

**Planning Applications Committee Report**

**ERECTION OF 75 DWELLINGHOUSES, CONSTRUCTION OF ROADS,  
DRAINAGE, FORMATION OF LANDSCAPING AND OPEN SPACE (APPROVAL  
OF MATTERS SPECIFIED IN CONDITIONS 2, 3, 4, 5, 6, 7, 8 AND 18 OF  
PLANNING PERMISSION IN PRINCIPLE 13/P/3/0362)  
AT DUMFRIES & GALLOWAY COLLEGE SITE, HERRIES AVENUE, HEATHHALL,  
DUMFRIES**

**Application Type: Approval Required by Condition of PIP**

**Applicant: Story Homes**

**Ref. No.: 15/P/3/0513**

**Recommendation – Approve subject to conditions**

**Ward: Lochar**

**Hierarchy Type (if applicable) - Major**

**Case Officer: Chris McTeir**

**1 BACKGROUND**

1.1 This application was considered by the Planning Applications Committee at its meeting on 23 March 2017 where the Committee resolved to defer the application for a site visit. This took place on 5 April 2017.

1.2 Under the Scheme of Delegation, this application requires to be considered by the Planning Applications Committee as it constitutes a Major development as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. In addition, there have been 6 or more separate, individual and timeously received objections received to the application. As the application is for the approval of matters specified in conditions of a previously granted planning permission in principle (13/P/3/0362), there was no requirement for formal pre-application consultation to be carried out or for a design and access statement or a pre-application consultation report to be submitted in association.

1.3 The application site extends to approximately 4.77 hectares and occupies a large part of the site of the former Dumfries and Galloway Technical College, which has been demolished. Prior to this, the site was part of a World War II airfield, and the site now consists of a predominantly flat to slightly undulating area of brownfield land located to the north-east of Heathhall. Herries Avenue bounds the site to the west where the previous access to the college was taken from. To the south and south-

east, the site bounds Catherinefield Industrial Estate and Heathhall. The site is also a designated housing site identified within the adopted Local Development Plan as site DFS.H4

1.4 The application site is part of a larger site that currently has planning permission in principle (PIP) which was granted subject to conditions under reference 13/P/3/0362 on 28 May 2014 for the residential development of the land. This application now seeks approval for the matters specified in Conditions of that PIP. These are:

- Condition 2 – Layout;
- Condition 3 – Design;
- Condition 4 – External appearance;
- Condition 5- Landscaping;
- Condition 6 –Noise assessment;
- Condition 7 – Affordable housing;
- Condition 8 – Details of secure boundary fencing / enclosure to Catherinefield Industrial Estate boundary;
- Condition 18 – Details of flat topped pedestrian crossing table on Herries Avenue

**Conditions 2 to 5** of the parent PIP (13/P/3/0362) are standard ‘detailed matters’ type conditions which are required to be a part of a further application, following the grant of planning permission in principle, under the terms of Condition 1.

1.5 The layout of the proposed development comprises 75 dwellings and is arranged roughly within 3 housing ‘blocks’ separated by the 2 main access roads from Herries Avenue. The proposed dwellings would form a mix of detached, semi-detached and terraced properties which would be predominantly 2 storeys in height with the exception of 7 bungalows along the Herries Avenue frontage. Proposed material finishes of the dwellings would comprise mainly facing brick walls with some wet dash render and concrete tiled roofs.

1.6 Open space provision within the site would include several pockets around the northern and southern boundaries as well as along the street frontage with Herries Avenue. The main area of proposed open space would cover approximately 4500 square metres and contain an equipped play area and connecting footpaths.

1.7 The streets proposed within the development would effectively form a central loop consisting of the 2 main access roads and would be linked by a road to the rear of the loop, 2 ‘pods’ to the north accessed from the new northern Herries Avenue road access and a block of 10 dwellings to the south of the site accessed from the new southern Herries Avenue road. The accesses from Herries Avenue would have 5.5 metre wide carriageways with footways, with the connecting streets being narrower (approximately 4.5 metres) with shared surfaces, pinch points created by planting and visitor parking, avoiding the use of long cul-de-sacs and providing a permeability of movement within the site in line with ‘Designing Streets’ principles. Access points are

also proposed to link to indicative future phases of development within the site as well as a 3 metre wide foot/cycle path link in between the 2 new road accesses.

1.8 A submitted planting layout shows the proposed planting of mixed species trees and shrub with the trees being a proposed place-making feature along street frontages and within open spaces. The proposal aims to retain existing trees along the northern boundary and to incorporate, where possible, the existing trees along the Herries Avenue frontage into the front gardens of the proposed dwellings.

1.9 It is proposed that most front garden areas would be open plan with the exception of those which front on to Herries Avenue which would have low (0.59m) brick walls. Elsewhere, 1.8m high walls would be erected where rear gardens would adjoin a road. Other rear gardens would have 1.8m high fencing between them. Low timber and metal fencing is proposed around the open space areas.

1.10 The applicant proposes foul drainage to connect to the public sewerage system to the east of the site. Surface water from roads and curtilage would drain to a temporary infiltration basin before discharging to an existing Scottish Water surface water drain with an outfall to Lochar Water via a series of hydrobrake flow control chambers. A permanent SUDS basin is proposed to be located in the eastern sector of the site as part of Phase 2 of the overall development.

1.11 **Condition 6** of the parent PIP requires a noise assessment to be submitted with the further application in respect of the specific location, layout and design of proposed residential units relative to Catherinefield Industrial Estate. Furthermore, if such an assessment identifies any likely source of noise complaints, then suitable acoustic attenuation measures should be identified and incorporated into the proposed layout and design.

1.12 The initial Noise Assessment Report was submitted in December 2015 by RS Acoustic Engineering Ltd (RSAE) on behalf of the applicant and this Report assessed the noise potential from a variety of sources and locations. Following discussions with the Council's Environmental Health Officer in April 2016, this Report was updated to include a number of 'future' scenarios and this was submitted in May 2016. This Report recommends that the target of 50dB within amenity garden areas within the site can be achieved by installing a noise barrier of 6.5m in height directly adjacent to the boundary with Catherinefield Industrial Estate and the Kellwood Engineering and Logoplaste compounds. The barrier is proposed to take the form of an earth bund of 4.7m in height topped with a 1.8m acoustic fence, and this forms part of the application. Other proposed attenuation measures include the installation of acoustic glazing to all other dwellings within 75 metres of the relevant site boundary.

1.13 **Condition 7** of the parent PIP requires that at least 25% (unless otherwise agreed) of the residential units be for the purposes of affordable housing and that a scheme detailing the location along with the mechanism for securing the implementation of the said affordable housing has been approved by the Council. In

this case, the applicant proposes that 20% of the units would be for affordable purposes. This would represent a total of 15 proposed residential units which would include 2 bedroom terraced dwellings, 2 bedroom semi-detached dwellings, 3 bedroom semi-detached dwellings, and 4 bedroom semi-detached dwellings. Although it is noted that Condition 7 of the PIP requires 25% affordable housing provision, following the adoption of the LDP in September 2014 and the updated Dumfries and Galloway Local Housing Strategy, the requirement of 20% has been accepted by the Council in comparable cases, and in this instance it is considered that the change in policy justifies the reduction in provision.

1.14 The proposed site layout / masterplan (SD-10.02 Rev AY) shows that Plots 1 to 15 are proposed to be affordable housing units. These are being provided on site in partnership with Dumfries and Galloway Housing Partnership and as such, this delivery mechanism is considered to meet the requirements of Condition 7 of 13/P/3/0362.

1.15 **Condition 8** of the parent PIP requires details of a secure fence (or other boundary enclosure) designed to prevent pedestrians accessing Catherinefield Industrial Estate to be approved prior to the commencement of development. The fence proposed as part of this application is a 2m high mesh anti-climb fence used to enclose the adjacent primary school. This would extend from the southern corner of the site at Plot 1 and would follow the site boundary in front of the acoustic barrier and end adjacent to the proposed future SuDS basin.

1.16 **Condition 18** of the parent PIP requires the submission of details of a flat topped pedestrian crossing table on Herries Avenue and details of required junction improvement works. The proposed enlarged general arrangement plan (AA4976 EW06 Rev C) outlines the detail of the works at the southern site junction with Herries Avenue and Auchenkeld Avenue.

1.17 The following documents accompany the application and a summary of their contents is given below:

**Arboricultural Report (December 2015, Revised December 2016)**

1.18 This document outlines the measures undertaken during the tree survey of the site, and includes the methodology used during the survey as well as an arboricultural impact assessment on the potential impact to local amenity that removing the recommended trees would have. The report contains a full inventory of trees within the site and their relative condition, their location on a plan, recommended tree works and protection measures for trees retained on site during construction works.

**Geo-Environmental Ground Investigation Report**

1.19 This report considers the sub-surface ground conditions on the site and outlines the work carried out – boreholes, trial pits and associated site and laboratory work – to establish whether or not the ground is suitable to accommodate a residential development. The scope of the investigation work as well as the findings and conclusions are also included within this Report.

## **Planning Statement**

1.20 This document provides the background and context of the submitted application, and lists the previous planning history.

### **Preliminary Ecological Appraisal (December 2015, Revised January 2016)**

1.21 This report documents the methods, results and conclusions of an ecological appraisal undertaken in respect of the application site. Its main purpose is to identify the habitats present on site and in the nearby surroundings; to provide an indication of the likely importance of those habitats; to determine what protected or notable species are likely to occur within the site and to set out what further work would be required in order to fulfil legislative requirements.

### **Noise Assessment Report (December 2015, Revised May 2016)**

1.22 This initial Noise Assessment Report was submitted in December 2015 by RS Acoustic Engineering Ltd on behalf of the applicant, and assessed the noise potential of the proposed development from a variety of sources and locations. Following discussions with the Council's Environmental Health Officer in April 2016, the report was updated to include a number of 'future' scenarios and this was submitted in May 2016.

## **1.23 Relevant Site Planning History and surrounding planning applications**

### Application Site:

**08/P/3/0175** – Planning permission in principle for demolition of college and erection of residential development extending to 8.15 hectares was granted subject to conditions on 5 May 2010.

**13/P/3/0236** – Approval of matters specified in Conditions 3-9 and 11 of planning permission in principle 08/P/3/0175 was refused on 1 April 2014. This decision was the subject of an appeal (DPEA Ref PPA-170-2093) which was considered by way of an appeal hearing on 11 November 2014. The Reporter dismissed the appeal and refused planning permission on 23 December 2014. This application and appeal was in relation to a proposal for 207 dwellinghouses. The Reporter found that, having regard to the provisions of the development plan, the main issue with the appeal was the impact of noise from the adjacent industrial estate on residential amenity. The Reporter found the proposal to be contrary to the development plan, as the proposal offered a sub-standard residential environment in respect of noise, whilst also prejudicing the suitability of Catherinefield Industrial Estate as a general industrial location.

**13/P/3/0362** – Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 for variation of Condition 19 of planning permission in principle 08/P/3/0175 (requiring provision of a roundabout at Auchenkeld Avenue / Herries Avenue) to be replaced with tightened radii and a raised table was granted subject to conditions on 28 May 2014. This is the parent PIP in respect of this particular application.

Land to the north and north-east of the application site:

**08/P/3/0435** – Planning permission in principle for a residential development (incorporating junction improvements at Catherinefield Road / Herries Avenue) was granted subject to conditions on 8 December 2010.

**13/P/3/0336** – Application to vary Condition 1(a) and 1(b) of planning permission 08/P/3/0435 (Condition requiring submission of matters specified in conditions, or commencement of development within 3 years) to allow additional 3 years for submission of matters specified in conditions or commencement of development was granted subject to conditions on 19 September 2013.

Catherinefield Industrial Estate:

**13/P/3/0437** – Planning permission in principle for the erection of an industrial building (Class 5) at Kellwood Engineering, Unit 9 Catherinefield Industrial Estate was granted subject to conditions on 23 July 2014. This permission included a condition (7) requiring the development to be carried out in accordance with mitigation measures set out in a submitted Noise Impact Assessment, to ensure that the noise from the development at the site boundary did not exceed existing surveyed noise levels.

**13/P/3/0399** – Planning permission in principle for the erection of 4 industrial units (Class 4) at CWL Windows Unit 10 Catherinefield Industrial Estate was granted subject to conditions on 28 July 2013.

**13/P/3/0400** – Planning permission for the erection of an industrial unit (Class 4) with link to existing office building and formation of 11 car parking bays and vehicle turning area at 10 Catherinefield Industrial Estate was granted subject to conditions on 28 May 2014.

## **2 CONSULTATIONS**

2.1 **Council Roads Officer:-** No objections subject to conditions..

(a) Revised plans address points previously made within his response dated 24 June 2016 and subsequent discussions.

(b) It should be noted that the roads within this proposed development will be subject to Road Construction Consent (RCC), should be designed in accordance with 'Designing Streets' and will require a Traffic Regulation Order to restrict the speed of all traffic to 20mph within the development site to have been promoted (prior to commencement of any work on the site) and thereafter, implemented prior to the occupation of any of the dwellinghouses, all at the applicant's expense.

(c) It is noted that the revised plans show revised arrangements to on-street features, pedestrian priority on core roads and the layout of the square with public open space

and playpark. It should be noted that (a) the visibility splay at the junction of the shared surface street with the core road by Plot 11 requires to fall within the public road boundary and may necessitate a boundary alteration and (b) the shared surface area between Plots 26, 31 and 36 is likely to benefit from use of paviour pattern and shade changes to avoid becoming an overlarge expanse without definition.

(d) In respect of the revised layout, would offer the following comments:-

- Footways at internal junctions now provide priority to pedestrians;
- Appropriate visitor parking is available and has been distributed evenly throughout the site;
- Service strips have not been clearly identified along multiple sections of proposed carriageway - this however can be addressed under RCC;
- The revised junction radii at the Herries Avenue / Auchenkeld Avenue junction and the raised table pedestrian crossing point (replacing speed cushions) on Herries Avenue will be treated as off-site accommodation works to be implemented prior to the development being occupied or coming into use. The revised junction arrangement and crossing point shall be subject to safety audits at appropriate pre-design and post construction stages and any findings implemented to the satisfaction of the Council as Planning Authority in consultation with the roads authority.

(e) A temporary dry basin SUDS feature is shown within the site. To provide a satisfactory technical solution, the proposed drainage solutions should be designed to accommodate a 1 in 30 year event with no flooding at all and a 1 in 200 year event with localised flooding to public road but no flooding of properties. A flood routing map should be supplied identifying the overland flow paths during extreme (1 in 200 year) rainfall events. Further advice is contained within the Council's LDP supplementary guidance 'Surface Water Drainage and Sustainable Drainage Systems (SUDS)' adopted August 2015.

(f) It should be noted that it is Council policy not to adopt SUDS in private ground and not to artificially extend the public road boundary to incorporate SUDS. Drainage systems within this site should be designed in consultation with Scottish Water and in accordance with 'Sewers for Scotland 3' including any updates or revisions, and to the satisfaction of the planning authority in consultation with the roads authority. Prior to commenting upon any SUDS proposal, he will require to be provided with copies of the SEPA and Scottish Water consultation responses.

(g) It should be noted that in the event that Scottish Water do not vest the SUDS or prior to their adoption, the landowner / developer will need to enter into a legal agreement granting to the Council as roads authority any necessary rights to discharge roads surface water drainage into any SUD System serving the development and to ensure the appropriate maintenance of that system in perpetuity. Construction Consent will only be granted on the successful concluding of the legal

agreement. It is suggested that a copy of the agreement is made available to Dumfries and Galloway Council – Legal Services for approval at an early stage.

(h) The construction phase works will inevitably have an impact on the surrounding road network and in order to minimise inconvenience and mitigate against the effects, the developer will require to agree a Construction Phase Traffic Management Plan with the roads authority and the Police prior to the commencement of works.

2.2 **Scottish Water:-** No response to date.

2.3 **Scottish Environment Protection Agency (SEPA):-** No comments.

2.4 **Council Flood Risk Management Team:-** No comments.

2.5 **Transport Scotland:-** No objections.

2.6 **Council Contaminated Land Officer:-** No objections subject to conditions requiring further investigation and remediation work to be carried out (if necessary).

(a) There are 2 contaminated land issues outstanding on the site as detailed in a previous memo SWPCL07140312gf2 for planning application 13/P/3/0236 which are required to be resolved before development.

(b) Firstly, elevated levels of some contaminants were found at TP2 and TP23. She would expect to see a proposal put forward for remediation of this area which will break the source-pathway-receptor linkage. The area concerned is relatively small as the testing was quite dense. Alternatively, Integra Consulting may wish to present further evidence as to the bioavailability of the PAHs in this area. Development of this area is not proposed under this current application.

(c) Secondly, during the site investigation there was an area of stockpiled materials in the northern section of the site covering an area of 3900 square metres, from which it was not possible to take samples to. She would expect to see the results of some sampling from this area to make sure that the underlying soil is suitable. This area appears to be approximately where a temporary play area is indicated on the current proposals.

2.7 **Council Environmental Health Officer:-** No objections subject to conditions.

(a) Comments made in relation to the submitted noise proposals consider the acoustic statement undertaken by RS Acoustic Engineering (RSAE) as well as comments and reports submitted by local businesses, their consultants Sandy Brown Associates and Ethos Environmental as well as comments made by any other objectors.

(b) In order to make comment on the matter, this service has considered the application alongside comments arising from the appeal of the previous application at this site, this includes future expansion of Kellwood Engineering and Logoplaste both of which are located on Catherinefield Industrial Estate.

(c) To help assess the application the revised BS4142:2014 Methods for rating and assessing industrial and commercial sound , along with BS8223:2014 Guidance on sound insulation and noise reduction for buildings, for internal noise levels, WHO guidance relating to general annoyance and The Institute of Acoustics "Acoustics of Schools A Design Guide" have been used.

(d) In order that their comments can be explained, the following points need to be highlighted.

- 1) Within BS4142:2014, it states that there is no single background level and the aim of background monitoring is not to identify the lowest background levels;
- 2) This Service has considered the absolute levels of noise, as well as considering the noise levels in context to the surrounding environment;
- 3) A rated noise level is the measured/calculated noise with a penalty added for its character e.g. if a tonal element is present in the noise being measured, a penalty will be added for purposes of assessment. This rated noise level is not the actual level of noise that will be heard by a person in the garden of the proposed houses;
- 4) The reports submitted by objectors are not BS4142 assessments. They are a critique of the applicant's submitted assessment undertaken by RS Acoustic Engineering. An important point to note is that the work by Sandy Brown Associates was not commissioned by Dumfries and Galloway Council and no consultation was undertaken with this Service regarding methodology, location or acceptable work practices for consideration during the day and night. There was also no agreement made on the background levels used within these reports.

(e) The following criteria were used in assessing the application:

- 1) The background level of noise on the site during the day used in assessing the application has been taken as 39dB(A). This figure is obtained from monitoring undertaken by this Service during the previous application;
- 2) The night time background level of noise on the site used by this Service in assessing the application has been taken as 33dB(A). This was the statistically highest occurring level monitored during the previous application prior to Logoplaste arriving on site. This level is different to that used by Sandy Brown Associates who have chosen to use 31dB(A);
- 3) The distance from Kellwood Engineering to the nearest existing housing was taken as 320m;
- 4) The distance from Logoplaste to the nearest existing noise sensitive property i.e. Heathhall Primary School, was taken as 50m;
- 5) The Institute of Acoustics "Acoustics of Schools A Design Guide" recommends that there should be at least one area suitable for outdoor teaching activities where noise levels are below 50 dB LAeq,30min.

(f) In assessing the application the following noise sources were considered:

- The external compressor at Kellwood Engineering;
- The compressor within the paint shed of Kellwood Engineering;
- The external chillers at the side of the Logoplaste building; and
- The noise from the silo filling operation at Logoplaste.

**(g) The use of the External Compressor at Kellwood Engineering:**

- The previous application resulted in much discussion relating to the use of a compressor capable of producing 94dB(A) at 4m by Kellwood Engineering.
- During the previous planning application, it was identified that to reach these levels the compressor had to be operated under load with the vents open. Furthermore, the compressor was not owned by Kellwood Engineering and was brought on site by a sub-contractor.
- As such, it should not be considered part of the routine operations of Kellwood Engineering and has to be considered, if on site, as an introduction of a new noise source.
- Using figures from Sandy Brown Associates (noise consultant acting on behalf of Kellwood Engineering), a predicted noise level of 44dB is determined at the monitoring position L (approximately Plot 10). This is then penalized for tonality and intermittency and a rated value of 51dB is suggested. This is 12dB above the background noise level during the day and 20 dB above the background level of 31dB used by Sandy Brown at night. Both of these levels are classed as a significant adverse impact.
- In assessing the noise sources, BS4142 requires consideration in context. To do this, the impact that the operation of a compressor in this manner would have at existing houses in Heathhall was considered.
- Using the figures from Sandy Brown Associates, it can be seen that if Kellwood Engineering operate a compressor as suggested that a significant adverse impact is already present at existing houses in Heathhall.
- The rated level of noise at the existing houses was calculated as being higher than at the proposed houses. This is explained by noise currently only being reduced by the increased distance to existing houses whereas the proposed houses have greater attenuation due to the proposed acoustic barrier.
- To date, this Service has not received any complaints relating to noise from Kellwood Engineering and numerous visits to the site by this Service have produced no evidence that this activity is being undertaken.
- As previously stated, this Service does not consider the use of the compressor to be part of Kellwood Engineering's operation.
- It is suggested that irrespective of this planning application, should an external contractor use a compressor in the manner suggested i.e. without consideration to nearby existing residential properties and without any attempt to reduce the impact by using a quieter machine or noise abatement methods, that this Service would, upon receipt of complaint, consider formal action.

**(h) Kellwood Engineering Paint Shed:**

- The predicted noise levels differ between RS Acoustic Engineering (consultant for applicant) and Sandy Brown Associates (consultant for Kellwood Engineering). A third consultant Ethos Environmental employed by Brown Brothers has also undertaken measurements which are different again.

- The noise levels used in consideration of this application have been based on measurements taken by this Service.
- It is their opinion that the paint shed activities would not constitute an adverse effect. Note in this scenario the predicted levels of noise at the proposed houses are lower than current levels at existing properties due to the barrier offering greater attenuation than the extra distance across the field.

**(i) Chillers On the Side of Logoplaste Building:**

- It is the opinion of this Service that the noise from the external chiller units would be sufficiently abated by the barrier proposed.

**(j) Noise Emanating From High Level Louvres on Logoplaste Building:**

- After receipt of the initial noise assessment submitted by RS Acoustic Engineering (on behalf of the applicant), this Service raised some concerns relating to the barrier and its effectiveness.
- 4 Revised calculations were submitted although it should be noted that the distance to the nearest house increased from 60 to 75m and a rating penalty was removed. The predicted level of noise from Sandy Brown Associates (Kellwood Engineering's noise consultant) has a large range of uncertainty with a range 38-44dB predicted at the nearest house. There is no information given relating to the extent of the impact the chiller located underneath the noisiest louvre had on the readings other than to suggest it is a slight contribution. Information is not given to confirm what if any calculations were made to compensate for this.
- In order to consider the impact of the noise from the high level louvres on the Logoplaste Building, this Service visited the site during term time and summer holidays to assess the current levels of noise from the operations undertaken by Logoplaste.
- This Services would point out that compliance with the suggested levels of the British Standards does not provide silence. The abatement measures suggested within the applicant's noise report are intended to reduce noise levels in the garden and house below the recommended levels of the British Standards used in the assessment.
- At the nearest proposed houses during school term noise is audible from operations undertaken by Logoplaste when the nursery and school children are inside. The children are the dominant noise sources when outside in the playground. When the school children are inside or on holiday, noise from Logoplaste can be identified in the gardens of the nearest proposed houses. It is expected that noise from Logoplaste operations will under certain circumstances still be audible in the gardens of some of the properties with the acoustic attenuation measures in place.
- This noise will typically be from machines operating; these have no restrictions on operational hours and may also include shorter louder noises e.g. internal warning alarms.
- The rated noise level experienced in the garden will at night (11pm-7am) be classed as an adverse impact when assessed using the methodology of BS4142.

- When considered in context using the assumption that the majority of householders are unlikely to be in the garden between 11pm and 7am along with comparison of the actual noise levels to other standards used in the assessment of this application i.e. WHO guidance and BS8223:2014, this Service is of the opinion that the noise emanating from the high level louvres is not at a level that would constitute a nuisance to residents.

**(k) Noise from Silo Filling At Logoplaste:**

- Silo filling has not been considered by RS Acoustic Engineering (applicant) but has been measured by this Service and Sandy Brown Associates.
- The report dated July 16 by Sandy Brown Associates notes the high noise levels used in their previous report (March 16) for silo filling were possibly influenced by children in the nearby school / nursery external playground, and lorries at the training facility.
- The report now uses a figure from attended monitoring. They do not state if other measurements and conclusions in their reports are based on unsupervised measurement.
- To determine the impact of the silo filling operation, the site was visited whilst the silo filling was being undertaken. This was observed as being significantly above background levels for a short period of time (approximately 50 minutes).
- This noise was audible at existing houses in Auchenkeld Avenue and St Blanes Road. Wellington Avenue on the other side of the industrial estate is closer than these streets and it would be expected to hear the silo filling operation in that location as well.
- In context, this service has received no complaints regarding this operation despite being calculated as a significant adverse effect and does not consider the noise levels to be unacceptable at the proposed houses for short durations occasionally throughout the working daytime week.

**(l) Expansion of Logoplaste Operations and the Effect on Noise Levels:**

- In considering the extent noise levels may increase from Logoplaste, consideration was given to noise sensitive properties in existence prior to Logoplast operations commencing at the Industrial Estate.
- The nearest noise sensitive property is Heathhall Primary School located 50m away which was opened several years prior.
- The Institute of Acoustics "Acoustics of Schools: a design guide" suggests a 30 minute outside limit of 50dB to enable lessons to be conducted outside. The Silo filling operation is already on this noise limit.
- Increasing the number of operational lines within Logoplaste will increase the level of noise.
- The extent of the impact on Heathhall Primary School and any housing will depend on the location within the factory, the type of line introduced and on any plant introduced to support it.

- To help future proof the houses nearest Logoplaste and to ensure that they provide residents with a greater level of protection from noise than at Heathhall Primary School (the nearest noise sensitive property), the following is suggested:
  1. The incorporation of acoustic glazing and a positive input ventilation system could be considered for incorporation into the design of the plots nearest Logoplaste.
- It should be noted that it is not the opinion of this Service that such measures are required under current operating conditions.

**(m) Other Noise Sources:**

- Traffic noise is unlikely to be a problem nor is fan noise from the nearby Browns Food Storage.

**(n) Conclusion:**

This Service has no objections to the proposed application subject to the following:

- A maintenance agreement is provided for the acoustic barrier. This will be beneficial to mitigating any future problems that could arise should the wooden section of the acoustic barrier become damaged.
- No residential property to be built closer than 75m to the nearest louvre at Logoplaste, this being the distance used in the calculation by RS Acoustic Engineering.

### **3 REPRESENTATIONS**

**Objections were received from 12 parties:**

**Bryan Boyes, 48 Herries Avenue, Heathhall, Dumfries**

**Sandy Brown Associates LLP (on behalf of Kellwood Engineering), 2 Walker Street, Edinburgh**

**Brown Brothers Manufacturing Ltd, Kelloholm Industrial Estate, Kirkconnel**

**Burness Paul LLP (on behalf of Kellwood Engineering), 50 Lothian Road, Edinburgh (2 timeous objections)**

**Alan Cameron (on behalf of Brown Brothers Ltd), Locharbriggs Coldstore, Catherinefield Industrial Estate, Locharbriggs, Dumfries (2 timeous objections)**

**Jim Davies, Dumfries Window Systems, 8B Catherinefield Industrial Estate, Dumfries**

**Kellwood Engineering, Unit 9 Catherinefield Industrial Estate (2 timeous objections)**

**Mr G Lewis and Ms A Shennan, 46 Herries Avenue, Heathhall, Dumfries**

**Logoplaste, Unit 3, Catherinefield Industrial Estate, Dumfries (2 timeous objections)**

**Adam Maitland, Catherinefield Properties Ltd, Kirkland of Rerrick, Dundrennan, Kirkcudbright**

**Garry Patterson, New Look, 7B Catherinefield Industrial Estate, Dumfries**

**Robert Wilson, RW Installations, 8B Catherinefield Industrial Estate, Dumfries**

3.1 The letters of objection to the proposal can be summarised as follows:

### 3.1.1 Visual / residential amenity

- (a) The introduction of 2 storey dwellings along the road frontage of Herries Avenue is out of context and against Council Policy;
- (b) The applicant has given consideration to using single storey dwellings elsewhere on the site and it is suggested that they should be incorporated along the road frontage of Herries Avenue;
- (c) The acoustic barrier is a bad design and will be oppressive and enclose Unit 8 and create a dark canyon alongside units 8A and 8B;
- (d) The timber crib wall represents bad design and the proposal should be rejected. Failing that, the developer should be required to build the bund with the side facing the industrial estate the same as facing their own development. If the crib wall is approved, soil panels and planting ledges should be built into it and maintained for the lifetime of the development;
- (e) The PIP required a secure fence designed to prevent pedestrians accessing Catherinefield Industrial estate. By stopping 55 yards short of Catherinefield Road, pedestrians can walk around the end and into the estate, thereby failing the PIP condition;
- (f) There is no method of keeping the public from between the timber crib wall and the fence, it would be extremely worrying if the wall became a climbing frame for the youth of Heathhall and the developer should include anti-climb measures which should be maintained for the lifetime of the development;
- (g) The 2 metre gap between the bottom of the retaining wall and the fence will be a trap for litter and weeds. The developer has not indicated how this will be dealt with during the lifetime of the development.

### 3.1.2 Land use conflict and noise

- (a) There is concern that retrospective noise attenuation or operational conditions will be applied to existing businesses operating in the adjacent industrial estate. The industrial estate should be protected by the inclusion of a development exclusion zone of 100 metres from the nearest factory, the installation of triple glazing on dwellings within 200m, the noise barrier extended and Plots 9 and 10 deleted from the scheme and permanent extensive tree planting taking place before any houses are sold;
- (b) Noise is generated within the industrial estate by up to 40 HGV movements throughout the day and night. This includes hitching and unhitching of trailers, reversing alarms and the noise of trailers being loaded with pallet trucks;
- (c) There are 4 bottle blowing machines [at Logoplaste], 2 of which run continuously and generate noise which can be heard outside the building, including process alarms specifically designed to gain the attention of staff;
- (d) Associated plant and support equipment such as compressors and water chillers – the chillers are air cooled and are situated outside the building. The compressors are air cooled via vents on the side of the building so the compressors can be heard outside. Both chillers and compressors are situated at the N elevation of Unit 3 [at Logoplaste];

- (e) It is worth noting during the factory build in 2014/15, this location was decided to minimise the noise impact on the present housing estate to the SW of the factory which is actually further away than the proposed development;
- (f) There are raw material deliveries, at least 2 per week – these take around 90 minutes each and generate significant continuous noise levels;
- (g) Yard movements – Fork lift trucks, skip collections, trailer movements;
- (h) Lighting around the factory perimeter is provided for safe access and egress of staff and vehicles;
- (i) The present noise levels detailed above are very likely to increase due to expected expansion [of Logoplaste] which is due to begin in 2016 Q2;
- (j) Plans are in place to install “positive pressure” air conditioning/heating, which will have an increased noise impact from the building;
- (k) There is an access point to the NW of Unit 3 which may be required in the future for all HGV movements;
- (l) Possibility of installing a different type of plastics processing machine – this will involve the delivery of PET material which has different noise properties during delivery to our present material (HDPE). They have previously experienced complaints from nearby residents at one of their PET processing plants due to this;
- (m) It is anticipated that any new domestic neighbours who purchase homes on the Story Homes development are indeed likely to object to the way they carry out their business, specifically relating to noise and light;
- (n) The applicant’s noise survey failed to pick up operational noise from Unit 8c; they often operate at unsocial hours in response to customers breakdowns;
- (o) The fundamental problem with the application is that a failure of policy allows a residential development to be built next to a Class 5 industrial estate. The application represents a conflict of land uses and one way or another, complaints will arise;
- (p) There are significant concerns that the applicant’s noise methodology and conclusions are flawed with the noise impact being understated and the mitigation provided by attenuation measures significantly overstated;
- (q) The applicants have failed to follow the Reporter’s clear direction that they should consider future as well as existing noise impacts. As a result, the information presented to the Council is materially deficient and the Council does not have sufficient information before it to make an informed and reasonable judgement on the application;
- (r) A noise assessment [carried out on behalf of an objector] identifies that noise impacts from Catherinefield Industrial estate will result in unacceptable impacts on residential amenity nearby resulting in complaints against the operators and jeopardising their future;
- (s) The noisiest activity on the industrial estate (Logoplaste filling their silos) has been omitted from the applicant’s noise report;

- (t) The calculation of the rated noise from the high level louvres [on the Logoplaste building] is wrong because the readings were taken at a distance of 23m rather than 15m. The calculation of the attenuation due to the bund is wrong. There should be an acoustic penalty for tonality. It does not allow for the accumulation of sound from more than one louvre. It does not identify that more sound is generated at other louvres than at the one it measured;
- (u) The background sound level is overstated because there has been no attempt to exclude specific noise from the sound level recorded, This affects the impact of noise from each and every source;
- (v) The bund fails to protect the affordable homes in the most south-eastern corner of the site;
- (w) The Reporter for the previous application was very clear that there had to be an element of flexibility for the occupants of the industrial estate. At the time of the applicant's appeal against refusal of the previous scheme, the use of a mobile compressor was much discussed. It is likely and reasonable to believe that that machine or similar generating 85 dBLAeq or 88 dBLAFmax at 10m. The noise report should cover this and there is disappointment at its failure;
- (x) The applicant's noise survey was carried out before Logoplaste reached their current production level;
- (y) The applicant's noise survey fails to identify the worst case scenario in respect of Kellwood static compressor;
- (z) Whilst further noise impact assessment work has been undertaken, this has failed to address previous concerns and indeed raises new concerns about the approach undertaken;
- (aa) There are concerns that the remainder of the site will remain undeveloped;
- (bb) The applicants have failed to respond to the Reporter's criticisms of their previous scheme, electing to instead restate that which has been said before. There is no evidence that the remainder of the site could be brought forward for development and there is a real risk that the remainder of the site will remain undeveloped;
- (cc) The application is contrary to Dumfries and Galloway Local Development Plan, PAN 1/2011 and the SPP. It further fails to address Condition 6 of the PIP to which it relates and should be refused;
- (dd) There is clearly a significant problem with the noise being generated by the filling of the [Logoplaste] silos. A Council Environmental Health Officer witnessed this on 23 June. It is not appropriate for RS Acoustic Engineering (RSAE – the applicant's noise consultants) to refuse to acknowledge this as a valid issue;
- (ee) RSAE mis-states Kellwood Engineering's position. Operations take place in a Class 5 industrial estate, and it has been classified as such for many years:

- a. By day, it is reasonable and reasonably foreseeable for KEL, an engineering sub-contractor, to operate a substantial mobile compressor, or other equivalent noise making machine, in their yard. That is the position which was consistently put to the Reporter for application 13/P/3/0236. She was fully aware that, at the time of her hearing and decision, that activity no longer formed part of KEL's regular processes. Although she made no comment either way on the detail, in general terms she supported this position.
- b. By night, Kellwood Engineering should be afforded some leeway over the 4 fans and compressor currently in use. However, in practice, noise levels at night could reasonably be expected to be significantly less than by the day.
- c. Night time background sound levels are more robustly stated at 29 dB or 31 dB rather than 33 dB.

### **3.1.3 With reference to RSAE's Noise Assessment Report of May 2016 (Kellwood Engineering)**

- (a) RSAE has not satisfactorily addressed the 3 main failings of their earlier noise assessment in December 2015. Sandy Brown reviewed the revised noise assessment on behalf of Kellwood Engineering and the failings as they currently stand are:
  - a. Foreseeable future developments: RSAE's approach limits Kellwood to its existing activities. It is noted that RSAE allows for a doubling of activity within Logoplaste's building, whilst no allowance is made for the extra activity that would be further west within the building, nearer to the proposed dwellings.
  - b. Silo filling: Sandy Brown calculates that this activity generates a rated noise of 50 dB at the nearest dwelling during the day.
  - c. Noise emanating from high level louvres: RSAE calculates the rated noise to be 5 dB more than the background noise. BS4142:2014 states that such a difference is *"is likely to be an indication of an adverse impact, depending on the context"*. That alone says that the proposal should be rejected;
- (b) RSAE tries to justify this excess noise by reference to a note to section 8.5 BS4142:2014. Such a reference is seriously out of context. The main thrust of BS4142:2014 is to instruct those involved in such cases to compare the anticipated rated noise levels to background noise levels. The core of Section 8.5 read "Measure any background sound at the intended location of any new noise sensitive receptor(s) in the absence of any specific sound". RSAE is seen to be inviting the reader, on the basis of a note to Section 8.5, to ignore the core of Section 8.5 and thereby ignore the thrust of the whole of BS4142:2014. RSAE

recorded data “in the absence of specific sound” for his April 2013 noise assessment. There is no need to refer to other standards and Condition 6 of the PIP makes particular reference to BS4142;

- (c) Loosening the limitations imposed by BS4142 is an example of the compromising of planning standards as referred to by the Reporter in clause 31 of her judgement on the previous case;
- (d) The background noise level that has been used in the assessment is based on noise measurements that include industrial noise and the assessment of the background noise level used is not considered particularly robust – there is a case for using a lower background level in the assessment;
- (e) Kellwood Engineering’s operations have been re-assessed and it is considered that they are still likely to cause an adverse impact at the nearest proposed dwellings;
- (f) The applicant’s assessment of noise from Logoplaste does not represent the worst case scenario. The noisiest time is during silo filling and an assessment of this activity is not included in the RSAE report;
- (g) Noise levels predicted at the nearest housing have been underestimated, specifically: noise from the Logoplaste high level louvres, and noise from the Kellwood Engineering paint shed;
- (h) The reductions in sound levels predicted by RSAE due to the noise barrier are considered overly optimistic, and in the case of Logoplaste’s high level louvres, it is not expected that the barrier would provide any shielding to upper windows at all to the closest proposed housing. In addition there have been a number of changes in the parameters and calculation techniques used in the assessment which are not fully explained;
- (i) RSAE’s assessment of future noise from the Logoplaste louvres is based on the noise increasing by 3 dB, however this simplistic increase is not considered robust;
- (j) RSAE refer to Section 8.5 of BS4142 which states that when the industrial noise is extant, other guidance and criteria in addition to or alternative to the BS4142 standard can inform the assessment and this is accepted, however given the absence of the Logoplaste industrial noise it is considered that the most appropriate design mitigation measures should result in a favourable BS4142 assessment.

[NB - Comments raised regarding the reduction in property values, attractiveness of rental units to prospective clients and loss of views are not material planning considerations]

#### **4 REPORT**

Relevant development plan policies:-  
**Dumfries & Galloway Local Development Plan**

**DFS.H4 Heathhall College (192 units allocated up to 2024)**

**OP1 – Development Considerations**

**OP2 – Design Quality of New Development**

**OP3 – Developer Contributions**

**H1 – Housing Land**

**H5 – Affordable Housing**

**CF3 – Open Space**

**IN7 – Flooding and Development**

**IN8 – Surface Water Drainage & Sustainable Drainage Systems (SUDS)**

**IN9 – Waste Water Drainage**

**T2 – Location of Development / Accessibility**

Supplementary Guidance:

**Developer Contributions**

**Affordable Housing**

**Open Space and New Development**

**Flooding and Development**

Other material planning considerations:

**National Planning Framework (NPF) 3**

**Scottish Planning Policy (SPP) (June 2014)**

**Planning Advice Note (PAN) 1/2011: Planning and Noise**

**Designing Streets**

4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that:-  
“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan”.

4.2 The application site in this case is an allocated housing site (DFS.H4) within the Dumfries and Galloway Local Development Plan (LDP). The LDP allocates 192 housing units for the site up to 2024. Within Dumfries, there are a further 7 allocated housing sites for this period which in total allocate 2806 housing units. DFS.H4 lies adjacent to another allocated site; DFS:H8 (Catherinefield Farm) lies to the north of the application site and is allocated for 279 units.

4.3 The principle of development has been established under extant planning permission in principle 13/P/3/0362 and in the Council’s adopted LDP which allocates the application site as contained within an allocated housing site (DFS.H4). The principle of residential development cannot be re-visited in the determination of this case and therefore, the relevant policy considerations in this case are as follows:

- Compliance with LDP site guidance;
- Flood risk and drainage;
- Transport and access;
- Design and amenity (including Open Space);

- Affordable Housing;
- Noise, and scope for land-use conflict to arise;
- Servicing; and
- Developer contributions.

### **LDP Site Guidance**

4.4 LDP Policy DFS:H4 allocates the site for 192 units; guidance within the LDP notes that the site was granted in principle planning permission in 2010 and that the site provides an opportunity to provide additional residential development within the north-east of Dumfries, an area which has historically been an area of high housing demand. Further site specific guidance states:

4.5 Structural planting should be provided to the south-east boundary of the site adjoining the Catherinefield Industrial Estate to provide visual enhancement and assist in any noise attenuation that may be required at this location. The submitted plans and supporting information indicate the type and shape of the planting along the sites south-eastern boundary. In addition, the Council's Environmental Health Officer has indicated that the planting in conjunction with the structural earth bunding would allow the development sufficient protection from any significant noise arising from the adjacent Catherinefield Industrial Estate. This is the subject of further discussion later in this Report.

4.6 Conditions 6 to 18 of PIP 13/P/3/0362 also govern the terms of this approval in terms of providing guidance to the applicant and / or setting out specific requirements and expectations.

### **Flood Risk and Drainage**

4.7 The application site does not lie in an area at risk from flooding and SEPA and the Council's FRMT have offered no comments in this regard. As the development is not located within a flood zone, and that the preferred option for residential development is for a location outwith any functional floodplain, it is therefore considered that the proposed development would accord with LDP Policy IN7 and SPP in terms of flood risk.

4.8 The submitted proposal shows a proposed temporary dry basin SUDS feature to deal with surface water run-off emanating from the development. Given the proposed phased approach to the larger site development, it is stated that it is proposed to locate a permanent SUDS feature to the east of the current phase of development to be completed as part of the envisaged Phase 2. In terms of mitigating against increased run-off, it is envisaged that the detailed SUDS design will be developed further in conjunction with the overall strategic drainage plan for the site and the site layout and it is considered that this overall approach accords with LDP Policy IN8.

### **Transport and Access**

4.9 As noted at paragraphs 1.4 and 1.6 above, access to the site would be taken from

a number of routes. Footpath access is proposed to connect the site to Herries Avenue and thereby the wider Heathhall area, as well as creating a path network linking the various phases of development within the site boundary. Access for vehicles would be taken from 2 proposed new junctions on Herries Avenue with a network of smaller roads taking traffic into the development. The site is still in reasonable proximity to the town centre and other amenities such that it would accord with the principles of LDP Policy T2 – Location of Development / Accessibility. The submitted plans indicate that the internal road and path network link well with the areas of open space within the development as well as outwith, and it is considered broadly consistent with the aims of LDP Policy OP2 – Design Quality of New Development.

4.10 Representations have been made regarding the impact of traffic on the wider road network surrounding the development. However, it should be noted that the Council's Roads Officer has not objected to the proposal.

### **Design and Amenity (including Open Space)**

4.11 The proposal broadly complies with the above requirements of the site guidance set out in LDP Policy DFS:H4 and although there is no specific design criteria within the overall site guidance, given the size and shape of the application site, it is difficult to see how the site could otherwise be developed and this approach is supported. Policy and advice on the layout and design of new residential development is contained within Scottish Government policy: Designing Streets. This policy promotes a design-led rather than standards-led approach to street design with the aim of raising the quality of design in urban and rural development. As a result, residential streets should not be designed with 'place' taking priority over movement with the design meeting the 6 qualities of successful places:

- Distinctive;
- Safe and pleasant;
- Easy to move around;
- Welcoming;
- Adaptable; and
- Resource efficient

4.12 The applicant's submitted Planning Statement sets out these qualities and attempts to explain how the proposed design meets them. The layout of the proposed development is based mainly around a '3 block' layout which minimises the use of cul-de-sacs in order to provide a connected street layout which increases the permeability and legibility of the site making it easier for pedestrians to walk within and outwith the site. There are several links in and out of the site proposed over and above the 2 vehicular accesses at Herries Avenue; a 3 metre wide footpath link between Plots 22 and 39 leading to Herries Avenue and footpath and road links from: the northern housing block into the envisaged Phase 2 of the development as well as road links to the north and east of the play / open space into the second phase of development, with both of the new roads accesses running into the envisaged Phase 2. The layout

ensures, as far as practicable that streets and other public spaces are overlooked with dwellings and in the main dwellings would also face directly onto the main distributor roads within the site helping to improve the residential character of the site.

4.13 LDP Policy CF3 requires development of 5 or more units to provide or contribute towards open space. Adopted LDP Supplementary Guidance requires that new open space is usable, safe, accessible and well maintained and should be strategically planned and designed as an integral part of the development. Open spaces should be multi-functional and inter-connected. The requirement for open space should take account of the existing location and type of provision which already exists in Dumfries. The settlement account for Dumfries set out within the LDP Supplementary Guidance notes that as expected for a town of this size, there is a good range of types of open space, including cycle paths and walking opportunities along green corridors such as the River Nith walkway. New housing developments could contribute to improving existing space and providing additional space where necessary to meet any new accessibility requirements. Several pockets of open space are proposed throughout the site, to the north and along the southern boundary and notably the area to the north east containing an equipped children's play area, paths and planting and the area containing the earth bund and temporary SUDS basin. This open space area would also serve as a noise buffer area from the adjacent Catherinefield Industrial Estate, and given the lack of alternative uses for this part of the application site, the use of this area for active and passive public open space is considered to be appropriate.

4.14 A landscaping scheme for the entire site focuses on the planting of trees, particularly along street frontages and within open space areas, helping to create a pleasant environment for pedestrians and residents. It is also proposed to retain existing trees where it is possible to do so to the north and west of the site.

4.15 The proposed layout and design of the development is considered to broadly accord with the aims of designing streets as well as LDP Policy: OP2 Design Quality of New Development.

4.16 In terms of landscape fit, the dwellinghouses would be visible from the countryside and public road to the north and east and would lie directly opposite the dwellings along Herries Avenue. These impacts are accepted by virtue of the sites designation as an adopted housing site within the LDP and within the Dumfries settlement boundary.

4.17 The proposed dwelling types vary in terms of their size and materials. These range from single storey bungalows, to terraced, semi-detached and detached 2 storey dwellinghouses. Some objection has been made regarding the impact of the proposed 2 storey dwellings on the character of Herries Avenue which is characterised by large single storey bungalows. With regard to character impact, it is considered that the variation of dwellinghouses proposed would add interest to the character of the surrounding area, and it is noted that the existing dwellings in the

adjacent Auchenkeld Avenue are a mix of single and 2 storey dwellings. Although bungalows are the predominant house type in the area around Herries Avenue, there are a variety of heights and types of buildings in the area around Auchenkeld Avenue and Whinny Rig and this is continued within the proposed house type mix. The separation between the proposed dwellings and those existing is well in excess of the Council minimum standard of 18 metres (the shortest distance is approximately 26 metres between Plot 43 and the nearest property on Herries Avenue) across the majority of the site, averaging between 30 and 35 metres and it is therefore considered that there would not be a material privacy impact.

4.18 Condition 8 of PIP 13/P/3/0362 requires a fence or other structure to prevent pedestrian access into Catherinefield Industrial Estate. It should be noted that at present, there is no security fencing and that access could be obtained from the application site. The report for the original PIP application considered that there may be an increased risk of unauthorised access to the industrial estate due to the residential development. The proposed 2 metre high fencing to match that surrounding the primary school is considered to be acceptable in achieving the objectives of Condition 8.

### **Affordable Housing**

4.19 LDP Policy H5: Affordable Housing requires that housing development of 5 or more units provide up to 20% of the units as affordable housing. The issue was also covered by Condition 7 of the parent PIP. The applicant is agreeable to the principle of providing affordable housing within the site, and 15 units (20%) are proposed. The affordable units are located opposite at the southern edge of the site.

### **Noise, and scope for land-use conflict to arise**

4.20 One of the pivotal issues in the determination of this application is the introduction of housing (a noise sensitive land use) onto this site which is located next to Catherinefield Industrial Estate, and whether or not that would give rise to a material degree of land-use conflict by virtue of noise disturbance. There are 2 components to this. Firstly, residents of dwellinghouses will have a reasonable expectation of a good standard of residential amenity, and this is recognised within the site guidance contained within the adopted LDP for Site DFS.H4, as well as provided for by Condition 6 of the parent PIP. Secondly, the established businesses at Catherinefield Industrial Estate should have the confidence to continue to operate without fear of legitimate noise complaints arising from residents, which would potentially restrict the range of viable activities at the Industrial Estate and prejudice and undermine existing operations.

4.21 LDP Policy OP1 in part provides that any particular development proposal should be compatible with the character and amenity of the area and should not conflict with nearby land uses. Condition 6 of PIP 13/P/3/0362 requires that a noise assessment be submitted as part of any further application: such a noise assessment has been submitted in connection with this application, and commentary on that assessment appears within this Report elsewhere at 1.12, 2.7, 3.12 and 3.13. Condition 6 provides

that should the likelihood of noise complaints be identified as part of this assessment then suitable acoustic attenuation measures require to be identified and form part of any further application in respect of residential units. The present proposal includes acoustic attenuation measures in the form of the perimeter bund to the boundary with Catherinefield Industrial Estate. The question is therefore whether or not the submitted noise assessment, and acoustic attenuation measures are suitable, and whether or not the proposed development would give rise to a material degree of land-use conflict, and whether or not it would create a satisfactory standard of residential environment which would not give rise to complaints from residents of the proposed dwellinghouses.

4.22 This particular issue was examined in some depth during planning appeal PPA-170-2093 which included the hearing session on 11 November 2014. Whilst this application made reference to a different parent planning permission in principle (08/P/3/0175), the relevant condition is effectively the same as in this case. In dismissing appeal PPA-170-2093 the Reporter concluded that:-

- The proposal would have represented a substandard residential environment, by reason of the noise environment which would be created to the proposed dwellinghouses, which could not be suitably attenuated, and the proposal was therefore contrary to LDP Policies OP1 (part a) and OP2 in this respect;
- The proposal would also have been contrary to LDP Policy OP1 (part f) by prejudicing the economic development of the existing local economy, by reason of the likely effect on the suitability of Catherinefield Road Industrial Estate as a general industrial location; and
- The frame of reference for existing activities on Catherinefield Industrial Estate and noise generation should be based on what existing noise generators can do on their land without the need for planning permission, or free from planning conditions, making an informed and reasonable approach;

4.23 It should also be noted that this proposal is materially different from the proposal which was considered at that appeal in the following key respects:-

- (i) the separation distance has increased, and the layout has changed, and a reduced number of houses are now proposed in relation to the PIP site; and
- (ii) Noise attenuation measures to Catherinefield Industrial Estate have been bolstered and early implementation would provide an opportunity for noise monitoring to take place within the wider site taking the mitigating effect of the implemented attenuation measures into account.

4.24 Drawing all of the relevant comments together, and particularly the commentary at 1.11 and 2.7 of this Report, the following advice is noted:-

- (i) Kellwood Engineering are not presently unrestricted in terms of the noise they can potentially generate (see 2.7(h) and (i)) without attracting complaint. The assessment by the Council's Environmental health Officer indicates that in the event there was significant noise generation arising from a new louder piece of equipment at their

premises then other existing residences nearby would be more affected than those proposed by reason of a lack of attenuation, to a level where any legitimate noise complaints would merit formal action;

(ii) The Council's Environmental Health Officer does not consider that the noise presently arising from the Logoplaste operations and being experienced by residents at a range of at least 75m in garden areas during daytime hours (0700 to 2300) would constitute a nuisance to residents. Complaints are also not envisaged from silo-filling operations at Logoplaste;

(iii) The Council's Environmental Health Officer has suggested the incorporation of acoustic glazing and a positive input ventilation system could be considered for incorporation into the design of the plots nearest Logoplaste to protect against any increase of noise due to a change in Logoplaste's operations.

4.25 It is concluded that the proposal, subject to the prior implementation of acoustic attenuation measures comprising the bund and crib wall to the boundary with Catherinefield Industrial Estate, would not give rise to a material degree of land-use conflict by virtue of noise, would meet the expectations set out in Condition 6 of PIP 13/P/3/0362, and the development plan in terms of LDP Policies OP1, OP2 and H1 (DFS.H4), in the sense that the proposed residential properties would be located within a reasonable and satisfactory acoustic environment where a decent standard of residential amenity can be enjoyed.

### **Servicing**

4.26 Waste Water Drainage: Scottish Water has been consulted but no response has been received to date.

4.27 Surface Water Drainage: As noted above in points 4.8 and 4.10, surface water would drain to a SUDS system or pond in a scheme to be agreed by condition. The principle of this means of drainage and particular the use of a SUDS is considered to be acceptable for a scheme of this size and is also in accordance with LDP Policy IN8

### **Developer Contributions**

4.28 LDP Policy OP3 states that developer contributions will be sought where a development proposal (or combination of developments) creates an identified need to secure off site mitigation or to provide for new, extended or upgraded public infrastructure. As this application falls under the auspices of a parent PIP (13/P/3/0262), there is no scope to introduce a new requirement for such contributions or set up a new Section 75 legal obligation as the principle of the development has already been established by that PIP, as well as the terms of it by reason of the associated conditions. In that regard, Condition 7 of PIP 13/P/3/0362 does require that a scheme of affordable housing be agreed in writing with the Council as planning authority prior to any development taking place, and that requirement obviously would remain.

4.29 Furthermore, Condition 12 of PIP 13/P/3/0362 covers requirements in respect of off-site junction improvement works at Herries Avenue / Auchenkeld Avenue, the cost of which would require to be met by the developer.

## **Conclusions**

4.30 In conclusion, the proposal is considered to be compliant with the provisions of the stated Development Plan Policies and as there are no material considerations which override the presumption in favour of a determination in accordance with the terms of the development plan, it is recommended that this proposal be approved subject to the conclusion of a legal agreement and subject to the conditions listed below

## **5 RECOMMENDED DECISION**

5.1 Approve subject to the following conditions:

1. That no development in respect of this approval shall take place unless and until a scheme of long term maintenance for the approved acoustic barrier has been submitted to and approved in writing by the Council as planning authority. The approved maintenance scheme shall thereafter remain in place and be adhered to for the lifetime of the development unless otherwise agreed in writing with the Council as planning authority. The said acoustic barrier shall be implemented in full before the first dwellinghouse hereby approved is occupied.
2. That no development in respect of this approval shall take place unless and until a scheme for the future maintenance of all areas of open space (including SUDS) within the development have been submitted to and approved in writing by the Council as planning authority. Thereafter, the said areas of open space shall be maintained in complete accordance with the terms of the approved scheme unless the Council as planning authority gives written approval to any variation.
3. That no development in respect of this approval shall take place unless and until a scheme of street lighting columns has been submitted to and approved in writing by the Council as planning authority (in consultation with the roads authority). Such scheme shall include details of the number, type, location and phasing of implementation of the proposed street lights. The development hereby approved shall not be occupied unless such scheme as may be so approved has been implemented and is fully operational.
4. That no development in respect of this approval shall take place unless a Traffic Management Plan (TMP) covering the construction phases has been submitted to and agreed in writing by the Council as planning authority (in consultation with the roads authority and Police Scotland). Thereafter, the development shall be implemented in accordance with the agreed TMP.
5. That no development in respect of this approval shall take place unless the developer has demonstrated that appropriate visibility can be achieved at the junction of the proposed shared surface street within the site with the core road by Plot 11, to the satisfaction of the Council as planning authority (in consultation with the roads authority) and this matter has been agreed in writing with the Council as planning

authority. Thereafter, the development shall be implemented in accordance with the agreed details.

6. That, notwithstanding the details shown on the approved drawings, no approval is hereby granted for the external finishes for the proposed dwellinghouses. No development in respect of this approval shall take place unless and until details of the precise external finishes proposed have been submitted to and approved in writing by the planning authority. No dwellinghouse hereby approved shall be occupied unless it has been finished in such external finishes as have been so approved.

7. That all the planting, seeding, turfing and other works shown in the approved plans shall be implemented in the first planting season following the completion or occupation of the dwellinghouses hereby approved. Thereafter, all trees and shrubs forming part of the approved scheme shall be maintained and replaced where necessary to the satisfaction of the planning authority for the lifetime of the development. No trees forming part of the approved scheme shall be pruned or lopped without the prior written approval of the planning authority.

8. That no dwellinghouse hereby approved shall be occupied unless and until its respective off-street car parking / turning areas have been formed in complete accordance with the approved drawings or such other drawings as may be approved in writing for the purpose by the planning authority. Thereafter, the said parking / turning areas shall be kept clear from obstruction and shall be retained only for that purpose for the lifetime of the development.

9. That no dwellinghouse hereby approved shall be occupied unless and until the gradient of its respective access for the first 5 metres has been formed so as to be no greater than 8% (1 in 12.5).

Relevant Drawing Numbers:

<b>Plan Type</b>	<b>Reference</b>	<b>Version No</b>	<b>Received Date</b>
Drawing - Other	11058_L03AP04	Soft landscape A	24.01.2017
Drawing - Other	11058_L03BP04	Soft landscape B	24.01.2017
Drawing - Other	11058_L03CP04	Soft landscape C	24.01.2017
Drawing - Other	11058_L04BP1	Landscape Notes	24.01.2017

<i>Site Plan</i>	AA976/P/01	Engineering Layout	24.01.2017
Location Plan	SD-00.01A	Location Plan	22.12.2015
Site Plan	SD-00.02A	Site Plan Existing	22.12.2015
Drawing - Other	SD-10.01	Gold House Type	22.12.2015
Drawing - Other	SD-10.01E	Boundary/EI evations	22.12.2015
Drawing - Other	SD-10.02AY	Masterplan Proposed	24.01.2017
Drawing - Other	SD-40.03Q	Masterplan Finishes	24.01.2017
Drawing - Other	SD-10.03K	Aerial Montage	24.01.2017
Drawing - Other	SD-10.04L	Masterplan Colour	24.01.2017
Drawing - Other	SD-40.04 REV D	Roads Hierarchy	24.01.2017
Drawing - Other	SD-10.06P	Roads Adoption	24.01.2017
Drawing - Other	SD-10.07M	Phasing Plan	24.01.2017
Proposed Sections	SD-20.01D	Sections	22.12.2015
Drawing - Other	SD-50.02	Woodlands House Type	22.12.2015
Drawing - Other	SD-50.03	Silver House Type	22.12.2015
Drawing - Other		Dalkeith House Type	22.12.2015

Drawing - Other		Dornoch House Type	22.12.2015
Drawing - Other		Huntly House Type	22.12.2015
Drawing - Other		Irvine House Type	22.12.2015
Drawing - Other		Livingstone House Type	22.12.2015
Drawing - Other		Rothesay House Type	22.12.2015
Drawing - Other		Stirling House Type	22.12.2015
Drawing - Other	11058_L03C REV P03	Acoustic Planting C	31.05.2016
Drawing - Other	AA4679/EW/03 REV B	Phase 1 (1 of 2)	24.01.2017
Drawing - Other	AA4679/EW/04 REV B	Phase 1 (2 of 2)	24.01.2017
Drawing - Other	AA4679/EW/06 REV B	Drainage (1 of 3)	24.01.2017
Drawing - Other	AA4976/EW/02 REV C	General Arrangement	24.01.2017
Drawing - Other	AA4976/EW/05 REV B	Drainage (Macro)	24.01.2017
Drawing - Other	AA4976/EW/07REV B	Drainage (2 of 3)	24.01.2017
Drawing - Other	AA4976/EW/08 REV B	Drainage (3 of 3)	24.01.2017
Drawing - Other	AA4976/EW/09 REV A	SUDS Details	31.05.2016

Other Report	SD-40.01 REV Q	Boundary Treatment	24.01.2017
Drawing - Other		Oban House Type	31.05.0206
Drawing - Other	SD-40.05 REV C	Off street parking	24.01.2017

*NB – All relevant drawings, and any relevant associated correspondence/reports, are available on the Council's ePlanning website ([www.dumgal.gov.uk/planning](http://www.dumgal.gov.uk/planning)).*