4.8 In addition to the above, the possible allocation of the appeal site for development has been considered through two development plan examinations, in relation to both the proposed 2014 LDP ([Issue 41, H056 – Airthrey Kerse](#)) and the proposed (and now adopted) 2018 LDP ([Issue 27](#) on page 177).

The main points for the appellants

4.9 The appeal site lies within the designated green belt in the 2018 LDP, as it did in the 2014 LDP.

4.10 Policy 1.5 (Green Belts) of 2018 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. It goes on to state that development in the green belt will only be supported where it supports diversification of the rural economy and is for the purposes of agriculture, woodland, forestry and/or horticulture uses; recreational uses compatible with an agricultural or natural countryside setting; essential infrastructure or re-using redundant rural vernacular buildings. Support may also be given to single houses in the green belt.

4.11 The 2018 LDP settlement statement for Stirling states that, “Green Belt is designated around the city in order to protect the setting of Stirling and support improved access to the countryside and recreational opportunities”. The development plan does not mention other roles or functions of Stirling’s green belt. Neither does the Bridge of Allan settlement statement. Policy 1.5 also states that supplementary guidance (‘Green Belts’) supports this policy by outlining the main objectives of the designated green belts and their core role and function. Currently, this aspect of the policy does not apply as there is no such statutory supplementary guidance in place.

4.12 The appeal proposal would result in reduction of the green belt between Stirling and Bridge of Allan. In their [report](#) to Stirling Council, council officers estimated a 30% reduction in the total area given over to ‘functional’ green belt (paragraph 3.16). Council officers concluded though that visual separation between the two communities would still exist over the majority of the site and the creation of the parkland would serve to reinforce this. Officers also concluded that 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 (paragraph 3.17).

4.13 Policy 1.5 is a development plan policy for the supply of housing land, in the context of SPP. In light of this, in the event of a shortfall in 5-year effective housing land supply, Policy 1.5 would be rendered out-of-date, triggering the SPP “presumption in favour of development that contributes to sustainable development” (paragraph 33). The effect of this would be that policy 1.5 should carry significantly less weight in the determination of the appeal.

4.14 In view of the reasons for refusal it is considered that one of the principal determining issues in this appeal is the impact of the development on the green belt. The appellants’ case is that the proposed development will not undermine the core role and function of the green belt in this location.

4.15 The site is considered to have capacity to accommodate the scale of the development and the core values of the green belt would not be materially affected. The development will enhance public access into the green belt and the impact of green belt erosion can be satisfactorily mitigated. The development would also provide a confident and long term edge to the urban form which would result in a stronger green belt being defined.

4.16 The key theme running through the relevant policy, spatial strategy and guidance is that while the sensitivity of the site is recognised in terms of potential coalescence and retaining the separation and identity of Stirling and Bridge of Allan, it is clear that the site also has potential to contribute to strengthening the northern edge/gateway to the city, provide open space links within green networks and form sustainable, accessible development close to existing communities. The carse has historically always been a location for growth due to its accessibility and capacity to accommodate development.

There is also recognition that the development has the potential to help facilitate and absorb the necessary new Kildean link road and rail crossing.

4.17 Mitigation of the impact of development in respect of the green belt, referred to in the council's reason for refusal 2, is addressed through the conclusions of the LVIA addendum and the proposed planning obligations and conditions. Condition 1 (in Appendix 2 of this report) requires the submission of a masterplan to provide details on the design and function of the open space, including the public park, revised development layouts and details on building design and materials, with the opportunity for further refinement and consideration of these matters providing suitable mitigation of the impact of the development in respect of the green belt. Conditions sourced from the LVIA addendum and development framework will satisfactorily mitigate the impact of the development on the green belt and ensure that the development meets the tests of circulars [3/2012](#) and [4/1998](#).

4.18 The landscape of the Airthrey Kerse is not subject to designation and although high quality landscapes are found in the surrounding areas, the Airthrey Kerse itself is not considered to be of high quality. Although the character of the carse landscape in a localised area between Causewayhead and Bridge of Allan will change in the process of development, the relative qualities of the landscape are such that the release of part of the green belt in this location for high-quality urban development and parkland is considered acceptable, with the retention of areas of higher quality/value carse to the west of Stirling. It is considered that the development maintains and enhances distinctive landscape character. Green spaces, landscape planting and SuDS are proposed through the development to integrate the site with the local character and setting. The development will improve the setting and gateway at the northern edge of Stirling and strengthen the existing settlement edge (which is accepted as being a relatively poor edge to the settlement).

4.19 The proposed development is in a sustainable location and addresses the core objective of the green belt to prevent development in inappropriate locations. There is a clear preference within the spatial strategy for housing development within the Stirling 'core area', within which the development is located. Its location in the core area itself necessitates some development within the green belt due to the tightly drawn boundaries. For this northern part of the Stirling green belt, the conclusion is the purpose of the designation is to direct development to the most appropriate locations, protect and enhance the character, landscape setting and identity of the settlement(s) and protect and provide access to open space, which is achieved by the development.

The main points for the council

4.20 The development does not comply with the green belt policies of the development plan.

4.21 The council's LDP supplementary guidance [SG03](#) in relation to green belts (which was adopted as part of the 2014 LDP and which is currently not statutory supplementary guidance supporting the adopted 2018 LDP) states at paragraph 2.4: "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".

4.22 At paragraphs 3.5 and 3.6, SG03 states: "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 in between Bridge of Allan and Causewayhead/Stirling, ensures their separate identities are maintained and access to open space in this area can be enhanced”.

4.23 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 proposed 2014 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”.

4.24 It is clear the green belt in this area has an important function in maintaining separation between Causewayhead and Bridge of Allan and also protecting important views to and from Stirling. The development, and associated erosion of the green belt, would have a significantly detrimental impact on that function, to the extent that it would be largely removed.

Reporter’s findings

4.25 The appellants do not dispute that the proposed development would be contrary to policy 1.5 of the adopted 2018 LDP. The appellants do, however, assert that where there is a shortfall in the five-year effective housing land supply, the policy would be rendered out of date, whilst Scottish Planning Policy paragraph 33 and the presumption in favour of development which contributes to sustainable development would become a significant material consideration.

4.26 SPP paragraph 125 states that: “Where a shortfall in the five-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date, and paragraphs 32-35 will be relevant”. Policy 1.5 together with the LDP proposals map together delineate and restrict development in the green belt between Bridge of Allan and Causewayhead. The restrictions the green belt designation place on the land are not specific to residential proposals, but apply to any form of development, save for the very limited specific exceptions listed by the policy. However, I consider that in the context of this appeal, the green belt policy 1.5 has a significant bearing upon the overall acceptability, in policy terms, of the use of the land for the development proposed.

4.27 The appellants have contended that if a shortfall in the five-year effective housing land supply exists, policy 1.5 should be regarded as out of date. However, I consider this would apply an unduly generous interpretation of the scope of paragraph 125, which applies specifically to policies for the supply of housing land. I accept that policy 1.5 has a bearing upon the supply of housing land, but this is not the primary purpose of the policy. The policy’s purpose is more broadly focused on safeguarding the role and function of the green belt. In my view therefore the policy should be regarded as up-to-date, even in the presence of an effective housing land shortfall.

4.28 If Scottish Ministers were to take a different view on this matter, and should a shortfall in effective housing land also be found to exist, in these circumstances I still do not consider it possible for the proposed development to mitigate the conflict that it generates with policy 1.5. Even if it was possible to conclude that the development would have a minimal bearing upon the integrity, role or function of the green belt, the degree of conflict

with the policy would not be reduced, as it would not be possible to satisfy the overarching premise of the policy, which is to preserve the openness of the undeveloped land. In my view there should be no opportunity through this appeal to draw into question the appropriateness of, or justification for the green belt designation, given it is afforded protection in a recent statutory development plan. I accept that the green belt is within the 'core area', but taking the provisions of the LDP as a whole, it is evident that in normal circumstances this does not provide any increased scope for permitting encroachment into parts of the core area identified as green belt.

4.29 Notwithstanding this, it is important (and particularly so in the event that Scottish Ministers find there to be a shortfall against the minimum required five-year effective supply of housing) to consider the nature and extent of the proposed development's physical impact upon this area of green belt's value as undeveloped land. An assessment of the physical effects of the development upon the green belt is necessary to reach an overall planning balance.

4.30 The specific purpose of the green belt between Bridge of Allan and Causewayhead is not expressly outlined by the adopted development plan, as the policy places reliance on supplementary guidance to outline the main objectives of the different areas of green belt in the Stirling area. The supplementary guidance referred to is yet to be adopted alongside the 2018 LDP, and so 'SG03: Green Belts' is non-statutory.

4.31 I see no reason why SG03 should not be relied upon, despite its non-statutory status, in regard to understanding the reasons for the green belt designation in and around the appeal site. This is because the content of SG03 does not alter the fact that the green belt designation applies, and nor does it have a bearing on the policy protection it is afforded by LDP policy 1.5. It simply provides greater clarity behind the policy decision to identify the area as green belt.

4.32 SG03 refers to the importance of this area of green belt in protecting the respective settings and identities of Bridge of Allan and Causewayhead/Stirling, and views of important landmarks – notably Wallace Monument and Stirling Castle. It also refers to the opportunity to enhance access to open space in the area. These intentions are consistent with those more broadly expressed in the LDP, taking the Stirling settlement statement and policy 1.5 together, which recognise the role of the green belt in protecting Stirling's setting, providing access to the countryside, and preserving the openness of green belts.

4.33 The perception of the development's encroachment into the currently pastoral land separating Bridge of Allan and Causewayhead would differ on each side of the site. My findings have been informed by extensive site inspections in the vicinity of the appeal site, as well as visiting locations where wider vistas are available, including from the Wallace Monument (LVIA viewpoint 6), Drumbrae (LVIA viewpoint 8) and Craig Gullies (LVIA viewpoint 2), using the visualisations and other material provided by the appellants.

4.34 The development would be highly visible from Airthrey Road, immediately to the east of the site, given its slightly elevated position with open views across the carse. An intervening scheme of planting and landscaping would be capable of softening the visual effect from Airthrey Road, but this would be highly unlikely to reduce receptors' awareness of the development, and the environmental statement addendum identifies significant effects for some receptors along parts of Airthrey Road, generated by the development. Whilst the encroachment onto previously undeveloped land would be obvious in views from

Airthrey Road, it would relate well to Wallace High School, and whilst it would extend the built extent of Causewayhead, I consider that the intervening open space (comprising both of the proposed parkland and remaining agricultural land outwith the site) would potentially be capable of avoiding the perception of coalescence in the immediate vicinity of Airthrey Road. This to a large degree would depend on the precise nature of the proposed parkland, as a formalised or structured appearance would still contrast strongly with the agricultural character of the land that currently provides a strong sense of separation between the settlements. That said, the character of Airthrey Road could not fairly be described as 'rural' currently, given the presence of street lights and other street furniture, footways and a variable awareness of development including the University of Stirling campus immediately to the east.

4.35 Visual coalescence would be likely to be discernible in wider views of the development, looking southwest from Airthrey Road, where there would be very little perception of separation between Bridge of Allan and the western part of the development, although the intervening distance and unobstructed more distant views would lessen the impact. Importantly, the prominence of Stirling Castle in this view would be uninterrupted. These points are illustrated in the photomontage for viewpoint 1.

4.36 In views north from Easter Cornton Road, currently there are uninterrupted views across the green belt towards Bridge of Allan. As the appeal site boundary extends across the full length of Easter Cornton Road (east of the railway), the change here would be particularly marked. However, whilst views would be immediately curtailed by the new development, it would not be possible to observe the extent to which the new development would extend northwards beyond Easter Cornton Road across the carse. Consequently, I do not consider this visual change (as represented by viewpoint 3), whilst clearly significant in its own right, would generate any sense of coalescence having occurred.

4.37 The perception of coalescence would however be particularly apparent from the footpath which runs between the western boundary of the appeal site and the railway (as shown in LVIA viewpoint 4). Along this route there is a strong sense of openness and a rural character provided by the green belt land, and consequently the route provides a high level of amenity. I find the development would fundamentally alter the experience of using this route, as there would be no break in development between Causewayhead and Bridge of Allan. I consider it likely also that the open vistas of Wallace Monument would be at least partially lost at points along this route. Consequently, the sense of coalescence, loss of openness and amenity currently provided by the green belt would be significant along this route.

4.38 Beyond the railway from Cornton Road, the impact would be less pronounced. The railway itself provides a hard boundary edge and undeveloped land between Cornton Road and the railway would remain, as would wider views of Wallace Monument and the Ochil hills. The position of Cornton Vale prison, on the west side of Cornton Road, already results in a lack of separation between Cornton and Bridge of Allan along Cornton Road, but this in itself does not diminish the sense of openness in views to the east.

4.39 From the north there are only very limited public views looking south across the site (except from Airthrey Road discussed above). There are many individual residential properties which would have views of the development, but the policy protection given to the green belt does not extend to safeguarding the interests or amenity of individual

residents. In any event, I am satisfied that there is no potential for residential visual amenity to be significantly affected by the development, due to the separation distances involved.

4.40 The full extent of the development would be much more appreciable in wider, elevated views. In the panoramic views available from Craig Gullies (viewpoint 2), the extent of development relative to the remaining green 'gap' would create a strong impression of a single urban area rather than there being two distinct settlements. I find that this effect would not be quite as marked from the Wallace Monument (viewpoint 6), as the remaining undeveloped area of the carse, together with the proposed parkland, would maintain a more perceptible visual separation in this shorter range and important view.

4.41 As referred to in paragraph 4.32 above, the role of the green belt designation is not only focused on maintaining the setting and identity of individual settlements, but also to provide access to the countryside and recreational opportunity. The area of green belt potentially affected by this proposal does not itself offer any public access or recreation opportunities; the amenity it provides in this regard relates entirely to the views of and beyond the carse from the routes around its periphery discussed above.

4.42 In terms of this specific green belt objective, and given the current lack of access through any parts of the appeal site, I consider that the development offers an overall enhancement to recreational opportunities. The proposed parkland would be easily accessible from southern areas of Bridge of Allan and parts of Causewayhead beyond the new development.

4.43 Through further written submissions, I sought information on whether these communities currently had any deficiencies in open space provision. The council has provided 'settlement opportunity plans' for [Bridge of Allan](#), [Causewayhead](#) and [Cornton](#). I accept that this evidence indicates that these areas have generally satisfactory accessibility to, and quality of, open space provision, although I note that access to parkland is limited at both Causewayhead and Cornton. Overall, I find the proposed open space would provide an enhancement to provision in the area. However, whilst access and recreational opportunities are a green belt objective, the enhancement offered by the development is of negligible importance relative to the overarching policy objective of preserving the green belt as undeveloped land.

Conclusions

4.44 The proposal directly conflicts with policy 1.5 of the adopted LDP, by virtue of its siting entirely within the green belt between Bridge of Allan and Causewayhead. Whilst the site is in the core area identified by the LDP, this does not override the policy presumption against development in the green belt.

4.45 In the event of there being less than a five-year effective housing land supply, whilst the policy conflict would not be able to be avoided or mitigated, in these circumstances it would become a question of whether the policy conflict, and loss of green belt, would become capable of being outweighed by other considerations (as part of wider overall planning balance). This balancing exercise would therefore also require careful examination of the precise nature and extent of physical effects upon this area of green belt.

4.46 Although I find that the development would maintain some degree of separation between Bridge of Allan and Causewayhead, the remaining area of 'undeveloped' agricultural land would in my view be on the cusp of itself appearing somewhat incongruous given the otherwise urban/suburban setting it would be seen in, should this development go ahead. Taken in the round, I find that the contribution this area of the carse makes to the setting and identity of the settlements it relates to would be significantly compromised, although the retained agricultural land and proposed parkland would avoid a complete impression of coalescence. On this basis, I consider the overall integrity of this area of green belt would be permanently weakened, but not lost altogether.

4.47 In reaching this view, I have had regard to the many representations made which stress the importance of the green belt in this location, including the consultation responses which make a similar case, from the community councils and Scottish Natural Heritage, as summarised in chapter 1.

CHAPTER 5: FLOOD RISK AND DRAINAGE

Summary of evidence

5.1 A [flood risk assessment](#) dated August 2014 and a flood risk assessment [addendum](#) dated February 2015 were submitted ahead of the determination of the planning application by the council.

5.2 The appellants also submitted the following documents in support of the proposal, again ahead of its determination by the council:

- [Briefing note](#) (January 2016) providing an operation and maintenance statement on the approach to managing surface water;
- [Technical note](#) (January 2016) outlining an alternative outfall route for the drainage system;
- [Correspondence](#) relating to the operation and management of a surface water management system;
- A [legal opinion](#) on the operation and maintenance strategy;
- [Supplemental information](#) dated March 2016.

5.3 A [review](#) of the flood risk assessment was undertaken by consultants Mouchel for the council in October 2015.

5.4 The main points for the parties are summarised below. Other consultation responses and representations that are salient to the consideration of flood risk (such as those from the Scottish Environment Protection Agency and the council's flood officer) are referred to in my findings.

The main points for the appellants

5.5 The flood risk assessment (FRA) and the FRA addendum was prepared following best practice guidance and recognised industry standards to meet legislative requirements.

5.6 Flood mitigation and surface water management are required to allow development and reduce existing flooding issues. A detailed flood alleviation and SuDS proposal has been assessed. This has demonstrated that:

- The proposed development will improve the flood risk of the site as indicated by the drainage impact assessment, which has demonstrated that the site can be drained effectively without increasing the risk of flooding to sites elsewhere.
- The development provides the opportunity to effectively mitigate existing flood risk.
- The development will not cause an increase in floodwater displacement up to and exceeding the 1:200 year event plus climate change. Therefore the site will not increase the flood risk to the surrounding area.
- The drainage concept includes for significant betterment of existing flood risk, improvement of surface water sewer capacity and improved management and control of flood waters.

5.7 The FRA adopts a precautionary approach to flood risk. Development areas have been established through the FRA process and are outwith the functional floodplain, designated as the 1:200 year extent, consistent with Scottish Planning Policy (SPP). The

proposed surface water drainage system is based upon the principles of sustainable drainage systems (SuDS), adopts a strategic approach to the whole site and is located within areas of low-medium risk of flooding, compliant the flood risk framework defined in the SPP.

5.8 No land raising within the flood plain is proposed or required and there is no piecemeal reduction in the functioning flood plain. There are, however, developable areas outwith the 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, a lochan, wetland areas and swales before being discharged into culverts to exit the site.

5.9 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. 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.

5.10 The submitted documentation was extensively reviewed by Stirling Council, as the flood risk authority, including an independent external technical review by Mouchel commissioned by Stirling Council. In addition SEPA provided advice and a review of the documentation. All of the review information has been submitted as part of the appeal process. All these parties have agreed a consistent conclusion that the drainage concept for the site is viable. The extensive assessment and review process concluded that the proposed development, as regulated through the proposed planning conditions, would not result in flood risk issues and is consistent with the LDP policy framework and SPP in delivering betterment to the local area.

5.11 The relevant community councils and other representations have raised concerns that a layer of clay just beneath the surface of the site (referred to as a 'clay cap') could be breached by the development, and that artesian water could be released if this confining layer of clay is compromised, presenting a significant flood risk.

5.12 The ground investigation report undertaken by BAM Ritchies for Network Rail (dated 15 July 2016) was submitted on behalf of the community councils in May 2019. It is the community councils', and subsequently also the council's, contention that this report casts doubt over previous survey information and assessment. SEPA has confirmed that it does not consider the representations or further information provided in the BAM Ritchies report adversely affect the conclusions of the FRA (2014) and FRA addendum (2015). It is noted within SEPA's response that the BAM Ritchie report focuses on a small section of the site, and for purposes potentially other than that of supporting residential development.

5.13 It is considered that the information provided within the FRA and FRA addendum submission (and as audited through the council's external review), based on previous groundwater monitoring and investigations on the site, is in fact further corroborated by the BAM Ritchies report, specifically with respect to superficial aquifer zone depths and groundwater table levels.

5.14 Studies conducted in support of and as referred to in the FRA and FRA addendum confirm that water intercepted during on-site borehole investigations is not artesian and that there remains significant amount of confining material below the proposed development areas, specifically within the lochan / SuDS basin location. Borehole investigations conducted adjacent to the location of the proposed SuDS basin indicate that the basin would be underlain by 5.4 metres of very silty clay, leaving between 70 and 80% of the confining cover intact. Given that the proposed depth for the lochan is approximately 2.10 metre below existing ground level (with a bed level of 7.40 metres above ordnance datum), there remains significant separation from the base of the lochan to the hydraulically conductive sandy gravel soils. Statements by the community councils regarding the potential interception of groundwater through onsite excavations are not considered as accurate. Groundwater encountered at depths of approximately 1.00 metre below ground level, noted in the BAM Ritchies report, are considered to be representative of minor, unconfined perched aquifers sitting within sandy materials above the main aquifer's clay confining layer.

5.15 The community councils have raised concerns over the performance of the proposed SuDS basin. All design elements pertaining to the quantification and acceptance of proposed discharge rates and positions of control structures will be provided as part of the full detailed design for the SuDS basin / lochan. This will also be submitted to all relevant undertakers for consideration and approval, including Scottish Water. These designs will also be consistent with and in full consideration of industry best practise requirements for the management of surface water drainage. However, it is considered that the information used in the definition of the conceptual surface water drainage strategy is accurate and will be further confirmed within this detailed design phase, including the confirmation of appropriate discharge locations and rates from the SuDS basin.

5.16 Whilst the concerns of the community council, as expressed within their correspondence, highlights the requirements for further analysis for the detailed design stage (which has always been the case), it is considered that the information presented does not contradict or nullify the information previously presented and accepted for the proposed development and associated surface water drainage strategy. It is therefore proposed that the detailed design can proceed at the appropriate time after permission is granted.

5.17 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 School 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.

5.18 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 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.

Maintenance and operation

5.19 Given the characteristics of flood risk on the site and the public interest in the development, the council requested an outline of the approach which will be maintained if the proposed drainage and flood risk mitigation (the 'water management scheme') is not adopted by the council. It is proposed that the water management scheme is regulated through the licencing process which exists under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 ("CAR licence"). The water management scheme will be secured by a CAR licence and implemented in perpetuity through the owner-manager model.

5.20 It is proposed that the CAR licence will be held by the landowners as the 'responsible person' in terms of the 2011 regulations. This way, the ultimate responsibility for the water management scheme (including the liability for the maintenance of the drainage and SuDS) will rest with the landowners. The day-to-day operation and maintenance obligations will be the responsibility of the manager. The CAR licence and provisions for the delivery of the water management scheme agreed with the council will also provide for independent and professional monitoring and maintenance. In addition, the monitoring will also provide an overview of any need for asset replacement. Inspection/audit reports prepared as part of the ongoing monitoring will be issued to the council for review on an annual basis.

5.21 A planning obligation under section 75 of the Town and County (Planning) Act 1997 could be used to address:

- the construction and ongoing maintenance of the water management scheme;
- 'step in rights' in favour of the council to allow it to directly intervene in the implementation of the water management scheme, should this prove necessary in the event of a default;
- the provision of a bond in favour of the council as security for any non-performance and to address the costs of exercising the step in rights. It is expected that this would be in place prior to any work commencing on the site; and
- a mechanism for review and replacement of the bond.

5.22 Maintenance of the proposed internal surface water drainage systems and controls will be established and agreed upon within any future adoption agreements, so as to provide a categorical definition on what ongoing maintenance performances and periodic frequency must be observed to maintain system efficacy. This will also be addressed within future detailed design.

Conclusions

5.23 The assessment of flood risk and the design, operation and maintenance of the surface water drainage system were extensively covered through the determination of the application. The risks of flooding to the development site and downstream from fluvial, pluvial and ground water sources have been thoroughly investigated, the surface water management plan is deliverable and will provide a significant reduction in the risk of flooding currently being experienced in nearby areas. SEPA's latest flood map reflects the conclusions of the flood risk assessment and the external review commissioned by Stirling Council.

5.24 It is considered that the legislative context and all guidance requirements of flood risk and detailing of surface water drainage are up to date and consistent with the current requirements for assessment for proposed developments. It is not considered that there are any major, or material changes, to the baseline information or conditions which would necessitate further revision to the previously accepted assessment information. Current SEPA flood mapping data is consistent with the FRA and FRA addendum.

5.25 In his [report](#) to Scottish Ministers, the previous reporter concluded that the concerns of local residents, particularly in relation to flood risk, have been carefully considered and 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 (paragraph 8.8). In reaching this conclusion, the reporter found that two matters count in favour of the proposed management of strategy; firstly it is designed to reduce flows of water and secondly, drainage from the site to the rivers would be improved (paragraph 4.33). The appellants contend that there is no material basis to depart from these conclusions.

5.26 Based on the responses received and reviewed from Stirling Council, SEPA and the community councils, as reviewed against information provided for within previous procedural notices and as initially presented as part of the site specific FRA and FRA addendum, it is considered that this proposal may be moved forward to proceed with the further development of detailed submission required for the development.

The main points for the council

5.27 The appellants have suggested 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 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.

5.28 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.

5.29 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. Those are not however 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 of the development.

5.30 Primary policy 5 of the 2014 LDP states that development proposals on areas shown to be at risk of flooding on SEPA flood maps should be avoided. 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.

5.31 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 600mm 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.

5.32 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. The flood officer also noted during the meeting of the council on 23 March 2016 that there was some doubt as to whether the development could be considered sustainable. 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 and 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.

5.33 This highlights the importance of the successful implementation of the 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 ongoing 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.

5.34 It is considered that the points raised in the further representations could have a potential impact on previous advice given and on the FRA/SuDS.

5.35 Based on the factual evidence from the borehole data provided as part of the original planning application submission, the proposed drainage was considered technically feasible. However, new borehole information from investigations adjacent to the site provide significantly different results to the previous submission, changing the baseline.

5.36 This is not to say that the submitted information was wrong, but that it was not necessarily representative of the whole site. The new information casts into question the technical feasibility of the proposed drainage. In light of this new information, groundwater conditions should be re-assessed to include locations where proposed drainage features are planned to be located. This would reduce uncertainty of spatial variability and allow technical feasibility of the submitted drainage proposals to be determined.

5.37 There has been no subsequent flooding of note since the application was submitted. However, the borehole data from Network Rail suggests there is potential for a large local spatial variability in groundwater levels, which was not previously indicated within the limited groundwater information submitted as part of the original planning application. Updated information on groundwater conditions is required.

The main points for the community councils

5.38 The community councils for Bridge of Allan and Causewayhead have together highlighted its view that the findings of the flood risk and drainage impact assessments do not reflect local knowledge of ground conditions, the challenges of drainage on the site, and the causes and effects of local flood events. There is significant concern that the development will lead to flooding at existing properties in proximity to the site.

5.39 In their combined submissions, the community councils challenge a wide range of technical aspects of the proposed outline approach to water management on and around the site.

5.40 There is concern over the thickness of the 'clay cap' that confines artesian groundwater beneath. There is potential for the development (including the SuDS scheme) breaching this layer and causing flooding.

5.41 The Network Rail/BAM Ritchies drill reports are the only independent results available for the site of the proposed development. The appellants have had test drills done but the findings never made public. The importance of the report is highlighted because the agencies tasked with examining the flood risk assessment and drainage impact assessment all bear the caveat that their reports are based on information supplied by the appellants. The BAM Ritchies report identifies water at a depth of approximately 1 metre. These findings discredit the appellants' drainage scheme. The BAM Ritchies drilling report is important in that it could be the deciding factor in any development.

5.42 All the main drainage is proposed to be discharged under the railway line, but it is unclear whether Network Rail would allow this. This may be a fundamental constraint to developing the site.

Reporter's findings

5.43 There is no doubt that the hydrology of the site is relatively complex, and inevitably this gives rise to a need for a complex and extensive suite of measures to ensure that the proposed development would not be at risk of flooding, as well as ensuring that the flood risk at existing properties outwith the appeal site is not worsened by the development.

5.44 There has been heavy criticism, principally by the community councils for Bridge of Allan and Causewayhead, in regard to the accuracy and appropriateness of a wide range of

survey data, calculations, proposals and assumptions behind how the appellants envisage an overall water management scheme for the site could be successfully implemented. The appellants have sought to rebut these criticisms whilst at the same time highlighting that a detailed water management scheme would be a requirement of conditions attached to planning permission in principle.

5.45 I consider this latter point to be crucial in this case. There have been extensive submissions made by the appellants, which seek to demonstrate that the development is capable of going ahead without adverse flood effects and to show that there is a hydrologically achievable drainage solution. It is not however, and nor does it purport to be, a fully developed, detailed flood management and drainage scheme which is sufficient to remove all doubt that a satisfactory solution is achievable.

5.46 It must be borne in mind that the appeal relates to an application for planning permission in principle. Consequently, it is entirely legitimate for the appellants not to have sought to provide a final fully developed water management scheme, in much the same way that (for example) the precise layout, designs and types of the proposed housing remains unconfirmed.

5.47 If planning permission in principle was granted, the onus would remain with the appellants to develop a detailed scheme to manage flood risk and drainage, which would separately need to be determined and which would need to be fit for purpose in order to be approved. With a suitable legal agreement and conditions in place, the granting of planning permission in principle would not reduce the ability to resist the development taking place unless and until it had been demonstrated that the proposed flood and drainage infrastructure would function effectively.

5.48 The need for a detailed water management scheme to be developed and approved is an important and significant safeguard when assessing this 'in principle' appeal. On this basis, and as a detailed scheme has not been put forward for approval, I find that it is appropriate to restrict consideration of the proposal in this regard to establishing whether the site would be inherently unsuitable, and/or subject to insurmountable constraints affecting the site, which could render its development as unacceptable or otherwise clearly unachievable.

5.49 I attach weight to the position of the Scottish Environment Protection Agency (SEPA), given its responsibilities as strategic flood risk management authority. SEPA provided a detailed [technical response](#) to the proposed development in February 2016, on the basis of which it confirmed its position of no objection.

5.50 In paragraph 17 of the SEPA response it states that:

“In summary SEPA is satisfied that the risks of flooding to the development site from fluvial, pluvial and groundwater sources have been thoroughly investigated and the proposed areas of built development will be limited to those parts of the site with no significant risk of flooding”.

5.51 It goes on to state later in the same paragraph that:

“The main features of the [water management] scheme will be the wetlands which will intercept and store floodwaters on the site and release these waters in a

controlled manner such that they will not pose a risk of flooding to the proposed development and should provide a significant reduction in the risk of flooding currently experienced in nearby areas, for example in Easter Cornton Road”.

5.52 SEPA confirmed its position that it was also content for the water management scheme to be designed in detail subsequent to planning permission in principle being granted, which should also include careful consideration of maintenance and management arrangements.

5.53 The advice of the council’s [flood officer](#), to which I also attach weight, and which notably was also informed by an independent review by a consultancy appointed by the council, also concluded that the concept for the water management scheme would be hydrologically achievable. The findings of the flood officer were broadly consistent with those of SEPA, whilst noting that there would be inherent residual risks associated with the mitigation of flood risk by using engineered storage and mechanical means of restricting outflows.

5.54 I appreciate that the foregoing responses were both caveated as being based on the accuracy and completeness of the submitted information. This is a key element of the community councils’ objection to the scheme, which asserts that the accuracy of the evidence presented by the appellants should not be relied upon and therefore this undermines the confidence which should be had in the consultee responses. In seeking to illustrate this issue, a ground investigation report by BAM Ritchies, commissioned by Network Rail (to establish ground conditions in relation to constructing a road bridge over the railway) was submitted by the community councils.

5.55 In light of the information contained within the BAM Ritchies report, which the community council assert shows groundwater to be significantly closer to the surface than indicated by previous survey results, and other representations made by individuals in respect of flood issues, I sought further written submissions from [SEPA](#), the [council](#), the [appellants](#) and [community councils](#). This was in order to establish whether the report or other submissions cast doubt or contradicted the appellants’ submissions. I also specifically sought clarity from the council’s flood officer and SEPA on whether the submissions affected their previous advice.

5.56 As outlined above in the main points for the council, it is the council’s view that the borehole results in the BAM Ritchies report provide significantly different findings than previous borehole results. Consequently, the council considers that further assessment should be carried out to reduce uncertainty over the spatial variability of groundwater conditions across the site, so that the feasibility of the proposed drainage arrangements can be determined.

5.57 In contrast to the council’s response, the further submissions from SEPA confirm that neither the BAM Ritchies report, nor any other further representations, affect the conclusions of the flood risk assessment and its addendum. In paragraph 1.3 of its response, SEPA state that “...we would make the point that the ground investigation report undertaken for Network Rail was undertaken for a purpose different from that of residential development of the larger site and it is focussed on only a small area of the application site”. SEPA’s response goes on to confirm that it finds no reason to alter its previous advice.

5.58 The appellants' response to the procedure notice, and subsequent [comments](#) on the responses of other parties, provide a more detailed technical assessment of the BAM Ritchies report findings. The main substance of the appellants' case in this regard is that the findings of the BAM Ritchies report are consistent, rather than contradictory, with its own survey findings. The presence of water at a depth of 1.0 – 1.2 metres below ground level is not considered to be artesian (under positive pressure); water identified at that depth would have been a superficial, unconfined aquifer.

5.59 All told, I am satisfied that sufficient survey work has been undertaken by the appellants to demonstrate that, in principle at least, an effective water management scheme focused on managing drainage and mitigating flood risk, would be achievable on the site. The BAM Ritchies report illustrates that precise ground conditions will vary from point to point, but I do not consider its findings differ greatly from the appellants' own survey work, and notably not to the extent that would lead me to doubt the overall conclusions drawn by the appellants, SEPA, and the previous position of the council's flood officer.

5.60 I find it significant that the weight of evidence broadly corroborates the appellants' position, notwithstanding the council's most recent submissions and the wider-ranging concerns of the community councils in regard to its deliverability. I readily acknowledge that some uncertainties over aspects of its design will remain until a detailed scheme has been formulated, but I do not consider this should itself be a barrier to the potential granting of planning permission in principle. As I have already stated above, development would not be able to commence unless and until an effective, detailed water management scheme had been expressly approved.

5.61 In my view it is also of significance that the water management scheme is anticipated to offer an overall improvement to the current flood situation locally. The fact that the final scheme would likely rely on mechanical interventions does require maintenance responsibilities to be established securely, and I consider the appellants' proposed approach, if secured through a legal agreement, would be capable of providing the certainty needed that the system would be effectively managed and maintained in perpetuity. Further safeguards would be provided outwith the planning process, through the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

5.62 The anticipated need for a new outfall to be installed beneath the railway would require the agreement of Network Rail. This is not material to my assessment however, and it is common for there to be various further agreements and consent, subsequent to planning permission being granted, to be sought ahead of development being able to progress.

5.63 On the basis of the above assessment, I conclude that the development would accord with primary policy 5 (flood risk management) and policy 3.2 (site drainage) of the adopted LDP, insofar as is possible for an 'in principle' application of this nature, and subject to the imposition of a range of conditions and a legal agreement referred to above which reflect the advice of SEPA and the council, outlined in appendices 1 and 2 of this report.

CHAPTER 6: TRAFFIC AND TRANSPORT

Summary of evidence

6.1 Chapters 5 and 3 respectively of the environmental statement and its addendum identified the predicted traffic and transport effects of the proposed development.

6.2 A [development testing report](#) (May 2015), [transport assessment](#) and [addendum](#) (November 2015) were provided by the appellants.

6.3 The council commissioned an independent audit of the transport submissions made in support of the planning application, with the appointed consultants publishing a [technical note](#) in December 2015.

The main points for the appellants

6.4 The site and proposed development have been the subject of extensive assessment into traffic impact, with key submissions comprising of a transport assessment, the independent audit commissioned by Stirling Council through WSP, Stirling Councils' transport development team leader's subsequent [submission](#) on the application dated 23 February 2016, and the EIA.

6.5 Consistent with the 2014 LDP policy 3.1 (Addressing the travel demands of new development) key considerations of the proposed development were:

- a) to ensure a safe and realistic choice of access to the development
- b) the impact of the development on the accident risks at Cornton Road and Easter Cornton Road railway level crossings
- c) to minimise the impact of development traffic on: Causewayhead Road and the junction along Causewayhead Road with Airthrey Road\Alloa Road, Cornton Road and Clock (Customs) Roundabout and residential streets in Causewayhead and
- d) that the development pays regard to allocations included in the LDP with the Kildean to Cornton road link and Network Rail's aspirations to remove the Cornton Road ('Cornton 1') road level crossing and Easter Cornton ('Cornton 2') pedestrian level crossing, replaced with a road bridge.

6.6 This is a significant development proposal which was not included within LDP and therefore not included within the local transport strategy. As such, the transport assessment defined the future baseline against which traffic impact of the proposed development was to be assessed.

6.7 The development could be accommodated within the existing (and proposed) road network but subject, firstly, to appropriate mitigation at key junctions and roundabouts and secondly, planning conditions which set thresholds over which additional residential units can only progress once key infrastructure is completed. This relates to the replacement of the two level crossings with a new bridge before more than 450 residential units can be built, consistent with Network Rail's [representation](#).

6.8 To minimise the impact of development traffic, consistent with the key transport considerations, a series of thresholds for offsite infrastructure improvement relating to the following road junctions were therefore proposed through the council's audit process:

- a) mitigation to the Airthrey Road/Alloa Road/Causewayhead Road junction after 250 residential units;
- b) improvements to the Cornton Road/Causewayhead Road junction after 450 residential units;
- c) improvements to Custom Road roundabout after 450 residential units; and
- d) access onto Easter Cornton Road from the development will be restricted to emergency access only until Cornton 2 (footpath) railway crossing has been replaced, to minimise the impact of development on residential streets in Causewayhead.

6.9 Consistent with the provisions of primary policies 3.1 and 3.3 of the 2014 LDP in relation to transport planning and developer contributions, and then adopted supplementary guidance 14, the officer's [report](#) to council of 23 March 2016 included traffic and transport developer contributions within a proposed section 75 agreement to cover a pedestrian and cycle improvement plan, bus and rail improvement plan, upgrading the three junctions referenced above and a developer contribution to the city transport strategy (paragraph 3.107). Additionally, the proposed section 75 agreement addressed Network Rail requirements that if a primary school were built prior to the provision of a road bridge and closure of Cornton 2 crossing, then the level crossing would be replaced by a fully accessible pedestrian bridge at the expense of the developer, the design of the new bridge to be approved prior to commencement.

6.10 The treatment of developer contributions and planning conditions in relation to the mitigation of traffic impact is consistent with the tests set out in Circulars 3/2012 and 4/1998 dealing with planning obligations and conditions.

6.11 The conclusions presented by officers and their advisors to committee were consistent with guiding principles of the Scottish Planning Policy in relation to sustainable transport planning and the transport policies within the LDP, that the characteristics of the proposed development have been carefully considered, that the impact could be mitigated and the site is a sustainable location. No technical evidence has been presented to challenge these conclusions.

6.12 In its [response](#) to matter 3 of the May 2019 procedure notice (and subsequent [comments](#) on other parties' responses), the following main points were made for the appellants:

6.13 The appellants are not aware of any developments or infrastructure in the study area that would materially change the baseline situation presented within the submitted transport assessment. Planning consent typically lasts for a duration of three years before expiry, meaning that construction for developments which have gained consent does not have to commence for three years, which is comparable to the current change in programme for the appeal proposal. The modelling exercise that was undertaken clearly demonstrates how the development phasing relates to required mitigation at different phases. The sequential 'step-by-step' provision of mitigation at the identified junctions is unlikely to change as a result of any changes in background traffic levels since the model was produced.

6.14 The main elements that are likely to have a bearing on the findings of the transport assessment are considered to be:

- Delivery of the Kildean link road, and how the timetable aligns with the proposed phasing at Airthrey.
- Network Rail's plans for the Cornton level crossings, specifically the intention to upgrade Cornton 1 level crossing to full barrier control (rather than half-barriers as currently) which would lead to increased barrier downtime.

6.15 The safety risk at both of the Cornton level crossings has been considered within the transport assessment, and suitable mitigation set out in the proposed conditions.

6.16 Capacity analysis at the Cornton 1 crossing has tested future scenarios with increased 'downtime' as a result of the full barrier solution. The worst-case tested, where two trains pass in close succession, found that the predicted increase in queuing was not considered to be significant. The TA addendum considered a barrier down time of 8 minutes, and found the additional impact of the development to be modest and not significant.

6.17 The capacity of the local road network has been assessed, and the transport assessment demonstrates that 450 units can be accommodated without a road bridge in place if the proposed mitigation measures at three key junctions are implemented.

6.18 The Kildean link road remains a committed development in the LDP. The proposed conditions provide flexibility for the appeal proposal to proceed alongside the first phases of the link road, and to tie into phase 2, which would link Cornton Road and Airthrey Road.

6.19 The proposed heads of terms and planning conditions which identify suitable thresholds for mitigation measures, remain valid.

The main points for the council

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

- (a) The existing road network is already under pressure and the development would exacerbate difficulties currently faced by pedestrians and cyclists.
- (b) A previous proposal to place traffic lights on the Union Street roundabout was trialled and abandoned within a matter of weeks.
- (c) The widening of the Alloa Road (westbound) would result in the loss of parking spaces which are important to local businesses.
- (d) Traffic lights on the Causewayhead roundabout will result in congestion and would not allow large vehicles, such as buses and HGVs, to turn right.
- (e) The development would 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.

6.21 In [response](#) to the May 2019 procedure notice, the council made the following main points in regard to the traffic and transport implications of the appeal proposal.

6.22 There have been material changes, in that Network Rail's proposal for a bridge over the railway is not proceeding, having been withdrawn. Network Rail are proceeding with a

full barrier system of control at Cornton 1 level crossing, which may have a bearing on the surrounding transport network's ability to accommodate the development.

6.23 The cancellation of the bridge project and the subsequent introduction of a full barrier system at Cornton Road may increase delay and lead to re-routing of traffic on the local road network which has not been assessed as part of the submission. It is therefore not clear at this time if the proposed development can now be accommodated on the local road network without significant detriment to existing users as a consequence of the cancellation of the bridge project.

6.24 The proposed development may intensify the identified safety risk presented by the existing level crossings as a consequence of the cancellation of the bridge project.

6.25 The transport assessment conclusions and previously proposed conditions may be affected by the cancellation of the bridge project. Appropriate further technical analysis would be required to demonstrate the validity or otherwise of the transport assessment conclusions and associated planning conditions.

6.26 The cancellation of the bridge project has the potential to impact on the deliverability of a complete connection from Kildean to Airthrey link road in that Network Rail will no longer be delivering this part of the project. Funding for this element of the link road now needs to be found from alternative sources.

The main points for Network Rail

6.27 In order to ensure the proposed development will not adversely impact on the efficient and safe operation of the railway, Network Rail would have no objection to this proposal provided that a range of identified issues are dealt with by condition, as set out in its responses, relating to safeguarding land for a bridge over the railway and capping development at 450 dwellings until a bridge is in place; and to require that if the school is built with a catchment extending west of the railway, prior to provision of a road bridge and closure of Cornton 2, then the level crossing must be replaced by a fully accessible pedestrian bridge. Conditions and legal agreements requiring the implementation of measures to secure a reduction in car usage are sought, to ensure that the development would not adversely impact on already heavily subscribed parking in and around Stirling and Bridge of Allan stations.

6.28 In [response](#) to the May 2019 procedure notice, the main points by Network Rail were as follows:

6.29 With the proposed upgrade of the Cornton 1 level crossing (which is designed to reduce railway risk to an acceptable level), the barrier downtime will change and may impact on traffic movement on surrounding roads. To facilitate understanding of the impact of the barrier down time on local roads Network Rail will be recalculating the down time taking account of timetabling; changes in signalling in the area etc. The Network Rail – [Route Specification Scotland](#) document was published in 2017 and demonstrates that there will be an increase in the frequency of trains on this route (Page 13-15). With any resultant increase in frequency of trains there is likely to be an increase in the barrier down time. This will be factored into the recalculation of barrier down time.

6.30 The times input into the modelling on which the transport assessment, as amended and updated, may therefore change. As the assumed timescales for implementation of the Airthrey Kerse development may also now have changed the traffic generation impacts of that may require to be remodelled.

6.31 The lack of a road bridge was previously identified as limiting development to 450 units to avoid an adverse impact on the Cornton 1 crossing. Network Rail strongly recommends that the model is re-run to understand the impacts of the likely change in development timescales and potential change in background traffic.

Reporter's findings

6.32 Policy 3.1 ('Addressing the travel demands of new development') in the adopted 2018 local development plan identifies considerations and expectations in regard to how travel demands should be minimised and managed. With this in mind, it is important to not only consider how (or indeed whether) the additional traffic generated by the development could be accommodated, but also whether the site itself is sufficiently accessible to reduce travel demands and to ensure that residual demands can safely and realistically be met through a range of modes, including cycling and walking. I consider this broader point first.

6.33 The site is, in its entirety, beyond the built extent of Causewayhead. Some physical separation from Bridge of Allan would also largely be preserved. However, in my view the site relates sufficiently well to these settlement centres for one or both to be easily accessible from all parts of the development, by walking or cycling. Whilst access to Cornton would also be relatively easy via the Cornton 2 level crossing, the safety risks involved with that crossing mean its use is undesirable. I note however that there are no obvious attractors in Cornton, except possibly the bus stops on the opposite side of the railway to the development. I return to the level crossings issue later in my findings below.

6.34 The proposed neighbourhood centre, which would include convenience retail floorspace and a medical hub, would reduce the need to travel to some degree. Despite this and the availability of services and facilities in Bridge of Allan and Causewayhead centres, inevitably residents of the proposed development would need regular access to destinations further afield. Stirling city centre, and the railway stations at Bridge of Allan and Stirling are obvious potential destinations.

6.35 Airthrey Road is well served by existing bus services, particularly to and from Stirling city centre, and I consider this would provide a good standard of accessibility by public transport for the development. There would be scope to improve this further, such as through the positioning of bus stops and possible re-routing into the development. A requirement to explore and develop such opportunities could be secured by condition.

6.36 Bridge of Allan railway station is located on the far northwest side of the town, and is therefore positioned considerably further away than the recommended walking distance of 800 metres (being approximately 2.5 km away at its nearest point from the site). The information provided by the appellants in the transport assessment also identifies that the bus services from Airthrey Road (and Cornton Road, noting again the undesirability of encouraging use of the Cornton 2 level crossing) passing Bridge of Allan railway station are much fewer and less frequent.

6.37 I am mindful of the representations which have highlighted the existing car parking problems at Bridge of Allan railway station, which state that the car park is often full to capacity, leading to a knock-on effect of problematic parking on surrounding residential roads. During my unaccompanied site inspections I visited the station and nearby roads, and I did witness some evidence of this. Similarly, both the council and Network Rail have identified this issue.

6.38 In my opinion there is considerable scope to improve accessibility to Bridge of Allan railway station through the implementation of various measures including a travel plan (which itself should identify measures), and a proposed programme of improvements to encourage and facilitate journeys by walking, cycling, bus and rail.

6.39 More broadly, these measures should prove effective in achieving the policy 3.1 requirement to provide safe and realistic access options which do not rely solely on the private car. I attach weight to the advice of the council's [transportation team](#) which considers a reasonable choice of access to the development would be achieved, subject to a range of conditions to secure the delivery of various improvement plans and other measures. I too consider that subject to such measures being secured by condition, the development would be well connected and accessible by a range of modes of travel.

6.40 Notwithstanding all of the above, a major development of the scale proposed would inevitably lead to some degree of traffic generation. The potential effects of this on the local road network have been assessed by the appellants, and a range of measures to mitigate the impact of the additional traffic generated by the development have been proposed.

6.41 The council's [submissions](#) in support of its decision to refuse planning permission refer to specific local constraints to implementing proposed mitigation measures. Concerns over the impact of traffic generated by the development also feature heavily in representations. I find it to be of significance that the independent audit of the transport assessment, undertaken for the council, having critically assessed the appellants' findings, recommended no objection subject to conditions and securing a contribution towards the city transport plan. This audit included, amongst other things, detailed junction analysis and consideration of the effectiveness of proposed mitigation in different scenarios. The council's internal transport development advice was consistent with the audit recommendation.

6.42 I am satisfied on this basis that the evidence, which has also been subject to scrutiny and testing by suitably qualified transport planning professionals, demonstrates that the local road network is capable of accommodating the additional traffic generated by the development. This is subject to specific mitigation measures being completed, and I consider it to be essential that these are secured using conditions attached to any granting of planning permission in principle.

6.43 One of these conditions relates to limiting the number of dwellings which could be built, ahead of a road bridge replacing the Cornton 1 and 2 level crossings, to 450 units. This is to minimise the risks associated with any intensification of their use, in line with advice from Network Rail and the council's transportation team. As a bridge would also provide a direct link between the proposed development and Cornton Road, this would be likely to reduce the impact of the development on junctions along and via Airthrey Road; it would dilute the amount of traffic using the otherwise sole vehicular access point to the development on Airthrey Road.

6.44 Subject to a bridge being built (which it is important to note does not form part of the appeal proposal), a benefit of the proposed development is that it would deliver the remainder of the link road between Airthrey Road and Cornton Road, planned for in the adopted LDP to be located across the appeal site. This would also form part of a planned wider link to the M9 motorway. Whilst Network Rail no longer proposes to provide a bridge, the wider link road project is intended to be delivered by 2027, and is established in the LDP and City Deal masterplan. In the absence of a bridge (and despite the current lack of certainty over its delivery), I see no reason why planning permission could not be granted for the appeal proposal subject to a condition which restricts the development to 450 dwellings, until such time that a bridge is in place. It would also be important to safeguard sufficient land within the appeal site to ensure a bridge could be accommodated.

6.45 I sought further written submissions to understand the implications of Network Rail's decision to upgrade the Cornton 1 level crossing, rather than to proceed with replacing both level crossings with a bridge as it had previously planned. That decision is a setback in terms of the appellants' potential ability to build all 600 dwellings on the appeal site within a known timeframe. It is also a setback for the delivery of the Airthrey Road to Cornton Road link that is aspired to in the LDP, as an alternative funding source or means of delivery would need to be found. Given the 450 dwelling threshold discussed above, which could be a condition of planning permission, I consider the main matter arising from Network Rail's decision to not proceed with a bridge relates to the possible implications of the increased barrier downtime at Cornton 1 level crossing for traffic conditions locally.

6.46 The appellants have pointed to the transport assessment addendum which considered a scenario where full barrier control was in place at Cornton 1 crossing, alongside 450 dwellings on the appeal site. This concluded that the impact of the development would not be significant, and the local road network could accommodate the traffic generated by the development (with various mitigation measures in place) alongside full barrier control at Cornton 1 crossing.

6.47 No evidence has been submitted which would lead me to question the validity of these findings, and I also note that the conclusions of the transport assessment and addendum had previously been reviewed and accepted as part of the review of submissions commissioned by the council. Despite the passage of time since the assessments were undertaken, the only material change in circumstances presented in submissions is Network Rail's cancellation of the bridge project. As a 'no bridge' scenario has been considered and as development of up to 450 dwellings could still be accommodated in that scenario, I agree with the appellants that the available evidence remains sufficiently up-to-date.

6.48 In the absence of a road bridge, the Cornton 2 pedestrian level crossing would remain in place. The use of this type of crossing presents inherent risks, and I consider that some intensification of its use would be highly likely as a result of the proposed development, given its proximity and as it provides the most direct route for any journeys made on foot to and from Cornton and Stirling centre. Network Rail's concern is that the level of risk at the crossing is not increased. I agree that it would be an unsatisfactory situation if the proposed new primary school (if ultimately required, which I discuss further in chapter 8) had a catchment which extended to the west of the railway, as this would lead to children using the crossing, possibly even unaccompanied. I therefore consider that Network Rail's request for a footbridge to be essential, should such a situation arise, and

this requirement would need to be appropriately secured.

6.49 All told, I am satisfied that the traffic, transport and access implications of the proposed development have been properly assessed, and that subject to mitigation including thresholds for housing numbers, the development could be satisfactorily and safely accommodated. I have had regard to the objections of local residents, who are understandably concerned about the potential traffic impacts, but with the specified conditions and safeguards these would provide, none of the matters raised would lead me to a different view on this matter. Overall, I consider the site to offer a good level of accessibility, which would contribute towards lessening the reliance that residents of the development would have upon private car usage, thereby according with LDP policy 3.1.

CHAPTER 7: ECONOMIC BENEFITS

Summary of evidence

7.1 Assessment and commentary on the anticipated economic benefits of the proposal are principally found in the following documents:

- [Planning statement](#) (September 2014)
- [Economic impact assessment](#) (June 2011)
- Graham's, the family dairy – Investing in Stirling [presentation](#) (March 2015).

7.2 Subsequent to the production of the above documents, the precise investment plans of the dairy business have changed. This is detailed in the appellants' response to matters [1](#) and [8](#) of the May 2019 procedure notice, and captured in the main points for the appellants below.

The main points for the appellants

7.3 It is estimated that the construction phase would generate 116 full-time equivalent jobs and add more than £44 million into the local economy.

7.4 The development proposals are designed to expand the Graham's dairy business, and the resultant on-site and knock-on benefits can play a significant role in growing the local food sector. As a nationally recognised company, and Scotland's largest independent dairy, its continued growth presents Stirling with a range of tangible economic opportunities.

7.5 The appeal proposal has the opportunity to support a key growth sector business and significant local employer, helping to safeguard existing jobs and generate new direct onsite and indirect offsite employment. Furthermore, the development can act as a catalyst to attract new residents which support the existing business base and generate opportunities for new business and employment.

7.6 The proposed development would unlock strategic investment in the Stirling economy through enabling development consistent with the aims of the Overarching Policy (2018 LDP, page 28) and sustainable development criteria, notably SDC11 on creating net economic benefit.

7.7 The sustainable development criteria (SDC) in the 2018 LDP are the same as those that were listed in 2014 LDP except that SDC6 is amended to additionally protect and enhance responsible access to historic and cultural environments and introduces a new SDC11 which states, "Create new economic benefit for the area". Many of the SDC are similar to some of the sustainability principles set out in SPP 2014 (paragraph 29).

7.8 A central purpose of the proposed development is to enable investment in Stirlingshire through the creation of employment opportunities. Initially this was through a proposed new dairy at the Hill of Drip, however due to the prolonged timeframe and uncertainty the determination of this application has caused, alternative investment decisions have had to be made by the appellants due to the dynamic nature of the food and drink sector. This has included product development at processing sites in Scotland such as Cowdenbeath (Fife) & Balmakeith (Nairn). It remains the long-term ambition to build a new dairy at the Hill of Drip.

7.9 However, the opportunity presented by an approval of the proposed development at Airthrey Kerse is to deliver regional scale investment in the food and drinks sector in Stirlingshire. This would include a research and development facility at the Airthrey dairy focused on new product development and low carbon energy, a state-of-the-art new dairy and visitor centre at Kippen and a new rural office complex in the Carse of Stirling (The Mains of Boquhan) to support rural diversification. Combined, these projects could deliver in excess of 250 new full time jobs and associated skills development would be linked to key stages in the build-out of the Airthrey Kerse development and could be controlled through a condition, to require:

- no more than 100 dwellings to be occupied until a new research and development facility at the Airthrey dairy is constructed and ready for occupation;
- no more than 200 dwellings to be occupied until a new dairy at Boquhan, Kippen is constructed and made ready for occupation; and
- no more than 300 dwellings shall be occupied until a new office/industrial complex at the Mains of Boquhan is constructed and made ready for occupation.

7.10 Unlike other residential schemes, the Airthrey Kerse proposals are based on economic development principals, namely safeguarding, securing and growing employment and population levels. It would deliver a step change in investment within the food and drink sector targeting innovation, skills development and job creation within Stirlingshire.

7.11 The residential development plays a crucial cross-subsidy role but more importantly it can attract a talented population as well as providing housing for low income families. The ability to support the university in their development plans, and in doing so supporting the city vision, it is clear that the proposals are grounded in economic development principles.

The main points for the council

7.12 Paragraphs 2.7 and 4.12.10 of the appeal statement refer to the economic benefit associated with a proposed new dairy. 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 reporter and/or 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.

Reporter's findings

7.13 A proposed development of this scale is clearly a significant investment, and the construction phase in particular would provide significant (although ultimately temporary) employment opportunities. In the longer term post-construction, the economic benefits arising from the development would be less tangible. The appellants' economic impact assessment has referred to monies generated by taxation, amongst other factors, but this would be the case for any new development wherever it was located, and I do not consider this to be a material consideration of any weight.

7.14 The appellants' economic case is more fundamentally based on the assertion that the proposed development is necessary to enable investment into the Graham's dairy business. Although the precise nature and location of those investments in the dairy business have changed during the course of the application and appeal process (which I

recognise has been lengthier than would normally be expected), the appellants maintain that the proposal would be an 'enabling development' for the dairy business.

7.15 I consider that the Graham's dairy operations are of importance to the local, regional and national economy, and further investments in the business would therefore reinforce its position in the market. It is reasonable to deduce that such investments should help to safeguard and generate employment, and offer wider economic benefits.

7.16 I have no reason to doubt the appellants' intentions that monies generated by the proposed development, which is the subject of the appeal, would support investments in the dairy business. However, this contention is not in itself sufficient to render the appeal proposal as 'enabling development'. The previous reporter's [report](#) (paragraph 6.1) succinctly explained the concept as follows:

"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."

7.17 Applying the above explanation of the enabling development concept to my own reasoning, I consider that there are a number of factors standing in the way of considering the appeal proposal in these terms.

7.18 Firstly, and despite the contentions of the appellants, there is no evidence before me that provides certainty that the proposed dairy developments will take place if (and, importantly, only if) the appeal proposal is granted planning permission. There are no details before me in regard to the precise nature of the proposed developments relating to the dairy business. I am not aware of any planning permission(s) being in place, nor any application(s) having been made, and I have no other information to indicate whether the sites now being put forward for dairy investment/development would themselves be acceptable in planning terms. There is also an absence of financial evidence to demonstrate that the appeal proposal would address a financial constraint to the dairy investments taking place.

7.19 The absence of any detailed planning proposals for the dairy makes it impossible to accurately assess the potential benefits that they may offer. It is therefore also impossible to either assess whether any disbenefits of the appeal proposal could be outweighed by those benefits, and/or to attach weight to the financial support the appeal proposal would give to the dairy's investment plans, as the case may be. Nor am I able to establish whether such investment plans are financially constrained and reliant upon the appeal proposal being given the go ahead. Consequently, I consider there to be no demonstrable or direct relationship in planning terms, between the appeal proposal and the dairy's plans.

7.20 The appellants have suggested that a planning condition could be used, in order to provide such a link. As proposed, this would set thresholds for the number of homes that may be built ahead of a new research and development facility at the Airthrey dairy; a new dairy at Boquhan, Kippen; and a new office/industrial complex at the Mains of Boquhan. This condition would not however address the substantive matters discussed above, which need to be understood to be able to first conclude that the appeal proposal would be enabling development.

7.21 A positive conclusion that the appeal proposal can be deemed to be enabling development would, in my view, need to be reached before a condition such as that proposed by the appellants would be capable of satisfying the tests for conditions set out in circular [4/1998](#). Specifically, I consider that the condition would not fairly and reasonably relate to the development, and would be unreasonable because it would restrict development without a good planning reason to do so.

7.22 As the condition has been proposed by the appellants, it is relevant to note the terms of paragraph 39 of circular 4/1998, which states:

“An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms. The condition will normally run with the land and may, therefore, still be operative long after the applicant has moved on. It must always be justified on its planning merits.”

7.23 In conclusion, the appellants have sought to promote the appeal proposal as ‘enabling development’ for the dairy’s investment plans. However, it has not been shown how those investment plans are reliant upon the appeal proposal, and given the wide-ranging uncertainties in regard to these plans, I find it would be unreasonable to restrict the development by condition subject to other dairy-related developments first taking place as suggested by the appellants.

7.24 I do not consider the appeal proposal should be considered as enabling development, although I do recognise that as Graham’s dairy is one of the appellants in this case, granting planning permission would be likely to generate substantial monies for the business, which it may then elect to reinvest as currently indicated. Whilst this may be capable of being a material consideration, this reinvestment cannot be guaranteed and the benefits of any such reinvestment are uncertain. This limits the weight which can be given to this consideration quite considerably in my view.

CHAPTER 8: OTHER MATTERS

School capacity

8.1 The description of the proposed development includes a primary school, in order to provide sufficient education capacity locally. This aligns with the 2018 local development plan proposals map, which identifies part of the appeal site immediately to the west of Wallace High School for a new primary school. The site's identification for a primary school by the proposals map is supported by LDP primary policy 3 ('Provision of infrastructure).

8.2 As summarised in chapter 1 above, the council's education service had also supported the approach proposed, stating that "The preference would be for zoning the whole development to a new primary school...", and this would be required by completion of the 200th home.

8.3 I had sought further written submissions from the appellants and council in my procedure notice of May 2019. Under matter 5, I specifically requested details on whether the proposed measures to address education capacity remained appropriate. The council's [response](#) altered its previous position, stating that Bridge of Allan primary school is closest to the appeal site, and that it currently has some spare capacity. As it is also located adjacent to the appeal site, the council is now of the view that it may be appropriate for the entire development to be placed in the Bridge of Allan primary school catchment.

8.4 The council's response also makes clear that this is an "initial view" and so whilst it indicates that extensions to Bridge of Allan primary school, rather than a new primary school as proposed by the appellants, may be preferred, I consider some caution is needed at this stage in specifying a particular approach.

8.5 The appellants, in its [comments](#) to the council's latest response, have indicated its agreement in principle to the council's suggestion of a financial contribution, in lieu of the provision of a primary school. The appellants are content that the precise details could be addressed by the necessary section 75 legal agreement.

8.6 All told, I consider it appropriate at this stage to maintain flexibility over how to most appropriately provide primary education capacity. It seems to me that either a new school (which is part of the development proposed) or extensions to Bridge of Allan primary school, could offer a satisfactory solution. As the council's response suggests a more thorough assessment of educational needs and forecasts is required for it to reach a definitive position, I conclude that the heads of terms and conditions should reflect this, and to allow for both options to be more fully explored before one of these is selected. I consider the matter of how this flexibility could be secured further in chapter 9 below.

8.7 In regard to secondary education capacity, additional pupils from the development would be placed within the Wallace High School catchment, which is easily accessible from the site. There is no dispute amongst parties that a contribution would be required to provide additional capacity, the precise threshold for which would also need to be agreed as part of any legal agreement.

Natural environment

8.8 As identified in Scottish Natural Heritage's (SNH) response of 31 October 2014, the

proposal is 400 metres from the River Forth, which at this location is part of the River Teith Special Area of Conservation (SAC) designated for Atlantic salmon and brook, river and sea lamprey.

8.9 In accordance with the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the 'habitats regulations'), it is necessary for the decision maker (in this case, Scottish Ministers) to consider the effect of the proposal on the River Teith SAC before consent is granted. The protection afforded to SAC designations is also reflected in LDP primary policy 8 ('Conservation and enhancement of biodiversity').

8.10 The advice of SNH, in its October 2014 response, was that the proposal would be likely to have a significant effect on the River Teith SAC, but the mitigation outlined in the environmental statement would be sufficient to avoid an adverse effect on the integrity of the SAC. SNH confirmed its view in its 2014 response that an appropriate assessment could be finalised at the detailed planning stage.

8.11 I sought further written submissions in regard to the stage at which an appropriate assessment should be required for the appeal proposal, as SNH's advice was not consistent with my own understanding and experience of how mitigation may now be taken into account when identifying likely significant effects.

8.12 Both [SNH](#) and the [appellants](#), in their respective responses, acknowledge the implications of recent European case law on this matter. The appropriate assessment may still take account of proposed mitigation measures, in establishing whether or not the development would have adverse effects on the SAC. It is however of importance that this appropriate assessment is undertaken, and a favourable conclusion reached, before planning permission in principle is granted, if Scottish Ministers are so minded. In this context, I draw attention to SNH's advice (in its May 2019 response) that:

"It is now our view that there remains sufficient information at this stage that would allow an Appropriate Assessment (AA) to reach a favourable conclusion, i.e. that there will be no adverse effect on the integrity of the SAC. However, this is predicated on the absolute requirement that a Construction Method Statement (CMS) detailing the site specific measures to prevent pollution or sedimentation must be produced as part of the decision making process at the detailed planning stage."

8.13 Based on the May 2019 procedure notice responses of the council, SNH and appellants, I am satisfied that the environmental information contained within the environmental statement and the addendum remains sufficiently up-to-date in all respects. There is no other evidence before me which would lead me to doubt the validity of the common position of parties on this matter. It would remain the case that a further appropriate assessment would also be required at the detailed planning stage, and this is clarified in a proposed condition listed in appendix 2.

Historic environment

8.14 Special regard must be had to the desirability of preserving the setting of listed buildings. There would be inter-visibility between the development from the A-listed Wallace Monument and scheduled Stirling Castle. There is a substantial area of

intervening development between Stirling Castle and the appeal site, reducing the overall influence the development would have upon its setting.

8.15 Wallace Monument is highly prominent locally, in large part because of its position on elevated ground immediately overlooking the carse. I see no reason why the position or context of Wallace Monument would be perceived differently as a consequence of the development. Similarly, in outward views from the monument, there is extensive visibility of its setting. I do not consider that the importance of its setting, which relates to its deliberate position, prominently elevated above Stirling and its surroundings, would be meaningfully altered by the development. In reaching this conclusion, I have had particular regard to the position of Historic Environment Scotland (summarised in chapter 1 above), which raised no objections to the development.

8.16 The council has requested that an archaeological programme of works be secured by condition. Whilst this area of the carse is not understood to have had a significant role in historical battles, I am satisfied that its relative proximity to known battlefields would justify proportionate further investigation.

CHAPTER 9: CONDITIONS AND LEGAL AGREEMENTS

9.1 The council provided heads of terms for a section 75 legal agreement, which had been agreed with the appellants. A schedule of proposed conditions was also provided by the council, and none of the conditions were disputed by the appellants. The previous reporter's [report](#) (in chapter 7 and appendix 2) recommended some amendments to the conditions, principally to avoid unnecessary duplication.

9.2 In my May 2019 procedure notice, I sought the views of the appellants and council in regard to whether any additions, deletions or amendments may be required to the heads of terms or conditions which had previously been put forward. This was because I was again mindful of the time which had elapsed since heads of terms and conditions had previously been drawn up, and the potential for circumstances and/or justification to have changed in the interim. This included any possible implications arising from matters for which information was sought in the same procedure notice.

9.3 The [council](#) and [appellants](#) both responded, with the council's response including revised [heads of terms and conditions](#). The appellants provided further [comments](#) on the council's submission.

9.4 Turning to the heads of terms first, these are proposed to secure provision and/or financial contributions relating to education; a community medical hub; flood management; affordable housing; green space and parkland management; and traffic and transport.

9.5 As referred to in chapter 8 above, the council's position has changed in regard to how primary school capacity may most appropriately be addressed, and this is reflected in the council's suggested revisions to heads of terms. This proposes a financial contribution be sought, rather than provision of a new primary school. I am mindful that the appellants have indicated agreement in principle to this new approach, but the ability to secure delivery of a new primary school still remains (and is referred to in the description of development) if that is ultimately deemed to be the more favourable approach. Given the council's position on how it may best address educational capacity seems uncertain to some degree, I consider it appropriate that both options should remain available at this stage. This would allow for subsequent agreement between the council and appellants to be reached on this matter.

9.6 The council has also proposed to significantly alter the heads of terms in relation to traffic and transport matters. This would replace a range of specific mitigation measures with a more open-ended requirement for a new transport assessment to be provided, and to require any mitigation measures the council then recommends to be undertaken by the developer. The appellants object to this change.

9.7 In chapter 6 above I have reached my own findings in regard to the traffic and transport implications of the development. Amongst various other conclusions, I consider that the transport evidence available is sufficiently up-to-date and robust to be relied upon. This is notwithstanding Network Rail's decision to upgrade Cornton 1 level crossing rather than install a road bridge over the railway, as a similar scenario had been tested in the transport assessment addendum. I therefore agree with the appellants that there is no clear basis for requiring a new transport assessment, and I consider the originally proposed heads of terms for traffic and transport matters should be applied.

9.8 A wider point of relevance to various heads of terms is whether published (to support the superseded 2014 LDP) but no longer statutory supplementary guidance should be referred to in heads of terms, or whether reliance may be placed on emerging but still draft supplementary guidance, intended to accompany the adopted 2018 LDP. Ultimately, whilst I consider both options to be sub-optimal, I consider greater weight should be given to the published supplementary guidance which supported the 2014 LDP. I do not consider draft guidance, which may be revised following public consultation, should be relied upon. Furthermore, whilst the published supplementary guidance was produced to accompany the previous 2014 LDP, the policies in the 2018 LDP do not, in the main, significantly differ from the previous plan. Therefore, I do not consider that a reliance upon the published supplementary guidance generates any particular tension with the adopted LDP.

9.9 Taking all of the above points into account, in appendix 1 I have set out recommended heads of terms for a section 75 legal agreement, for in the event that Scottish Ministers are minded to grant planning permission.

9.10 The council's revised schedule of conditions contains a small number of substantive differences relative to the conditions it had originally proposed.

9.11 The council's revised schedule omits a condition (condition 4 in its original proposed schedule), which establishes a requirement for details of the proposed surface water drainage system to be agreed. Given the importance of this issue, as discussed in chapter 5, including the need for clarity over management arrangements, I consider a condition to this effect should be included. I agree with the appellant that with this condition in place, an additional condition relating specifically to road surface water drainage would be unnecessary duplication.

9.12 The council proposes to introduce a maximum floorspace restriction for specified uses in the proposed neighbourhood centre. Policy 2.7, criterion (b) in the 2018 LDP has in effect defined small-scale convenience retail development as having a maximum gross floorspace of 500 square metres. As the originally proposed condition sought to restrict the retail component of the neighbourhood centre to a 'local convenience' scale, I consider it would aid clarity as well as policy conformity to specify a maximum floorspace for that particular use, and I have amended the originally proposed condition to this effect.

9.13 A condition to restrict construction hours has been omitted from the council's updated proposed schedule. I am unclear on whether or not this was intentional, but in any event, I consider such a condition to be necessary to maintain a satisfactory level of amenity at nearby properties. The council has also omitted a condition that would limit development to 450 dwellings in the absence of a road bridge over the railway. Given the importance of this requirement, as discussed in chapter 6, I consider this condition remains necessary and should be included.

9.14 The council's proposed condition in relation to market housing is, in my view, unnecessary. I have expanded the requirements of condition 1(d) to ensure housing mix, size and type is fully considered and so this would allow for all matters in the council's proposed condition to still be controlled. Likewise, standalone conditions relating to play provision and parking standards would duplicate the provisions of condition 2(j) and 2(e) respectively.

9.15 The appellants have proposed a condition to link the development to other intended development related to the Graham's dairy business. As discussed in chapter 8 above, I do not consider this condition is capable of satisfying the tests of circular 4/1998 and therefore I have not recommended its inclusion.

9.16 The list of recommended conditions set out in appendix 2 of this report are those which I recommend should be attached to any planning permission. They address a wide range of matters, with the majority relating to issues discussed in this report. I have amended the list of conditions to reflect the points discussed above, and to ensure clarity and consistency. I have also noted the various minor amendments recommended by the previous reporter, mainly in order to improve clarity and avoid duplication. I note the appellants have indicated agreement to those amendments, and I see no reason to deviate away from those changes where they would be unaffected by other changes discussed above. In addition, I have made some further changes to ensure that where a condition requires details to be submitted and agreed, the development shall then be implemented in accordance with those agreed details. This is to enable enforceability.

CHAPTER 10: OVERALL CONCLUSIONS AND RECOMMENDATION

10.1 This appeal relates to an application for planning permission in principle, which was refused by Stirling Council in 2016. The appeal was previously dismissed by Scottish Ministers in June 2018 in line with a previous reporter's report and recommendation, but following a successful Court of Session challenge, that decision was quashed. The appeal is therefore required to be re-determined by Scottish Ministers. I have set out the full chronology of events in chapter 1, leading up to my appointment to the appeal.

10.2 Given the considerable passage of time, changes to the development plan and potential contextual changes that may affect the determination of the appeal, I issued a procedure notice in May 2019 to ensure I had sufficient up-to-date information to base my findings upon. I have referred to the further written submissions received in response to that procedure notice throughout my report. I have also had regard to all earlier submissions, representations and consultation responses in reaching my findings.

10.3 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the appeal must be determined in accordance with the development plan, unless material considerations indicate otherwise. In chapter 2 I have set out the relevant policy context. The adopted development plan has changed since the council determined the planning application, and also since the date of the previous reporter's report in June 2017. The development plan is now comprised of the Stirling Local Development Plan (October 2018), and one piece of adopted supplementary guidance.

10.4 The appeal site is located wholly within an area of green belt, delineated in the LDP proposals map. Green belts are afforded significant policy protection against most types of development through the provisions of LDP policy 1.5. It is however the appellants' case that this policy conflict should be outweighed by the absence of a five-year effective housing land supply. I share the appellants' view that the housing land supply situation is one of the main determinative issues for the appeal.

10.5 In chapter 3 I have considered the submitted housing evidence, and the options put forward by parties for calculating the housing supply target, against which a five-year effective supply figure can be established. There I have recommended that the compound approach to calculating the housing supply target, which adjusts the target based on the number of completions in previous years, should be followed because I find this approach maximises the likelihood of the overall housing supply target for the plan period being achieved. Scottish Ministers may however opt to favour the non-compound approach, if it finds the council's rationale for this to be more persuasive.

10.6 I have also, in chapter 3, set out a second crucial factor in establishing the likely current housing supply situation. This relates to the evidence to be relied upon in regard to the effectiveness of other sites, and programmed annual completions. It is my view that greater reliance should be placed on the 2018 housing land audit (HLA 2018), than the appellants' own reassessment, for the reasons set out in chapter 3. The implication of this finding is that the calculation using the compound approach and HLA 2018 information supports a finding that there is likely to be just over a five-year effective housing land supply at this present time. On this basis, the provisions of Scottish Planning Policy paragraph 33 would not be engaged under the terms of SPP paragraph 125; the development plan would not be deemed to be out of date and the presumption in favour of development which

contributes to sustainable development would not be attributed additional, 'significant' weight.

10.7 In chapter 4 I have found that, regardless of whether or not a five-year effective housing land supply exists, there would be an inherent conflict with the principle of LDP policy 1.5, by virtue of the appeal site's position wholly within designated green belt. I find this conflict with policy 1.5 weighs heavily against the proposal, and in the absence of any pressing need to identify additional effective housing land, I find the benefits of the development would not justify departing from policy 1.5. Beyond the supply of housing, the true benefits of the development (as opposed to mitigation measures) would be largely confined to provision of publicly accessible open space, and economic benefits arising from the construction phase. As outlined in chapter 7, I do not agree that the proposal could accurately be described as enabling development for possible future investments into the dairy business.

10.8 In the event that I had found a shortfall in the required effective housing land supply, I consider that this conflict with the principle of policy 1.5 would have been capable of being outweighed by the benefit of the additional housing supply (and other benefits) offered by the appeal proposal. In those circumstances I consider that the overall acceptability of the proposal would therefore have rested principally on a judgement over whether the physical effects of encroachment into this area of green belt, the increased coalescence between Causewayhead and Bridge of Allan and related landscape and visual impacts, would also have been outweighed by the benefits of the development. In chapter 4 I concluded that were the development to go ahead, the overall integrity of this area of green belt would be permanently weakened, but not lost altogether.

10.9 In chapter 5 I have considered the flood risk and drainage implications of the development. Here I concluded that despite there being some uncertainties over the precise details of water management arrangements, there is sufficient basis to conclude that workable technical solution should be achievable. The use of suspensive conditions and a legal agreement would provide necessary safeguards on this matter.

10.10 In chapter 6 the traffic and transport effects of the development have been assessed, which also takes into account of the change in circumstances (and associated implications) relating to Cornton 1 level crossing, and Network Rail's decision to upgrade the crossing rather than replace it with a road bridge. Despite this, I have found that subject to wide-ranging mitigation measures, the development could be satisfactorily and safely accommodated.

10.11 Other matters of relevance to the appeal are outlined in chapter 8. These include school capacity; environmental effects; and historic environment considerations. I do not consider any policy conflict, or other constraints to development, emerge from these matters.

10.12 I have had regard to all of the points raised in representations and consultation responses, including those made by the council's own internal specialist advisers. Subject to conditions and a legal agreement which are discussed in chapter 9 (with heads of terms and a full list of conditions set out in appendices 1 and 2 respectively), I am satisfied that all matters raised have been appropriately addressed, noting again that this appeal is for planning permission in principle rather than detailed planning permission.

10.13 With all of the above in mind, and based on my view that the best available evidence indicates that there is an adequate effective housing land supply, I find the development would be contrary to the adopted development plan because of its green belt location. This is a fundamental component of the Stirling LDP's spatial strategy, which would require exceptional justification to override. I find this conflict to be sufficient to conclude that the development would be contrary to the LDP overall, despite the development's compliance with all other relevant provisions of the LDP. I do not consider that this conflict would be capable of being outweighed by any other material considerations.

Recommendation

10.14 I recommend that the appeal should be dismissed, and planning permission in principle refused.

10.15 In the event that Scottish Ministers are minded to allow the appeal, they must first undertake an appropriate assessment to consider the effect of the proposal on the River Teith Special Area of Conservation. This is in order to accord with the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended.

10.16 Subject to a favourable conclusion in the appropriate assessment, I recommend that parties are made aware of the intention to grant planning permission but that this is subject to the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in Appendix 1. Once this obligation is in place, I would then recommend that planning permission be granted subject to the conditions listed in Appendix 2.

Christopher Warren
Reporter

APPENDIX 1: HEADS OF TERMS FOR A SECTION 75 AGREEMENT

Education:

In order to ensure timeous delivery of required additional school capacity, provision of:

- (a) either:
 - (i) a financial contribution to provide additional primary school capacity; or
 - (ii) provision by the developer of a new double stream primary school.

- (b) a financial contribution to provide any required additional secondary school capacity.

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 (if required), taking into account the non-statutory supplementary guidance 06: Health Care Facilities.

Flood Management– Detailed Design and Maintenance Regime:

(a) Detailed food 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 maintenance plan.

(d) Operation of the financial bond and 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:

(a) 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 non-statutory 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 non-statutory supplementary guidance SG19: Waste Management – Requirements for Development Sites.

Green Space and Parkland Maintenance:

(a) The provision and maintenance of play facilities, parkland, and open space as per non-statutory 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 which is reasonably related to that particular part of the Airthrey Green 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/ 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 a 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

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 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 if required in the section 75 agreement;
- 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 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 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 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 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 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 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 with a maximum of 500 square metres floorspace, 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 Footfall Generating Uses – of the adopted 2018 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 River Teith 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 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 safeguard the integrity of the of the conservation interests in the River Teith 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 shall commence on each proposed phase of development until it has been demonstrated to and

agreed in writing by 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 a 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. Development shall thereafter take place in complete accordance with the approved Dust Management Plan.

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 that includes the layout, design and detailed site planning drawings of waste storage provision and roadside collection which shall be in accordance with non-statutory supplementary guidance SG19: Waste Management: Requirements for Development Sites. Development shall thereafter take place in complete accordance with the approved details.

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 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 (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:

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

Development shall thereafter take place in complete accordance with the approved Improvement Plan and in line with timescales or development milestones specified therein.

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:

- a) 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 in writing by the planning authority, in consultation with Network Rail.
- b) 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 adopted 2018 Local Development Plan and the City Transport Plan, (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, 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 first be submitted to and approved in writing 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 shall be submitted to and approved in writing by the planning authority. The approved School Travel Plan shall 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 in writing by the planning authority in consultation with Network Rail.

Reason: In order to comply with the requirements of the adopted 2018 Local Development Plan and City Transport Plan (March 2013) safeguarding land for the delivery of strategic infrastructure.