



**Clackmannanshire
Council**

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Comhairle Siorrachd
Chlach Mhanann

Kilncraigs, Greenside Street, Alloa, FK10 1EB (Tel.01259-450000)

Planning Committee

Thursday 3 November 2022 at 9.30 am

Venue: Via MS Teams

Date	Time
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Planning Committee

Subject to paragraphs 3.28 and 11.4 of the Scheme of Delegation, the Planning Committee has responsibility for taking decisions on planning applications and enforcing planning laws, and;

Carrying out the local authority's function in relation to street naming under section 97 of the Civic Government (Scotland) Act 1982; and

Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Development and Environment Services related to Building Standards.

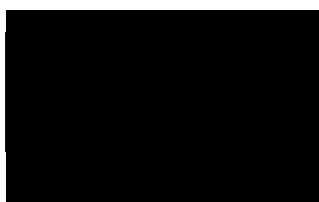
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26 October 2022

A MEETING of the PLANNING COMMITTEE will be held Via Ms Teams on THURSDAY 3 NOVEMBER 2022 at 9.30 AM.



PETE LEONARD
Strategic Director (Place)

B U S I N E S S

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1. Apologies	--
2. Declaration of Interests Members should declare any financial or non-financial interests they have in any item on this agenda, identifying the relevant agenda item and the nature of their interest in accordance with the Councillors' Code of Conduct. A Declaration of Interest form should be completed and passed to the Committee Officer.	--
3. Confirm Minutes of Meeting held on 8 September 2022 (Copy herewith)	05
4. Planning Application ref: 22/00012/FULL – Erection of Air Separation Plant and Associated Infrastructure at OI Manufacturing Ltd, Glasshouse Loan, Alloa, Clackmannanshire FK10 1PD – report by Keith Johnstone, Principal Placemaking Officer (Copy herewith)	07
5. 10 Gannel Hill View, Devon Village FK10 3GN - Further Update Report - report by Grant Baxter, Principal Placemaking Officer (Copy herewith)	49

Planning Committee – Committee Members (Membership 10 – Quorum 4)

Councillors

Wards

Councillor	Denis Coyne (Chair)	5	Clackmannanshire East	CONSERVATIVE
Councillor	William Keogh (Vice Chair)	2	Clackmannanshire North	LABOUR
Councillor	Phil Fairlie	1	Clackmannanshire West	SNP
Councillor	Mark McLuckie	1	Clackmannanshire West	LABOUR
Councillor	Donald Balsillie	2	Clackmannanshire North	SNP
Councillor	Martha Benny	2	Clackmannanshire North	CONSERVATIVE
Councillor	Fiona Law	2	Clackmannanshire North	SNP
Councillor	Jane McTaggart	3	Clackmannanshire Central	SNP
Councillor	Bryan Quinn	4	Clackmannanshire South	SCOTTISH GREEN
Councillor	Kenneth Earle	4	Clackmannanshire South	LABOUR



**MINUTES OF MEETING of the PLANNING COMMITTEE held via VIDEO CONFERENCE
(MS TEAMS), on THURSDAY 8 SEPTEMBER 2022 at 9.30 AM**

PRESENT

Councillor Denis Coyne (Convener)
Councillor William Keogh (Vice Convener)
Councillor Donald Balsillie
Councillor Martha Benny
Councillor Phil Fairlie
Councillor Fiona Law
Councillor Mark McLuckie
Councillor Jane McTaggart
Councillor Bryan Quinn

IN ATTENDANCE

Pete Leonard, Strategic Director (Place)
Emma Fyvie, Senior Manager, Development (Place)
Allan Finlayson, Team Leader, Planning and Building Standards
Grant Baxter, Principal Placemaking Officer
Keith Johnstone, Principal Placemaking Officer
Graham Finlay, Principal Placemaking Officer
Lee Robertson, Senior Manager, Legal and Governance (Clerk to the Committee)
Melanie Moore, Committee Services, Legal and Governance
Gillian White, Committee Services, Legal and Governance

PLA(22)01 APOLOGIES

Apologies for absence were received from Councillor Kenneth Earle.

PLA(22)02 DECLARATIONS OF INTEREST

None.

PLA(22)03 PLANNING APPLICATION

Planning Application ref: 20/00267/PPP – Residential Development (Including Education Facilities) With Associated Works Including Access, Parking, Landscaping, Open Space And SUDs at land North Of Blackfaulds Street And Wardlaw Street, Coalsnaughton, Clackmannanshire

The report, submitted by Grant Baxter, Principal Placemaking Officer, provided an assessment of and made a recommendation on the above noted planning application. The application required to be determined by the Planning Committee as, due to the site area, it fell into the “Major” category of developments.

Attending

Mr Colin Lavety, Barton Willmore (Agent for the Applicant – Kudos Partnership Limited)
Mr Ronnie Beveridge, Tillicoultry, Devonside and Coalsnaughton Community Council (Objector)

The report was introduced by Grant Baxter, Principal Placemaking Officer. Members of the Planning Committee had the opportunity to put questions to Mr Baxter.

The Committee then heard representation from Mr Colin Lavety, Barton Willmore (Agent for the Applicant – Kudos Partnership Limited). Members of the Planning Committee had the opportunity to put questions to Mr Lavety.

The Committee also heard representation from Mr Ronnie Beveridge, on behalf of Tillicoultry, Devonside and Coalsnaughton Community Council. Members of the Planning Committee had the opportunity to put questions to Mr Beveridge.

Motion

That the Committee agrees the recommendations set out in the report.

Moved by Councillor Denis Coyne Seconded by Councillor Martha Benny.

Decision

The Committee unanimously agreed :

1. That the application is considered to comply with the relevant provisions of the Clackmannanshire Local Development Plan and there are no material considerations that indicate it should not be approved.
2. That the Planning Committee APPROVE the application for Planning Permission in Principle (PPP) subject to officers concluding a Section 75 Agreement (Planning Obligation) between the Council and the applicant as set out in draft Heads of Terms in Appendix 1 to the report, and a set of detailed Matters to be Specified in Conditions (MSC), as set out in Appendix 2 to the report.

Action

Principal Placemaking Officer

PLA(22)04 APPEALS UPDATE

The report, submitted by Grant Baxter, Principal Placemaking Officer, updated the Committee on matters in relation to two recent planning appeals at Branshill Road, Sauchie (Sauchie West – Ref: 10/00153/PPP); and Phase 9, Alloa Park, south of, Forth Crescent, Alloa (ref: 21/00107/FULL).

Motion

That the Committee agree to note the report.

Moved by Councillor Denis Coyne. Seconded by Councillor Donald Balsillie.

Decision

The Committee agreed to note the report.

Ends: 10.30 am

Report to Planning Committee

Date of Meeting: 3rd November 2022

Subject: 22/00012/FULL - Erection of Air Separation Plant and Associated Infrastructure at OI Manufacturing Ltd, Glasshouse Loan, Alloa, Clackmannanshire, FK10 1PD

Report by: Keith Johnstone, Principal Placemaking Officer

1.0 Purpose

- 1.1. The Report provides an assessment of the above application for planning permission having consideration to the provisions of the Local Development Plan and any other material considerations, including advice from consultees and representations received from third parties. It provides a recommendation on the application.

2.0 Recommendations

- 2.1. It is recommended that the application is **APPROVED** subject to the conditions and reasons set out in Appendix 1

3.0 Considerations

3.1. Background

- 3.2. This is an application for planning permission to build an air separation unit plant on vacant land located next to OI Glassworks on the south side of Craigward (see Location Plan). The plant will draw in air and separate it into oxygen, nitrogen and argon using a distillation process for onward supply to customers. The applicant has advised that the main customer would be the OI Glassworks who would receive a supply of gaseous oxygen via a pipeline from the site which would be used to fuel new oxy fuel technology furnaces at the glass works. OI have provided information about the need for the fuel in a representation which is summarised in para 5.7 below. The products would also be sold to other customers including hospitals (medical grade oxygen and use in medical equipment), manufacturing and chemical process (including argon for welding), food and beverage production and freezing (nitrogen), and other applications. These products would usually be delivered from the plant in liquid form by a road tanker. The applicant has advised that development would directly employ approximately 10 staff.

- 3.3. The plant would cool air to low temperatures and then separate the constituent parts by low temperature distillation. The only emissions to air would be unused air and water vapour from the cooling tower. In general terms the process runs from south to north in the plant within the site. The process comprises 4 main stages;
- Compression – the air enters a compressor to compress it in stages. Heat is removed using cooling water in intercoolers. Cooling water is provided from a cooling tower located towards the south boundary. The tower would be approximately 9m in height.
 - Air purification – the cooled air enters vessels which remove water and carbon dioxide and “purify” it.
 - Heat exchange – the purified air then passes through further cooling compressors and heat exchangers. Cooling is provided by a pumped water system and cooling air is also drawn down the tower structures.
 - Distillation - this takes place in 3 tall columns both as gas and liquid and is separated into the different product streams by cryogenic distillation.
- 3.4. The plant would contain a number of structures, the tallest used for the distillation process and tanks for storage of the products, as well as other buildings and equipment. The main elements would comprise;
- The column where the cryogenic distillation of air takes place to recover the individual gases, referred to as the “cold box” in the application. This column would measure 56m in height by 6 m in length and 5.5m in width. It would be enclosed with white coloured cladding. The external colour is required to help regulate temperatures during the distillation process. The column would be located adjacent to the existing tall conveyor tower (approximately 51.5m in height) located to the east of the site within the glassworks to the east of the site.
 - A cooling tower which would measure 18m in length by 7 m in width and 9m in height. It would be located at the rear (south) end of the site near to an existing chimney within the glassworks.
 - Storage tanks located on the north side of the cold box which would be roughly in line with the brick “Glass Cone” in the glassworks which is visible from Craigward. There would be 9 tanks comprising; 4 liquid oxygen tanks each measuring 28.5m in height with a capacity of 305m³, 4 liquid nitrogen tanks; 3 would be 29.5m in height with a capacity of 320m³ and 1 would be 12m in height with a capacity of 71m³, and 1 liquid argon tank which would be 25 m in height and have a capacity of 59 m³. The cylindrical tanks would be coloured white.
- 3.5. The site would also contain a number of ancillary buildings or structures and plant including; a switchgear building (30m long by 6m wide by 5.0m high), analyser building (6m x 2.4m x 3.0m), electricity substation (6.5m x 5m x 3.8m), control room and workshop located near the frontage of the site (18m x 10m x 5m), a compressor building at the southern end of the site (24m x 18m x 16m) which would enclose the compressors to attenuate noise emissions,

and a transformer and capacitor compound (16m x 6m x 3.5m). To the front (north) there would be 2 tanker loading points as well as space for tankers to park within the site. An elevated gantry would carry the gas supplies to the loading points. There would be a road around the perimeter of the plant to provide access for maintenance. The plant would be powered by electricity from the grid. The site would be enclosed by security fencing which would be set back from the Craigward road frontage behind the staff parking area. There would be gates enclosing the HGV access and egress.

- 3.6. The development would be served by 3 vehicle accesses on Craigward which would replace the existing 2 access points onto the site. There would be an entrance and exit for HGVs transporting liquid gas or accessing the plant itself and a separate access in between to access the staff parking area. The latter would comprise a simple footway crossing design. The HGV access would be approximately 20m to the west of the existing westernmost access into the site and the egress would be roughly at the same location as the other existing access. The junction geometry would facilitate articulated HGV vehicles turning into the site travelling from the east and turning right when egressing the site to turn east towards Glasshouse Loan. The width of the accesses has been reduced in response to advice from the Roads Service to improve conditions for pedestrians. The internal road layout would provide a one way system to minimise risk and reduce the need for vehicles to reverse.
- 3.7. The gaseous oxygen supplied to OI would be transported via a pipeline which would be located towards the rear of the site. The pipe and supporting structure within the site is annotated on the drawings. The liquid gases would be transported from the site to other customers by HGV tanker vehicles.
- 3.8. The plant would operate 24 hours a day, 365 days of the year unless production stops for maintenance. The adjacent glass works also operates on the same basis. It is proposed that delivery tanker movements could take place on a 24 hour basis, 7 days a week with about 60% of deliveries expected during daytime hours (0700-2300). The applicant has advised that the night time deliveries are required to meet customer demands as the gases will be supplied both locally and further afield and these products are often required on a "just in time" basis to ensure consistency of supply and manage deliveries. The applicant has predicted that on average, between 10-15 tankers could visit the site (10-15 in and 10-15 out) over a day to be filled for delivery. The upper figure would equate to an average of 1.25 HGV movements per hour. The applicant has advised that the work force would not normally all be on site at the same time.
- 3.9. The site extends to approximately 1.47 Ha and ground levels fall slightly from north to south. The site is bounded to the east by part of the OI glass works and adjacent land includes a tall conveyor tower (approx. 51.5m above ground level) and conveyors, buildings, plant and a chimney towards the south (the top is approx 71m above ground level), to the west by warehouse buildings (approx. 15m to ridge height) owned and occupied by OI, to the south by a service road within the glassworks beyond which lies the River Forth and to the north by Craigward including a verge area containing trees and grass on its south side. To the north of Craigward there is a landscaped area containing trees and an area of open space which abuts the rear boundaries of houses at Munro Place and Keverkae, as well as a bus depot and buildings containing a number of commercial uses located to the east of the houses.

- 3.10. The site previously contained a spiral guided gas holder located towards the southern part of the site which was removed around 2017 after becoming redundant. There has been a gas works at this location since the early 19th Century. The northern parts of the site have been let for storage use since the holder was removed. The site was subsequently sold by Scottish Gas Networks (SGN) to OI. The storage of the gas was also subject to a Hazardous Substances Consent which related to the presence of up to 84 tonnes of natural gas on the site. The Consent is still in place although the gas holder has been removed. As a result there is still a consultation distance around the location of the gas holder which requires the Health and Safety Executive to be consulted on any application for planning permission within circa 115 metres of the outside wall of the former gas holder.
- 3.11. The construction phase is predicted to take around 12 months including site preparation, piling and superstructure and above ground works. The environmental and road safety impacts for construction operations would be managed using a Construction Environmental Management Plan (CEMP). The applicant has also advised that the tallest pieces of plant (the cold box and oxygen and nitrogen storage tanks) would be transported to the site via the River Forth and delivered by a barge from Grangemouth docks due to the nature of the surrounding road network which would restrict delivery by vehicle. The plant would be unloaded using a mobile crane. It is predicted there would be 8 deliveries by barge which would take place at high tide. The applicant has stated that during construction up to 100 people would be employed directly on site.

4.0 Consultations

- 4.1. Roads and Transportation has no objections to the application. Having considered the Transport Assessment (TA), Roads are satisfied that the development would not have an unacceptable adverse impact on the capacity and safety of the surrounding road network. They consider that any localised impact from additional HGV movements could be satisfactorily mitigated by the suggested works outlined in Point i) below. They have highlighted a number of other points which are also discussed below;
- i) The site is accessible from National Cycle Route 76 and local routes including the pedestrian/cycle route which links Glasshouse Loan with North Castle Street and the NCN 76 through the business park at Ward Street. The local route crosses Glasshouse Loan between Caledonian Road and Craigward. Roads note this route is often used by workers accessing the industrial area and children travelling to and from local schools. Roads note that HGV traffic generated by the development would use Glasshouse Loan and consider that its localised impact could be satisfactorily mitigated by the provision of improved crossing facilities on Glasshouse Loan for users of the route. This could comprise the provision of a kerbed island if sufficient carriageway width exists. *Comment – the applicant has agreed to meet the cost of installing a 2.5m wide pedestrian island on Glasshouse Loan to improve the crossing arrangements on the existing path network. A draft design has been tabled which Roads consider is satisfactory in principle and they would approve the detailed design by way of a Minor Roadworks Consent. This island crossing is considered to enhance*

active travel links for employees associated with the proposed development as well as for the wider community. Roads consider it would satisfactorily address the localised impact it has identified relating to road and pedestrian safety associated with additional HGV movements and would help improve and encourage active travel trips. The works could be regulated using a planning condition.

- ii) The design of the two access points for entrance and egress from the site could be reduced in width given they would only be used to accommodate a left turn into the site and a right turn out of the site. This would reduce the distance pedestrians would have to travel over the carriageway areas making it safer. The access and egress should be clearly signed. Comment – *the applicant has amended the junction design on the drawings to satisfy this advice. The staff car parking area would retain its separate access comprising a simple footway crossing. The applicant has agreed to display suitable signage to direct HGV drivers to the entrance.*
 - iii) The applicant has advised that the visibility splays at the access points will satisfy the standard specified by Roads. Comment – *this could be regulated by a planning condition.*
 - iv) A new 3.0m wide footway should be provided across the site frontage as part of the development. Roads also advise that a footway be extended further along Craigward to the east of the site where there is currently no footway to create a continuous footway link on the south side of Craigward to Glasshouse Loan. This would create a safer environment for pedestrians travelling to and from the site from the east. Comment – *the proposed drawings include a 3.0m wide footway. The applicant has agreed to include the extension of the footway to the east to create a continuous footway to Glasshouse Loan. This verge area is often used for indiscriminate parking despite the presence of double yellow lines. This would also enhance facilities for pedestrians on Craigward. The works could be regulated by a planning condition.*
 - v) Suitable cycle parking and facilities should be provided. Comment – *the applicant has agreed to provide secure cycle parking within the site and changing facilities for staff within the development.*
 - vi) A Construction Traffic Management Plan should be required if permission is granted to ensure impacts are minimised. Comment - *the applicant has submitted a CEMP which includes arrangements for traffic management.*
- 4.2. Environmental Health has no objections in principle. They have confirmed that SEPA would be the primary regulatory body responsible for managing and regulating potential environmental emissions and impacts or pollution associated with the proposed development, including noise and air quality. This is because the proposed plant would be regulated by a Pollution Prevention and Control (PPC) Permit which is authorised and enforced by SEPA. The existing PPC Permit which covers the glassworks would be varied to include the regulation of the air separation unit operation. Environmental Health advise that if any noise or dust complaints associated with the construction phase were received, it would still be likely to fall to them to

investigate. If there was evidence of nuisance they can take action to remedy this under the Environmental Protection Act 1990. They consider that nuisance would be unlikely if the developer complies with the measures set out in the Construction Environmental Management Plan (CEMP) it has submitted. These would include the control of emissions from noise, dust, vibration and light pollution. Environmental Health advise that construction hours and delivery times by vehicles be restricted to between 0800-1800 Monday to Friday and 0800-1300 on Saturdays unless otherwise agreed by the planning authority. *Comment – Environmental Health has confirmed that SEPA would be the relevant authority to regulate environmental emissions associated with the operation of the proposed development as it would be regulated by a PPC Permit. SEPA currently have this regulatory role for the existing glass works operation. Environmental Health would regulate noise and dust emissions during the construction phase. The applicant has submitted a CEMP with the application and Environmental Health has advised that the proposed Plan would be satisfactory. The implementation of the Plan would be regulated by a planning condition which would specify the approved hours when construction operations and related delivery vehicle movements could take place.*

4.3. SEPA has removed its original holding objection to the application. They had originally objected as they were not satisfied that the applicant had adequately demonstrated that the development would not adversely affect air quality or significantly increase noise levels in the surrounding area. They had requested further evidence from the applicant to demonstrate that the development was potentially consentable under the PPC Permit regime which they regulate which includes noise and air emissions. The existing glass works is regulated by Permit (PPC/E/0020048) and the proposed air separation unit process would also have to be regulated by this Permit. The applicant will need to obtain a variation to the Permit and the development could not be operated until the Permit had been successfully varied. In removing its objection SEPA has advised;

- i) The applicant has now satisfactorily demonstrated that the development would not have an adverse impact on air quality. The applicant has clarified that the process inputs air and produces outputs of leftover air and water vapour. These emissions would not materially affect air quality standards in the area.
- ii) Following meetings with the applicant and receipt of amended information, they are now satisfied that noise emissions from the development could be mitigated so that it would not make the noise impact and the noise environment associated with the glass works operation worse in the local community. Consequently, they now consider that the development is potentially consentable under the PPC regime and the location of the development is acceptable in principle. SEPA advise that under the PPC Permit regime, the developer has to demonstrate that “best available technique” (BAT) is being applied to prevent or minimise environmental impacts including noise. The application to vary the Permit has still to be progressed and SEPA has stated that they expect the applicant will have to submit further information and consider more techniques to attenuate noise before they conclude that BAT has been applied to their satisfaction.

However, based on the most recent revised Noise Assessment (version 7), and their knowledge of this type of plant and noise mitigation options, they now consider that this should be achievable.

- iii) The advice in ii) above is considered to accord with the guidance contained in Scottish Government Planning Advice Note (PAN) 51 titled Planning, Environmental Protection and Regulation. This PAN provides guidance on the approach to applications for planning permission which also require consent under a SEPA regulatory regime.
- iv) They are fully supportive of the proposal by OI to replace the furnaces at the glass works with ones based on Oxy Fuel technology (gas and pure oxygen) rather than gas and air, given the environmental (as well as financial) benefits this technology would deliver. They note the link between the proposed development and the delivery of this technology.

Comment - *The PPC Permit regime applies to certain types of activities including large industrial activities and applies an integrated environmental approach to the regulation of these activities. This means that emissions to air, water and land have to be considered together and this would include noise, air emissions as well as any vibration, waste and water emissions emitted within the site boundary. SEPA has advised that Permit conditions are set to achieve a high level of protection for the environment as a whole. The PPC process requires emissions to be prevented, or where that is not practicable, minimised, using the test of Best Available Technique (BAT). The application of BAT by SEPA requires stringent standards of mitigation in order to obtain a Permit. Having regard to the overlap between the PPC and planning regimes, SEPA advise that in line with the guidance in PAN 51, their consultation response has had regard to whether they consider that the location of the development is acceptable in principle and the development is potentially consentable under the PPC regime. SEPA is satisfied that there is now sufficient information to satisfy them that this would be the case following the submission of additional or amended details during the assessment process. This has included information relating to; some of the methodology used in the Noise Assessment; the conclusions about the scale of the predicted noise impact; the scope of the noise mitigation proposed; and the details addressing potential cumulative noise impacts with the existing elevated noise emissions from the glass works and how this could impact on receptors including in nearby houses. SEPA highlight that if noise levels from the ASU were to result in a significant increase, this would not accord with BAT and the variation is unlikely to be granted. In relation to air quality, the applicant has addressed SEPA's advice regarding the absence of information about emissions to air from the ASU. SEPA has closely examined the noise impact issues and the applicant has had to submit 4 further versions of the Noise Assessment to address issues raised. In responding to the consultation, SEPA has had regard to the issues raised in the objections submitted on the planning application as well as its monitoring of noise emissions from the existing glass works operation.*

- 4.4. The Contaminated Land Section has confirmed that it has no objections and is satisfied that the applicant has satisfactorily investigated and identified the potential risks to human health and the water environment associated with the

development on the site and provided a suitable remediation strategy.

Comment – the applicant has sought to address all of the potential contamination issues in advance of development commencing to avoid any further details having to be submitted for approval before they were able to commence works on site. To achieve this, several risk assessment reports have been submitted which have been considered by the Contaminated Land Section in consultation with SEPA. This has included the submission of a satisfactory Remediation Method Statement for the site and a condition could be attached which would require the development to be implemented in accordance with the requirements of the Statement.

- 4.5. The Regional Archaeologist has no objections and states that he is in agreement with the conclusions of the Heritage Impact Assessment submitted with the application. If the application is approved, he advises that a condition is attached to require a programme of archaeological works to be agreed and undertaken before development commences on site. This could comprise a photographic records of the site and a 5% ground breaking evaluation of the site. *Comment – the applicant has proceeded to undertake the programme of archaeological works agreed with the Regional Archaeologist in advance of a decision of the application. This primarily comprised the excavation of 10 trial trenches within the site. The evaluation did not expose any features of significance which would justify further investigation. The details of the evaluation will be published in the Forth Naturalist and Historian. The Regional Archaeologist has confirmed that the evaluation is acceptable and no further fieldwork or actions are required if permission is granted.*
- 4.6. Health and Safety Executive (HSE) were consulted using its Planning Advice Web App as part of the site lies within the Consultation Distance that still exists related to the former gas holder on the site. Although the gasholder has been physically removed, the related hazardous substances consent has not been formally revoked and the consultation requirements have still to be followed. The process has regard to the proximity of the proposed development to the major hazard and the risk to the type of development proposed and its size. The result of the consultation is that the HSE do not advise against the development. *Comment – the consultation response confirms that HSE are satisfied that permission should not be withheld on safety grounds associated with the provisions of the existing hazardous substances consent which relates to the former gas holder on the site. This satisfies the statutory consultation requirements with HSE. The proposed development will also require a hazardous substances consent to be obtained related to the proposed storage of oxygen on the site. As discussed in paragraph 6.09 below, the applicant will have to submit an application to amend the existing Hazardous Substances Consent (HSC) before it can store the proposed tonnage of oxygen in the tank on the site. The applicant has advised that an application will be submitted following the determination of the planning application. The purpose of this HSC application will be to consider if there were any risks to public safety and health associated with the storage and handling of the oxygen within the proposed development which would justify withholding HSC. The planning authority would determine the application having regard to; the proposed storage vessel design, layout and relationship to neighbouring land uses; the advice from consultees including the HSE and Scottish Fire and Rescue Service; and any representations received from third parties in response to the publicity of the application.*

- 4.7. Scottish Fire and Rescue Service has advised that it has no comments, concerns or advice to offer on the application at the planning stage. They advise they will comment when the proposal progresses to the building warrant stage.
- 4.8. NatureScot has raised no objections and have advised that they welcome the proposed off site net biodiversity gain works on the land managed by the RSPB at Black Devon Wetlands.
- 4.9. Historic Environment Scotland was consulted due to the possible impact of the development on the setting of the adjacent Glass Cone which is a Scheduled Monument. HES initially submitted a holding objection as they considered insufficient information was available to demonstrate how the development would impact on views of the scheduled monument from Craigward. Following receipt of additional information in a document titled Heritage Addendum (June 2022), HES has advised that the information now adequately demonstrates that the facility would not negatively impact on views to and the setting of the Glass Cone and they have withdrawn their objection. They have advised that a condition be attached to require details of the siting and design of any boundary enclosures to be approved by the planning authority to ensure views are maintained from Craigward towards the Cone. *Comment – a condition would be attached to the permission as requested. It is considered that the introduction of the plant would not adversely affect the existing setting and visibility of the Glass Cone having regard to the existing industrial character and appearance of the surrounding land and the degree of screening that presently exists in views from Craigward due to the existing landscaping and fencing along the site frontage. The proposed layout, including the removal of the landscaping is considered to increase the degree of visibility of the Cone from Craigward.*
- 4.10. Scottish Water has no objections and notes that there is capacity to provide a connection to the public water supply and public sewer. The applicant will have to submit a Pre Development Enquiry Form to them prior to any technical application being submitted.
- 4.11. Land Services advise that a tree survey be undertaken and if trees have to be removed within the site and cannot be replaced, consideration should be given to the applicant providing compensatory planting on nearby land outwith the site. *Comment – tree survey information has been submitted with the application which is discussed in paragraph 6.08.05 below. It is concluded that there is not sufficient land available to retain the existing trees and shrubs within the site and also accommodate the proposed plant, the accesses from Craigward and tanker fill area. The applicant has also advised that planting and vegetation close to the plant has to be avoided in order to minimise any risks to the plant and processes if they were used for roosting or nesting. The applicant has agreed to provide a contribution to the Council to implement planting on Council land nearby as compensation for the loss of trees within the site. The value of the contribution has been calculated by Land Services as a minimum of £10,000. The applicant has agreed to submit a contribution to this amount. This could be regulated using a planning condition.*
- 4.12. Alloa Community Council was consulted but has not submitted comments on the application at the time of compiling this Report.

- 4.13. Falkirk Council was consulted given the proximity of the site to its administrative boundary on the River Forth. No response has been received on the application at the time of compiling this Report
- 4.14. Glasgow Airport Safeguarding was consulted due to the height of some of the plant and they confirmed the development is outwith the consultation zone and they have no comment to make.

5.0 Representations

- 5.1. Although the application is for a Local Development, the applicant undertook pre-application community consultation comparable to the regulatory requirements associated with applications for Major Developments. This process had to be undertaken online due to the restrictions associated with Covid 19. The voluntary consultation provided details of the proposed development, sources of information and channels of communication, and included the following;
- i) An advert placed in the Alloa Advertiser and a subsequent online article in the paper.
 - ii) The provision of a website containing information about the applicant, the development and how to provide comments/views on it. The statistics available to the applicant indicate the website was viewed over 440 times.
 - iii) Notification of a number of parties or bodies including neighbouring Councils, local MSPs, Councillors, a number of statutory consultees, and a leaflet containing information about the proposal and an invite to the virtual event hand delivered to residents in the surrounding area including in Keverkae, Munro Place and Caledonian Road, nearby business premises and Alloa Academy and Park Primary.
 - iv) An online virtual consultation event on 28th July 2021. This included a presentation about the proposal and opportunity to submit questions. The event was publicised in the Alloa Advertiser and in the leaflet. The process has been summarised by the applicant in the Pre-Application Consultation Report which has to be submitted as part of the application. This notes that feedback was received after the online event from the Scottish Wildlife Trust who commented on the possible habitat within the site and trees and shrubs. 2 local residents also left feedback on the website commenting more information was required relating to impacts from noise and safety and one did not support the principle of the development. The applicant has advised that these issues have been addressed in the information submitted with the application.
 - v) The applicant also engaged with the Council, NatureScot and Inner Forth Futures and RSPB to discuss and identify off site habitat enhancement to compensate for the loss of Open Mosaic Habitat within the site to accommodate the development.

- 5.2. The planning application was publicised in the Alloa Advertiser for Neighbour Notification reasons and there were 6 notifiable neighbours as defined by the relevant planning regulations. A total of 12 individual objections have been received and a petition containing 14 signatures. One letter of support has also been received.
- 5.3. The petition has been signed by 13 residents from Munro Place and 1 from Keverkae. It raises concern that the signatories` Freeview TV Signal may be affected by the proposed tall buildings. It seeks an assurance that the TV signal will not be affected by the development and if this is not provided, asks how any issues would be resolved before works commence on site. Comment – *the concerns are discussed in the associated point below.*
- 5.4. Individual objections have been received from the following parties;
- Gillian Dunion, 14 Munro Place, Alloa
 - Gary Robertson, 19 Munro Place, Alloa
 - Lisa Martin, 9 Munro Place, Alloa
 - Steven Holden, 5 Munro Place, Alloa
 - Allan Ritchie, 22 Munro Place, Alloa
 - Ricky Watson, 20 Munro Place, Alloa
 - Ross Gordon-Sheddan, 3 Keverkae, Alloa
 - David Wright, 22 Grant Street, Alloa
 - Robyn Anderson, 26 Grant Street, Alloa
 - John Mckenzie, 1 Grant Street, Alloa
 - William Stevenson, 24 Grant Street, Alloa
 - Lucie Stevenson, 4 Norwood Crescent, Alloa

5.5 On the following grounds;

- i) The development will affect our properties and potentially damage them. Comment – *this type of impact could not be regulated or remedied through planning legislation. However, the applicant has submitted information relating to the proposed piling operation which indicates that the predicted levels of vibration would not be sufficient to result in damage to neighbouring buildings.*
- ii) There are already too many lorries travelling back and forth on Craigward which is to the rear of our properties. These make properties shake and more lorries will create more damage. Comment – *Roads have not objected and are satisfied that the HGV traffic generated by the development would not result in any adverse impact on road safety or network capacity subject to the proposed conditions. Craigward serves an extensive and established industrial and commercial area containing many business premises which generate HGV and other commercial vehicle traffic. It is not considered that*

there is sufficient evidence that the predicted additional HGV traffic generated by the development would result in an unacceptable increase in risk to road safety or amenity in the area. HGVs associated with the operation of the plant would also be travelling at relatively low speeds in the vicinity of the nearest houses as they would be entering or egressing the site. The risk of vibration is therefore not considered to be significant.

- iii) Residents already have issues with the OI glassworks with sand landing on our cars and properties. It will result in more chemicals in the air. Comment – *SEPA is satisfied that the development would not result in any adverse impact on air quality based on the supporting information. The emissions from the process would be water vapour and air and not any chemicals or sand deposits. The concerns relating to the existing glass works operation are noted but these could not be considered or regulated through the determination of this application for an air separation unit.*
- iv) The development should not be built so near residential properties. There are already enough facilities nearby and we don't need more. There has been a significant decrease in industrial/ business premises in the surrounding area over the years and their replacement with housing eg. part of Weir Pumps site (now Smithfield Meadows and Bellview Road), Whitemans Pallet Factory (now Carpenters Wynd and Shireway), Marshalling Yard at Caledonian Road (now including Keverkae, Munro Place and Downs Crescent and Caledonian Road) and the garden centre and glassworks carpark (now Delaney Gardens and Caledonian Road). The surrounding area is now residential in character rather than industrial with many commercial activities being storage rather than industrial. Why would you add a new industrial plant to an area whose character is residential and where the trend has been to redevelop land for housing. This will adversely affect residents from pollution and traffic. New industries should be built away from residential areas. Comment – *notwithstanding the point being made, it is considered that the site is industrial in character having previously accommodated a gas holder and a brick works before that. There is a large glassworks operation which encloses 3 sides of the site and other commercial or industrial uses to the north east (business units and a bus depot), east (maltings facility), west (warehousing and yards). Craigward which abuts the north boundary of the site provides the only vehicular access to the commercial development right along to the west end of Kelliebank. The commercial traffic on this road also contributes to the character of the area. The site forms part of a large area allocated as an Existing Business Area in the adopted Clackmannanshire Local Development Plan where the principle of industrial development is supported and commercial investment would be directed to. Given the LDP allocation, it is not considered reasonable to challenge the principle of industrial development on the site or to conclude that the character of the area is or should become residential in nature. The surrounding area to the north of Craigward does contain residential properties, many of which have been developed on land as traditional industries or railway sidings have closed and their re use was not considered to adversely affect the industrial land supply requirements and deliver a new use for underused brownfield land. The nearest houses are relatively close to a number of commercial premises including the application site, the glassworks, Abercrombie Works on Caledonian Road and the bus depot to the south of Caledonian Road. The character of the area around the nearest houses is therefore considered to be mixed use rather than*

residential. However, the environmental impacts of the proposed development would still have to be acceptable and avoid nuisance to residents. The application includes information to address the potential impacts on the amenity and environmental quality of neighbours and SEPA and Environmental Health have not objected.

- v) Construction work could displace vermin from the site which would affect neighbouring properties. Will the Council take responsibility and deal with this if it occurs? Comment – *this is not a material planning consideration. This could be investigated by Environmental Health if complaints arise.*
- vi) Noise levels are already too high mainly due to the glassworks which operates 24/7 all year round. I did not expect the noise from the glassworks to be so extreme. There is also HGV traffic in the area which causes noise and vibration in our homes. Windows have to be kept closed to keep out noise. The noise survey was undertaken at Keverkae which is further away from the proposal than the houses at Munro Place. Why was this position chosen? I would dispute the Noise Report submitted with the application. The survey was also when trees were in full bloom and not during winter. The plant would increase noise levels at the nearest houses at night time and why can't more measures be put in place to reduce levels closer to existing? The survey should consider noise levels at 1.5m and 4.0m height above ground level for daytime as well as night time periods. The noise survey results appear to show that noise levels are not comparable with a noisy industrial area and describing it as industrial appears misleading. Any assumptions used in the noise report should be regulated by conditions to ensure the assumptions and equipment/ features relied upon to attenuate sound are implemented if it goes ahead. Piling will be very noisy and destructive to our properties. Can the type and period be clarified? The CEMP should allow for review of impacts if impacts appear greater than predicted. There is no reference to possible impact as to whether low frequency noise is to be expected? Comment – *the noise impact issues are discussed in more detail Section 6.02 below. SEPA would regulate noise impact and noise complaints if the permission was granted through the PPC Permit process. It would not be necessary to also attach planning conditions to regulate noise emissions as this would duplicate these controls. SEPA has carefully considered the Noise Assessment and following the submission of additional information, they have withdrawn their holding objection. In response to some of the points above; the assessment has resulted in additional noise mitigation measures being incorporated into the design which would reduce noise impacts from the development; the assessment does provide predicted noise levels relating to the nearest houses at Munro Place; the proposed piling technique has been clarified and it has been selected to minimise the risk of noise and vibration impacts; the methodology used in the Noise Assessment is considered to be acceptable and in line with relevant environmental and planning guidance.*
- vii) Another factory will decrease the value of our property and who will compensate residents? Comment – *this is not a material planning consideration.*
- viii) The plant appears to be quite hazardous. It produces gases which could increase flammability, could be potentially explosive and are asphyxiates. What happens if there is a leak of gas and are residents going to be safe? While control measures will be put in place, the risks would be increased

under fault conditions within a residential area. I have not seen a hazardous plant which has been this close to residential and education uses and it is typically regarded as poor practice to install explosion potential in residential areas. This proximity is disgusting and safety should be the number one priority. Will health and safety be forgotten about? There is no record of an application for hazardous substances consent for the site which is expected to be necessary. Have the HSE, Fire Service and SEPA been consulted to ensure the health, safety and welfare of nearby residents? Comment – as discussed in paragraph 6.09 below, the storage of oxygen on the site would require hazardous substances consent (HSC) as the amount would exceed the relevant threshold. The proposed storage of nitrogen and argon would not require HSC and are not classified as being hazardous in the relevant Regulations. The application for HSC has not been submitted at the time of compiling this report. It would be the purpose of the HSC application process to assess and determine whether the public safety risks to surrounding land uses associated with the storage and handling of the oxygen would be acceptable or not rather than through the planning application process. HSC would have to be obtained by the applicant before the proposed quantity of oxygen could be stored on site. The Health and Safety Executive (HSE) are one of the key consultees and they undertake an assessment of the risk associated with the proposed substance in relation to surrounding uses which will inform their consultation response and whether HSC should be approved or not. The proposed storage of oxygen is expected to also be regulated under the Control of Major Accident Hazards (COMAH) Regulations by the HSE and SEPA. The Regulations require operators to take all measures necessary to prevent major accidents and limit the consequences for human health and the environment. The regulatory arrangements outlined above are designed to ensure the potential risks to public safety and the environment from the hazardous substances are acceptable and kept under review. The Scottish Fire and Rescue Service and SEPA were consulted on the application and have not raised any objections or concerns about health and safety issues. In the absence of concerns being raised by consultees and the requirements of the HSC process, on balance, the concerns about risk to public safety are not considered to outweigh the other planning merits of the proposed development.

- ix) The rear of our houses is an eyesore as the Council do not maintain the trees and fences and another factory will be the last straw. Comment – the maintenance of the land is not material to the determination of the application. The visual impact is discussed in more detail in para 6.05 below. The development is not considered to have an unacceptable adverse impact on the established visual amenity of the area.
- x) The height of the plant will block light to houses and would result in noise travelling further. It will also be ugly and residents will have to look at it everyday as well as those in new houses not far away. Do the cold box and tanks need to be so high or could they be relocated? Residents already have to look at tall buildings, conveyor chutes and chimneys within the adjacent glassworks. However, we do not want additional tree planting on the Council owned land between Craigward and the houses to mitigate visual impact. The existing trees already are causing problems for residents. Comment – the development has to be determined as submitted. However, the applicant has advised that the height and location of the taller structures are determined by

their function and the processes within the site and could not be reduced in height or relocated further to the south of the site. Having considered this point, it is concluded that moving the location of the tall structures to other locations within the application site would not result in any significant change to their visual impact and their proposed positioning near to the existing tall structures in the adjoining glassworks would help to mitigate their visual impact. Additional tree planting next to Munro Place is no longer proposed. However, the existing trees and shrubs to the south of the houses will help to screen or mitigate the visual impact of the development.

- x) The plant will not promote wellbeing in Alloa via community benefits such as jobs. There will only be 10 full time positions and workers will most likely not be from the area. There are no benefits from the plant for the local area. Comment – *the development would create full time employment opportunities and as described in the letter from OI in paragraph 4.7 below, the oxygen would provide economic and environmental benefits for the glass works operation which itself is a major employer and manufacturer in the area.*
- xii) The nearby road network is already hazardous such as the junction of Caledonian Road with Glasshouse Loan due to on street parking. Doubling the amount of traffic in the area is undesirable and will create further traffic issues. A lot of children walk for the area to Alloa Academy and increased HGV traffic would increase risk including at the junction of Craigward and Glasshouse Loan. There will increased noise and vibration which could cause nuisance to residents, including at night. The current traffic is non existent at night. It is not clear what the working hours for HGV trips would be. The entrance and filling area is only about 30 metres from residential properties. Could traffic levels be increased beyond what is suggested in the documents? Comment – *the predicted traffic generated by the development would not double the amount of traffic already using Craigward and Glasshouse Loan. Roads have not objected and the applicant has agreed to implement the measures Roads have advised should be considered to mitigate the impact of the predicted HGV traffic movements. This would include an improved pedestrian crossing point on Glasshouse Loan and the provision of a continuous footway along the south side of Craigward to connect to Glasshouse Loan. Traffic movements could take place during the night but the Noise Assessment has been revised to include consideration of HGV traffic movements and tanker filling. This included additional mitigation measures to minimise noise impacts associated with tanker movements and filling. SEPA would be responsible for investigating complaints associated with vehicle movements and filling within the site. SEPA has withdrawn its objection to the application and is satisfied that noise impacts, including from HGV movements, could be effectively regulated under the PPC Permit process and would not have an unacceptable impact on the surrounding area. Craigward already serves a large number of commercial and industrial businesses which could generate traffic movements during the day or night without needing planning approval.*
- xiii) The air quality report is not convincing. Government policy is to improve air pollution and reduce traffic. Any kind of contamination is a safety risk no matter how small. Comment – *The Air Quality Assessment was updated to include the operation of the plant and SEPA has confirmed it is now satisfied*

with the information submitted regarding air quality and the development would not create any adverse impacts.

- xiv) We did not receive notification of the application being submitted and found out via a neighbour. Residents could have missed out on commenting and it would have been nice to have more about it from the Council or the applicant. The Planning Service also did not respond to enquiries about the application. Insufficient notice was given to residents about the webinar which took place during the summer holiday period and was this intentional? The webinar was designed in a way where attendees could not ask questions or have a 2 way engagement session. Comment – *the publicity of the application followed the regulatory requirements and Notices to Neighbours were served in accordance with the regulations. Not all of the residents in Munro Place or Keverkae are notifiable neighbours as defined by the relevant regulations and the Service does not have discretionary powers to extend notification. The applicant also undertook pre application community consultation in line with the requirements associated with a Major Development even though this application is for a Local Development. This included delivering a leaflet to all the nearby houses which would have helped raised awareness. The consultation is summarised in para 5.1 above.*
- xv) There are historical sites around the area which could be destroyed and lost due to the new build. Comment – *the archaeological evaluation that has taken place demonstrates that the development would not be likely to result in the loss or damage of any significant historical site or artefacts.*
- xvi) The tall structures may affect my TV signal as my aerial points in the direction of them. My aerial has had to be moved to the highest point on my house to receive a terrestrial signal while I do not have the option of using a satellite service as the signal would be blocked by the trees to the rear of the house which are outwith my property. Comment – *since the objection was received, a petition has also been received from a number of residents concerned the development may affect their TV reception. This concern relates to the possible effect the tall elements comprising the storage tanks and Cold Box could have on the available TV signal. The site lies between the houses and one of the main transmitters located at Black Hill near Kirk O` Shotts. It is recognised that tall buildings or structures could disrupt telecommunication or TV signals. The objector highlighted that Planning Advice Note 62 – Radio Telecommunications includes a reference to this issue. The PAN states that permission can be granted subject to a condition that before development commences, the developer shall propose measures by which the quality of reception will be maintained. While the PAN principally related to the roll out of mobile phone infrastructure and dates from 2001, it does not exclude television broadcasting. The applicant has responded by stating the advice dates from when signals were analogue and the risk is considered to be lower now that signals are digital. They also consider the development would not form a continuous or broad obstruction which would be likely to affect the digital signal. The applicant initially submitted a review of the line of sight between the original objector`s property and Black Hill to try to demonstrate the plant would not interfere with the signal. The objector did not consider this adequately addressed their concern. While there is no evidence at present which would show the proposed development would be likely to adversely impact on the existing tv signal available to nearby houses, given the relative heights of part of the development, and the concerns that has*

been raised, it is considered reasonable and proportionate to include measures as part of any permission which would enable any complaint about impact on existing tv signal to be investigated and mitigated if it was shown to be due to the development. This could be regulated by a suitably worded planning condition which would; require the applicant to commission a baseline tv reception survey related to the nearest houses at Munro Place, Keverkae and Caledonian Place by a suitably qualified engineer; provide a mitigation plan if required; undertake a post development tv reception survey; and require any complaint received within 12 months of the plant being completed to be investigated by a qualified tv engineer and require any impairment considered attributable to the approved development to be mitigated to at least the equivalent of the baseline survey reception level. This would be funded by the developer. This type of condition has been used before in relation to wind turbine development. The applicant has agreed to this approach and has already commissioned and submitted a Desk Based Television Reception Impact Assessment by a telecommunications consultancy. This will inform the pre construction reception survey. The Desk Based Study concludes that the development is unlikely to cause any interference to the reception of any digital terrestrial or digital satellite television broadcast platform in the area.

- xvii) The plant will also cause disturbance to birds and bats including those present in the trees which surround the nearest houses. Has this been assessed? Comment – *a bat survey has been carried out and found no evidence of bat roosts within the site. The applicant will have to follow good practice to minimise the risk of disturbance during the construction phase.*
- xviii) We need to cut our carbon footprint and the development would not support this. Comment – *while the plant would require an electrical supply, the oxygen supplied to the glassworks is intended to supply new oxy fuel furnaces and these would reduce the green house gas emissions from the glass making operation compared with the existing technology as described in Paragraph 5.7 below.*
- xix) If the application is approved, conditions should be attached to regulate; testing post development to verify the noise emissions reflect those predicted in the Noise Assessment and if not, they are remedied; any tonal noise post development will be remedied; noise levels are reduced to meet background levels; construction hours are regulated as per the Noise Assessment; a CEMP is provided; the acoustic barrier as annotated on the drawings is installed, all vents and relief points should be equipped with silencers to minimise noise in the vent of a relief; an assessment of bat roosts is completed; and a zebra crossing is provided across the junction of Craigward with Glasshouse Loan. Comment – *SEPA would be responsible for regulating noise emissions if the development proceeded and complaints were made. They would investigate this and this is likely to include comparing emissions with those set out in the Noise Assessment. A CEMP has been submitted by the applicant and a condition would be attached to require its implementation. A zebra crossing is not considered to be justified at Glasshouse Loan but a pedestrian island would be provided in line with the advice from Roads.*

xx) The additional information submitted by the applicant in response to the issues raised by objectors do not adequately address the concerns raised and if anything strengthens them including in relation to traffic generation and storage of hazardous substances. Comment – *the information submitted by the applicant has been carefully considered and shared with relevant consultees. The recommendation on the application has been informed by the information, the advice from consultees, the relevant LDP guidance as well as the concerns raised by third parties.*

5.6 A letter in support of the application has been received on behalf of;

O-I Glass Ltd, Edinburgh Way, Harlow, Essex, CM20 2UG. O-I own and operate the adjacent glassworks and most of the application site.

5.7 on the following grounds;

- i) The business has operated from Craigward since 1750 and is a significant local employer of approximately 520 employees.
- ii) The proposed ASU will supply gases to the glassworks necessary to support the ongoing success of the business into the future. This will complement and be critical to the delivery of an investment programme which will improve the environmental sustainability of the manufacturing process by reducing emissions of CO₂ and Nitrogen Oxides (NO_x) pollution. The company plan to replace the glass furnaces that use gas-air with gas-oxygen technology, using the oxygen to be supplied from the proposed ASU. The air mix only contains 21% oxygen with nitrogen accounting for 78%. Nitrogen is an inert gas and not combustible which reduces the efficiency of the existing combustion process. Air Products are a key partner in the investment programme and the provision of the ASU involves a long lead time. Other services also have to be altered to support the furnace. The project timescale has already been delayed by 4 months and the first furnace is scheduled to be dismantled and rebuilt for restarting in August 2023. Any further delays could have significant adverse impacts on the plant's ability to maintain glass supply given the age of the furnace to be replaced.
- iii) O-I estimate that the proposed use of gas-oxygen at the replacement furnaces would reduce emissions of CO₂ from approximately 60,029 tonnes to 51,557 tonnes pa (approximately 14%). The NO_x emissions would see a reduction from 1.17 kg per tonne to 0.46 kg per tonne pa (approximately 60%).
- iv) The volume of oxygen required is significant and unavailable in the current UK market in liquid form which could be readily transported. The ASU would supply oxygen directly to the glassworks in gaseous form.
- v) The investment in oxy gas fuel would reduce greenhouse gas emissions, burn cleaner reducing emissions to air, burn more efficiently reducing energy use and costs and avoids needing to invest in further abatement technology to treat emissions saving considerable capital expenditure and energy costs. This should help safeguard job security for local employees. The plant will be able to continue to supply glass containers to the spirit market within the local and multi national customers. The programme has

attracted funding of over £1 million from the Government's Scottish Industrial Energy Transformation Fund.

6.0 Planning Assessment

6.01 Local Development Plan Position

6.01.1 The site is within the settlement boundary of Alloa as defined by the adopted Clackmannanshire Local Development Plan. It also forms part of the large area of land allocated as Existing Business Site which extends from Broad Street in the east through Castle Street, Ward Street to the end of Kelliebank in the west. The LDP sets out a number of Strategic Objectives and the following are considered to be relevant to the proposal;

- Sustainable Economic Growth – which supports business growth and improved employment opportunities.
- Environmental Sustainability - including development which would reduce greenhouse gas emissions and managing and reducing pollution.
- Natural Environment – which supports measures to protect and enhance natural heritage and biodiversity.
- Built Environment – which supports the principle of giving priority to the re use of vacant brown field sites over green field, encouraging the remediation of contaminated land and safeguarding built heritage.

6.01.2 The site lies within the Forth Area as defined by the Spatial Strategy. Table 1 on page 18 of the LDP under the Business and Employment heading notes that Forth Area contains the largest number of employees and businesses and one of the Aims of the LDP is to encourage continued development of employment uses.

6.01.3 Policy EP2 (Existing Business Sites) states that industrial proposals will be supported on and directed to areas allocated as Existing Business Sites. Proposals will have to satisfy the criteria set out in the Policy which require; the proposal to contribute to employment provision; the use would be compatible with surrounding uses; the transport impacts can be effectively managed; and there would be no adverse impact on the integrity of the Firth of Forth Special Protection Area. The development would generate employment opportunities during construction and up to 10 full time jobs during operation. The development would also provide a product which would complement the proposed investment in the adjacent glass works furnaces which would help sustain the existing business and employment it provides. The other criteria are also discussed in the points below and it is concluded that they could be satisfied and that consequently, the application would not be contrary to this Policy.

6.01.4 Policy EA10 (Coastal Planning) seeks to manage development in the coastal zone along the River Forth. Although the area of the Zone is not mapped in the LDP, it is considered to be applicable to the application given its proximity to the river. The Policy states that proposals will normally be supported within

the Alloa settlement boundary provided they do not negatively impact on the protection of the landscape, amenity and habitat value of the coastal zone, and would not have an adverse impact on the integrity of the Firth of Forth SPA and associated RAMSAR site or the River Teith Special Area of Conservation. As discussed in the report below, the application is considered to satisfy these criteria, and on this basis, the application is not considered to be contrary to Policy EA10.

6.02 Noise and Vibration

6.02.01 Policy EA11 (Environmental Quality) states that developments which have the potential to negatively impact on the environment such as through noise or air or water pollution will only be acceptable where the developer has demonstrated to the satisfaction of the Council, that all reasonable measures have been taken to minimise impacts and any unavoidable impacts will be appropriately mitigated.

6.02.02 As discussed in para 4.3 above, the regulatory control over environmental emissions, including noise, from the proposed plant would be the responsibility of SEPA through the PPC Permit regime. SEPA has withdrawn its holding objection related to noise and air quality impacts following the submission of additional information by the applicant. SEPA has advised that under the PPC application process, the applicant will have to demonstrate that BAT are proposed to prevent or minimise environmental impacts off site. They are satisfied that by achieving BAT, the proposed development should not make the existing noise impacts worse in the local community.

6.02.03 However, the potential impacts from noise and vibration emissions from the development on the amenity of neighbours and the environmental quality of the surrounding area are also material planning considerations. These also need to be considered in the assessment of the planning merits of the application and whether the application should be determined in accordance with the provisions of the LDP or not. PAN 51 advises that where different environmental protection regimes overlap, they should complement each other and not result in duplication of control. It notes that the planning process considers the general suitability of the site for the development and has to take account of a wide range of non environmental factors as well in reaching a recommendation and decision while the PPC Permit decision making will be based on the standard or level of emissions that can be achieved.

6.02.04 Noise from the proposed development has the potential to adversely affect the residential amenity of neighbours including the nearest residential properties to the north of the site. Noise could also impact on the designated nature conservation interests on the River Forth. These issues have been considered in the Noise Impact Assessment and by the Service in consultation with SEPA and colleagues in Environmental Health. Our conclusion is that while the proposed plant would generate a level of noise and activity which may be perceptible to residents, this would not be of a scale and margin above the current noise environment which on its own would justify withholding planning permission. This conclusion has been reached having regard to a number of factors, which are summarised below;

i) The Assessment considers predicted noise and vibration impacts on nearby houses (3 locations were modelled at Keeverkae/Munro Place, The Shore and

near Ferry Road in South Alloa). The key findings are summarised below and are not considered to provide sufficient grounds to justify withholding planning permission;

- during the daytime (0700-2300) the predicted noise levels from the development exceeded the existing background level at Keverkae/Munro Place by 1 db (A). This degree of change is not considered to be significant or be likely to result in nuisance. For example, guidance relating to BS4142 (Methods for Rating and Assessing Industrial and Commercial Sound) states that the lower the level is relative to the measured background level the less likely it is there would be an adverse impact. A difference of around + 5 db is likely to be an indication of an adverse impact while +10 would not normally be acceptable. Prior to including more mitigation measures, an increase of 4 db (A) was predicted at Keverkae in the original Assessment. The predicted noise levels did not exceed background levels at the 2 other locations.
- during the night time (2300-0700) the predicted noise levels from the development exceeded the existing background level at Keverkae/Munro Place by 1 db (A). Again, this degree of change is not considered to be significant or be likely to result in nuisance. The Assessment also highlights that there is already noise of an industrial nature at this location which would also minimise the effect of this impact. Prior to including more mitigation measures, an increase of 5 db (A) was predicted at Keverkae/ Munro Place and 1 db (A) at Ferry Road in South Alloa.
- the cumulative impact of the proposed operation with the existing operation at the glassworks has been assessed having regard to noise data from an assessment of the glassworks in 2020. A commentary has been provided for the receptor at Keverkae/ Munro Place. At this location, the predicted sound level would be 44.3 db (A) while the sound level from the glassworks was 51 db (A). The cumulative impact of the proposed plant would increase the overall sound level by 0.8 db (A). While it is recognised that the noise emissions from the glassworks already have an impact on the noise environment and amenity of neighbours which has contributed to elevated background noise levels, the predicted cumulative impact including the proposed plant would be around +1 db (A) and this magnitude of change to the overall ambient noise levels is not considered to be sufficiently great or adverse in relation to the to justify withholding permission.
- On balance, where increases are predicted, these would not be substantial and it is considered that the impact would not be significant or sufficiently adverse to justify withholding permission having regard to the established levels of residential amenity in the area. SEPA has also advised that under the PPC consenting process, BAT will mean that noise impacts from the plant should not make the overall noise impacts including the glass works operation any greater than the existing noise environment. This process has still to be concluded. However, we consider there is sufficient information to determine the planning application.

ii) The Noise Assessment has been amended on 4 occasions in response to advice or requests for clarification from SEPA and the Service to ensure the impacts have been adequately addressed. This has included additional information to address; the possible cumulative effect of noise emissions from the development together with the existing noise from the glassworks; the predicted noise impacts generated by the tanker filling process; queries about the methodology used; and clarification about the calculation of the background sound levels. The applicant has also introduced additional noise mitigation measures into the design to attenuate the impact on the nearest houses at Keverkae and Munro Place. This involved the inclusion of noise barriers between the plant and also the tanker fill stations and the north boundary of the site.

iii) Environmental Health was consulted for advice. They have advised that the management and control of noise emissions from the operation of the plant would be for SEPA to deal with and comment on. Environmental Health would regulate emissions during the construction phase and they have advised that they consider that nuisance would be unlikely if the developer complies with the measures set out in the Construction Environmental Management Plan (CEMP).

iv) SEPA does not object and they are the body who will regulate noise impacts from the development. They have advised that if the PPC permit is approved, it will require a Noise Management Plan which would identify sources of noise and show how the potential impacts have been prevented or minimised. SEPA would also be responsible for monitoring compliance with any Permit conditions, environmental monitoring and investigating any complaints from the public or environmental incidents relating to the site. If noise emissions were considered to be unacceptable then they can regulate the development to remedy the impact. SEPA have investigated previous complaints about noise from the glass works.

v) PAN 51 advises that where a proposal requires licencing under the PPC regime, planning authorities should accept that as adequate and suitable for public health protection. PAN 51 also advises that planning conditions should not be used to duplicate controls under separate legislation and therefore conditions would not be necessary to regulate noise emissions. SEPA has also advised that they consider there would be no need to planning conditions to be attached to regulate noise or air quality impacts.

vi) the character of the existing noise environment at the site and surrounding area where the noise and activity generated by the commercial businesses in the area, but the glass works operations in particular, are a notable industrial characteristic and contribute to background noise levels. The glass works normally operate 24/7 every day of the year.

vii) during the construction phase, noise from activities are not predicted to exceed the relevant noise limits under BS 5228 at the residential receptors apart from at Keverkae/ Munro Place during site enabling and superstructure works. However, the Assessment predicts that the adoption of measures in a CEMP to mitigate noise would be sufficient to reduce this impact to acceptable levels and avoid nuisance. This impact would also be temporary while the construction works took place.

6.02.5 In relation to the impact from vibration from piling during construction, the applicant has advised that it intends to use continuous helical piling. The vibration levels are not predicted to be perceptible at Ferry Road and The Shore and while they may be perceptible at Keverkae/ Munro Place they are still below the level where it is likely to cause complaint. Environmental Health has not raised any objection in its response and would regulate any environmental impacts during the construction period.

6.02.6 In relation to potential impacts on ecological interests, the Assessment considered the impact on a number of locations next to or within the River Forth. The predicted noise levels during the operation of the plant would be within the relevant noise criterion where an adverse impact on designated species would not be likely. During the construction period, noise is predicted to exceed the relevant noise criterion at one of the eight receptors selected which is the one closest to the site on the edge of the River Forth. However, the Assessment predicts that the adoption of measures in a CEMP to mitigate noise would be sufficient to reduce this impact to acceptable levels although additional mitigation methods would be required if activity took place outwith the summer months to safeguard wildlife interests. This receptor point is also outwith the designated conservation area. Vibration from piling is not considered to adversely affect the ecological receptors.

6.02.07 Our assessment of the potential noise and vibration impacts has concluded that on balance, these would not likely be sufficiently significant to have an adverse impact on the existing standards of amenity and environmental quality in the surrounding area. The applicant will also have to obtain a PPC Permit for the development and this process will be subject to BAT which would also ensure that any noise impacts are minimised. SEPA has advised that noise impacts should be no worse than the existing impact from the glass works. Environmental Health has also reviewed the assessment and has raised no objections to the conclusions, including for the construction phase. The application is not considered to be contrary to the requirements of Policy EA11 (Environmental Quality).

6.03 Air Quality

6.03.01 The applicant has submitted an Air Quality Assessment report which considers the potential effects on air quality. It highlights that as the plant only uses surrounding air and produces outputs of water vapour and leftover components of air, there will be no process emissions associated with the operation of the plant and therefore the report does not consider the operational phase. SEPA has confirmed that it is satisfied with this approach and they have no objections relating to air quality associated with the plant operation.

6.03.02 The Assessment does consider potential impacts arising during the construction phase from dust and from road traffic generated by the development. It concludes that subject to the implementation of dust mitigation measures set out in Table 7.1 of the report, the construction phase could be operated without creating any significant adverse impacts from dust deposition or on human health. The implementation of the mitigation measures could be effectively regulated within the CEMP and its implementation regulated by a planning condition. The Assessment concludes that the proposed traffic volumes during construction and operation of the site would have an

insignificant impact on local air quality and would be well below the threshold which would justify an assessment. Having regard to the Assessment and advice from SEPA and Environmental Health, the application is not considered to be contrary to the requirements of Policy EA11 (Environmental Quality).

6.04 Contamination

6.04.01 The applicant has submitted a number of documents to address potential contaminated land issues associated with the historic uses of the site. These comprise; Phase I and Phase II Geotechnical and Geoenvironmental Desk Studies; Environmental Appraisal of Ground Conditions; Revised Detailed Quantitative Risk Assessment; Supplementary Detailed Quantitative Risk Assessment and Remedial Options Appraisal Report; Environmental Piling Risk Assessment Report; and a Remediation Method Statement. These reports have considered a number of risks including; possible elevated levels of PAH; potential for any undiscovered hydrocarbon free product beneath the site; the risk of contamination entering groundwater and reaching the River Forth; and ground gas protection measures for buildings. These have been subject to assessment and revision in response to advice from Contaminated Land and from SEPA who have been consulted to comment on potential impacts on the water environment, including the River Forth. Following close consideration, Contaminated Land and SEPA have confirmed that subject to the implementation of the Remediation Method Statement report, there would not be any significant unacceptable risks relating to contamination and the site is considered suitable for the proposed use. These requirements could be regulated by a planning condition. Policy SC25 (The Development of Brownfield, Unstable and Contaminated Land) supports the re-use of brownfield land within settlements including vacant land where there is sufficient information available that the land can be made safe for the proposed new use. Policy EA12 (Water Environment) states that proposals should protect the water environment. The application is considered to accord with the requirements of Policies SC25 and EA12.

6.05 Visual Impact

6.05.01 The proposed design and appearance of the plant is informed by its industrial function and process. It would contain a variety of pieces of visible plant and equipment as well as some buildings at the front and rear of the site. This would include tall structures comprising the cold store (an enclosed “tower” with a footprint of 6m x 5.5m and approximately 56 metres high) and storage tanks located towards the front (north) of the plant. Notably, 7 of the tanks would be approximately 29m in height (with a diameter of circa 5m) and 1 would be 25 m in height.

6.05.02 The applicant submitted a Landscape and Visual Appraisal Report with the application. The Report considers potential sensitive receptors including residential properties, users of Core Paths in the vicinity, visitors to Alloa Tower and Gartmorn Country Park and vehicle users on local roads. It notes the development would not be within or adjacent to any areas designated for their landscape value. The Report includes a predicted Zone of Theoretical Visibility of the Development (Figure A20) which takes account of screening by existing buildings and vegetation. This indicates that overall visibility of the development and its taller elements would largely be along the River Forth

corridor to the south east and south west of the site. Although the trees to the north of Craigward would help screen parts of the development from the nearest houses at Munro Place and Keverkae, there would be some direct views where the cold store and tanks would be visible from these areas and the residential developments further to the north. The nearest houses at Munro Place and Keverkae would be approximately 125m from the tanks and 165m from the cold store structure. The Report concludes that the level of effect on receptors within Alloa would be Minor. The greatest effect would be in views from South Alloa which would be Major / Moderate due to the absence of any intervening screening. However, the impact on the houses at South Alloa is not considered to be significant having regard to their orientation and aspect while they would be at least 500m from the cold store. The impacts on users of Core Paths within Alloa, the Country Park and nearby roads would not be significant and would largely comprise intermittent views.

6.05.03 The Assessment has been undertaken in accordance with national guidelines. It does not predict any significant or moderate impact on landscape character of the area, partly due to the containment provided by existing industrial development in the area and the development would be viewed within this context. We agree with this conclusion.

6.05.04 In terms of the visual impact of the development, we have reviewed the assessment and visited the surrounding area as part of the application assessment process. It is concluded that the tallest elements of the proposal, and in particular the cold store, would introduce a prominent industrial feature which would be clearly visible from the south and from the north but to a lesser degree due to intervening buildings and vegetation. While this visual impact would be significant for some receptors and be clearly visible in views from some residential properties in the vicinity, it is concluded that, on balance, the impact would not be sufficiently detrimental to justify withholding permission having regard to the following factors;

i) the general character of the site and environs are industrial notwithstanding there are residential properties to the north of Craigward beyond the landscaping and commercial land. There are already a number of tall buildings and structures some of comparable height on neighbouring land which contribute to this character.

ii) notwithstanding the height and appearance of the cold store and storage tanks, they would be viewed in most viewpoints, including from residential properties, together with the existing conveyor tower, conveyors, chimney and buildings at the glass works located immediately to the east of the site. The conveyor tower is approximately 51m high and the nearest chimney is 71m high and their presence in views would mitigate the impact of the proposed works and the degree and character of the change experienced. The existing warehousing to the west is 15m high which also helps to contain the impact of most of the elements of the plant.

iii) there is tree planting on the north side of Craigward which would help mitigate the impact and reduce the amount of direct views available.

iv) it is concluded that there are no further practicable or viable alternatives to reduce the impacts any further. The siting and design of the tallest elements are dictated by the process, their function and the land available. The cold

store would be next to the conveyor tower which is a similar height and a more substantial structure. The cold store enclosure has to be coloured white for operational reasons.

v) the supporting information with the application including documents containing images showing the proposed building massing and profiles in relation to existing buildings, the location and heights of the structures on adjacent land and photomontages to illustrate the appearance from viewpoints near the entrance to Munro Place and Keverkae and at South Alloa.

vi) the plant will require external lighting for health and safety reasons. However, given the site is within an urban area, and there is external lighting already within the adjacent glassworks, it is considered that any impact from the site would not be significant and could be effectively mitigated. A condition could be attached to require details of the design and specification of the lighting scheme to ensure the levels of luminance and spread are the minimum required for the safe operation of the plant and avoid any unnecessary light pollution.

6.05.05 The existing appearance of the frontage of the site would be significantly changed as a result of the development as the existing trees and vegetation and fencing would be removed and replaced by the access and egress for HGVs, staff parking and the tanker fill and parking area. This would make the interior of the site more visible but this is considered to be comparable with other industrial premises along Craigward, including the glass works to the east. The changes would also make the historic Glass Cone more visible from the public road than at present. In conclusion, the visual impact is not considered to be contrary to the objectives of Policies EP2 and EA10.

6.06 Traffic and Transportation

6.06.01 The application is supported by a Transport Statement which reviews the surrounding road network, site access design, construction and operational traffic impact and the need for any mitigation. The operation of the plant is predicted to generate up to 15 HGV trips per day (30 movements comprising 15 HGVs entering and 15 leaving the site). They would travel along Craigward to Glasshouse Loan and then north to the A907. The applicant has advised that deliveries would take place during daytime and night time hours with approximately 60% during the day (0700-2300). That equates to approximately 18 movements during the day and 12 during the night or 1-2 movements per hour on average. Staff trips comprising light vehicles would be on average 20 movements per day. Craigward and Glasshouse Loan serve a number of industrial and commercial uses which already generates HGV traffic and Glasshouse Loan serves the glassworks.

6.06.02 Roads and Transportation has advised it has no objections as discussed in paragraph 4.1 above. It is satisfied that the applicant has agreed to implement the measures set out in their consultation advice to safeguard road and pedestrian safety and encourage active travel trips. This includes the provision of a kerbed pedestrian island on Glasshouse Loan to improve crossing facilities for pedestrians and cyclists including staff and other local users of the surrounding footpath network and other footway enhancement works on Craigward. On balance, and subject to the proposed conditions, the traffic generated by the development is not considered to result in any significant

adverse impacts on the capacity of the nearby road network or significant change in the risks to road and pedestrian safety, which would justify withholding planning permission. The application is not considered to be contrary to Policy SC12 (Access and Transport Requirements) which seeks to ensure development can be safely accessed and by a choice of travel modes.

6.07 Built Heritage

6.07.01 Policy EA19 (Scheduled Monuments) states that proposals which would adversely affect a Scheduled Monument or its setting will not normally be supported. The applicant has submitted a Heritage Technical Note which considers the potential impact of the development on the setting of the Glass Cone which is located to the east of the site and is a Scheduled Monument. It concludes that while some of the existing views of the Cone from Craigward would be altered, the introduction of the plant would not interrupt key views from Craigward or diminish the ability to appreciate the structure. The removal of vegetation along Craigward to accommodate the development would create a range of additional views of the Cone. HES has advised that it is satisfied with the conclusions of the Note that there would not be any adverse impact on its setting and acknowledge the Cone is already viewed against a backdrop of large industrial structures. The applicant has also provided information in the Noise Assessment to demonstrate that the predicted vibration from piling operations within the site would be below the level which could cause damage to the Cone. It is concluded that the information provided and advice from HES demonstrates that the application would accord with the provisions of Policies EA19 (Scheduled Monuments) and SC6 (Additional Design Information).

6.07.02 Policy EA20 (Other Archaeological Resources) seeks to protect archaeological resources and ensure any potential impact is satisfactorily assessed. The applicant has undertaken a programme of archaeological works at the site agreed with the Regional Archaeologist. The evaluation did not expose any features of significance which would justify further investigation. The Regional Archaeologist has confirmed that the evaluation is acceptable and no further fieldwork is required if permission is granted. The measures are considered to accord with the requirements of Policy EA20.

6.08 Natural Heritage and Biodiversity

6.08.01 The application has addressed the main potential impacts of the development on ecology interests. These are;

- i) the qualifying interests of the Firth of Forth Special Protection Area (SPA) (and associated RAMSAR site and Site of Special Scientific Interest) and the associated Outer Firth of Forth and St Andrews Bay Complex SPA and Forth Islands SPA; and the River Teith Special Area of Conservation (SAC)
- ii) the potential for bats or other protected species within the site; and
- iii) the impact on existing habitats within the site comprising the existing trees and vegetation and the areas that have naturally regenerated on the vacant site (known as open mosaic habitats).

6.08.02 Policy EA3 (Protection of Designated Sites and Protected Species) seeks to protect designated sites or protected species and includes Natura Sites, SSSI's, local designations and protected species. The Firth of Forth SPA/Ramsar is a Natura Site and is classified partly for its internationally important wintering bird populations, wintering waterfowl assemblage and wintering populations of migratory bird species. The site is around 110 metres from the nearest part of the designated area. This means that the requirements of the Conservation (Natural Habitats & c) Regulations 1994, as amended (the "Habitats Regulations") apply. Where it is not possible to conclude that a development is not likely to have a significant effect on the designated area, the planning authority has to undertake an "appropriate assessment" to establish whether it considers that the proposal would adversely affect the integrity of the protected site or its qualifying interests.

6.08.03 The applicant has submitted a Habitats Regulations Appraisal (Updated) to inform the appropriate assessment process. NatureScot has not raised any objections to the document. The report was updated to address the proposed change to the construction programme which would extend some works or activity into the winter periods when qualifying species would be present within the SPA. This change in the programme reflects the requirements of the wider development programme associated with the decommissioning and replacement of the existing furnace at the glassworks. The Service is satisfied that granting of permission for the proposals would not adversely affect the integrity or qualifying interests of the SPA areas considered based on the appropriate assessment, subject to the mitigation measures identified in Section 5.7 of the applicant's Appraisal Report. The appropriate assessment has also considered the potential impact on the integrity of the River Teith SAC and reached the same conclusion. Although the SAC is approximately 22km from the nearest part of the application site and would not directly affect the river habitat of the Teith, the qualifying species of Atlantic salmon and lamprey would travel past the site as part of their migratory life cycle and consequently any potential impacts on migratory fish have also been considered. This concluded that there would be no adverse impact from inwater noise during the construction or operational phases. The risk of pollution affecting migratory fish during the construction period could be satisfactorily mitigated by a suitable CEMP. It is concluded that the proposal would therefore satisfy the requirements of Policy EA3 which relate to Natura Sites.

6.08.04 An Arboricultural Bat Survey was submitted with the application. The Survey assessed the trees located within the site boundary for bat roosting opportunities and offer further recommendations on the findings of that assessment. Bats and their roosts are protected under National and European law. It is proposed to remove the trees to accommodate the development. No bat roosting opportunities were observed during the assessment and of the 4 trees that were climbed for close visual inspection, they were categorised as having negligible potential for a bat roost as per the BCT Good Practice Guidelines (3rd Edition, 2016). Based on the evidence, the risk to bats is considered to be very low. It is concluded that the proposal would therefore satisfy the requirements of Policy EA3 as it relates to protected species.

6.08.05 A Tree Survey and Arboricultural Impact Assessment was also submitted with the application. The survey recorded 25 trees on the site, which are

located close to the north and north west boundaries generally on either side of the existing westernmost access into the site on Craigward. These comprise mainly ash (11 No) with some maple and rowan and a shrub understory. Almost all of the trees were classified as being of low quality with an estimated life expectancy of at least 10 years. Over half the ash trees are infected by Ash dieback. The trees on the frontage were probably planted in the past to provide some screening of the site. The trees will have to be removed to accommodate the proposed development and this is considered acceptable given their general poor health and condition and the absence of a practicable alternative where they could be retained. There is not sufficient space within the site to re plant trees due to the footprint of the plant and the existence of underground services. The applicant has agreed to make a contribution to fund compensatory planting in the surrounding area. Following consultation with Land Services, a contribution of a value of £10,000 is considered to be proportionate and related to the impact of the development. The planting is likely to be on Glasshouse Loan. Consideration was given to additional planting around the amenity space to the south of Munro Place but this was discounted due to limited scope for planting and the neighbouring residents indicated they were not in favour of more planting on this land. A planning condition could be used to require the submission of the contribution. Subject to this Condition, it is considered that the proposal would accord with the aims and requirements of Policy EA7 (Hedgerows, Trees and TPOs).

6.08.06 The applicant also undertook a Preliminary Ecological Appraisal of the site. This identified Open Mosaic Habitats within the site which relate to the natural regeneration which has occurred on some of the areas of vacant land and comprise mainly scrub and scattered ruderal vegetation. This habitat is identified as a UK Biodiversity Action Plan Priority Habitat. In response, the applicant has proposed to make a contribution to provide off site compensation for the loss of the habitat within the site as the areas would have to be developed to accommodate the proposed development. We are satisfied that there is no practicable option to retain the areas or create compensatory habitat within the site due to the limited space that would be available and the operational requirements associated with the plant. The applicant has engaged with NatureScot and RSPB through the Inner Forth Futures project and has agreed terms with RSPB to fund habitat enhancement works at Black Devon Wetlands which they manage to ensure there is no net loss of biodiversity value as a result of the development. This will involve habitat creation by the RSPB of at least the same area of land (0.7Ha). A planning condition could be used to require the submission of the contribution for these works to take place. Subject to this condition, it is considered that the proposal would accord with the aims and requirements of Policy EA2 (Habitat Networks and Biodiversity).

6.09 Health and Safety Issues

6.09.01 The process will separate air into its constituent elements. This will require the storage of liquid oxygen, nitrogen and argon and the transport of gaseous oxygen to the glassworks. The amount of oxygen to be stored on the site would be above the threshold where hazardous substances consent (HSC) would be required. The proposed storage of nitrogen and argon would not require HSC. There is a separate regulatory process to obtain HSC and the applicant has advised it will submit the application shortly after the planning

application is determined. The HSC application assessment will consider any public safety issues relating to the storage and handling of the oxygen within the site and this is considered to be the most appropriate process for this rather than through the current application for planning permission. The Health and Safety Executive (HSE) will be consulted on the application and they will advise whether it considers if the proposed storage would result in any significant increase in risk to the surrounding population and whether it considers if there are any significant reasons for refusing the HSC on safety grounds. Given the different regulatory functions, it is not considered that there would be any regulatory reason to delay determining the planning application in advance of the HSC application. In response to the issues raised by third parties, the applicant has highlighted that; liquid oxygen is nontoxic and harmless; it has a long track record of designing and installing and operating similar plants across the world; and it conducts safety studies to review all potential accident scenarios that might lead to a major accident and the plant would be designed to withstand the foreseeable consequences of these events. The site already was subject to a HSC associated with the storage of gas in the previous gasholder and this consent is still in place although the gasholder has been removed. The applicant proposes to vary the existing consent to remove the natural gas and include the storage of oxygen. Policy SC22 (Hazardous Substances Consent) states that proposals which will require HSC should be in locations where they avoid creating significant adverse levels of risk to people in the vicinity, will not adversely affect existing or consented developments and will be unlikely to be adversely affected from neighbouring land uses. Having regard to the foregoing discussion, the historic use of the site and the established uses around the site, the application is considered to be capable of according with Policy SC22. The applicant is aware that they still need to obtain HSC and this will have to be obtained to facilitate the development. The HSE also had to be consulted on the application as the site falls within the consultation zone related to the extant HSC for the gasholder. The consultation response is that it does not advise against planning permission being granted. The application is not considered to be contrary to Policy SC21 (Pipeline and Hazard Consultation Zones) although it is also acknowledged that the hazardous substance is no longer present on the site.

6.10 Developer Contributions

6.10.01 The developer has agreed to provide contributions to provide off site mitigation in relation to the removal of trees within the site and the loss of the open mosaic habitat that has established on parts of the site following the site becoming vacant. They would also fund a pedestrian island on Glasshouse Loan to enhance the existing pedestrian crossing facilities as advised by Roads. These would be regulated using planning conditions. The application is considered to accord with the provisions of Policy SC5 (Developer Contributions) and Supplementary Guidance 1 – Developer Contributions.

6.11 Having regard to the foregoing assessment, it is concluded that the application would support the Strategic Objectives of the LDP, accord with the aims of relevant Policies and therefore would not be contrary to the adopted Clackmannanshire LDP.

7.0 **Other Material Considerations**

- 7.1 Further to the issues discussed in Section 6.0 above, there are a number of other material considerations which have informed the assessment of the application and are relevant in determining whether they would individually or collectively outweigh the development plan position. These are summarised below.
- 7.2 The advice from consultees has been discussed in Section 4.0 above. The consultees have raised no objections to the proposal and it is considered that, subject to the proposed conditions, the applicant has satisfactorily demonstrated that the potential impacts have either been addressed or could be effectively managed by the conditions.
- 7.3 The objections, including a petition and objections from 12 individuals, have been summarised and discussed in Section 5.0 above. One of the key issues is the compatibility of the development with surrounding land uses, notwithstanding the site is allocated for business and industrial development on the Proposals Map in the LDP and Policy EP2 would direct industrial proposals to areas allocated as an Existing Business Site. Following careful consideration of the concerns, the information submitted by the applicant during the assessment process and the advice from relevant consultees, including SEPA, it is concluded that subject to the proposed conditions, there is sufficient evidence or advice to demonstrate that the concerns could be effectively managed or mitigated or would not, on their own, provide sufficient grounds to outweigh the provisions of the Local Development Plan and justify withholding planning permission. It is acknowledged that SEPA would have regulatory responsibility for environmental emissions from the development under the PPC Permit regime. It is significant that SEPA has withdrawn its original holding objection relating to noise and air quality impacts and while further details will be required from the applicant to meet the PPC Permit requirements, they have advised that they are now satisfied that the proposal is capable of being consented under PPC. The guidance in PAN 51 states that where a proposal requires licensing under the PPC regime, planning authorities should accept that as adequate and suitable for public health protection. The PAN also refers to guidance in the original Scottish Planning Policy which states that whether a proposal was capable of being licensed under another regulatory regime would be a material planning consideration. We are satisfied that, on balance, there is sufficient evidence to demonstrate that the development is suitable for the site and would not result in an unacceptable adverse impact on the existing standards of residential and visual amenity of the nearest residents, environmental quality and road and pedestrian safety and conservation interests in the surrounding area to justify withholding planning permission. This conclusion has been reached having regard to the established character, appearance and activities associated with the site and adjoining land including the glassworks.
- 7.4 It is concluded that subject to the proposed mitigation measures the potential impacts of the development on natural heritage interests, including the Firth of Forth SPA and Ramsar site and River Teith SAC would not adversely affect the integrity of these designated areas. The proposals include measures to mitigate the impacts on the habitat and biodiversity value within the site which are acceptable.

7.5 Scottish Planning Policy (SPP) identifies 4 key outcomes which planning should support comprising; supporting sustainable economic growth; reducing carbon emissions and adapting to climate change; protecting and enhancing natural and cultural assets; and supporting better transport and connectivity. The SPP states that in relation to Principles relating to Business and Employment development, planning should promote business and industrial development that increases economic activity while safeguarding the natural and built environments and give due weight to net economic benefit of the proposed development. It notes that planning should address the development requirements of business and enable key opportunities for investment to be realised. Other Policy Principles considered relevant are; protecting the historic environment; conserve protected species; protect and improve the water environment and soils; seek benefits for biodiversity from new development; and provide safe and convenient opportunities for walking and cycling. It is considered that on balance, the proposal would generally be supportive of these Principles and the 4 key outcomes.

7.6 The plant would be capable of providing a suitable supply of oxygen to fuel replacement furnaces at the glassworks which would operate using oxy fuel technology. As outlined in Paragraph 5.7 above, switching to this technology to operate the furnaces from the existing gas/ air technology would deliver a number of environmental and economic benefits as it would ; reduce the amount of greenhouse gas emissions generated by the furnace process; create a more efficient burn resulting in decreased gas consumption and reducing energy costs; create a cleaner burn which would produces less emissions to air; and the reduced emissions of nitrogen oxides would avoid needing to invest in further abatement technology to treat emissions, saving considerable capital expenditure and energy costs. The reduction in greenhouse gas emissions would help tackle the causes of climate change while the reduction in energy use and abatement technology would help sustain the existing business which serves customers in the local area and local employment opportunities.

8.0 Conclusions

8.1 The application must be determined in accordance with the development plan unless material considerations indicate otherwise. Our assessment of the application is that it would accord with the relevant provisions of the Clackmannanshire Local Development Plan including the spatial strategy and key aims which in principle would support directing such investment towards the Forth area. It is concluded from the assessment of key issues in Section 6.0 above that the application would not be contrary to the Local Development Plan.

8.2 A number of other material considerations have been identified and considered in the assessment of the application, including the objections received from third parties. Our assessment of these matters has concluded that those not in support of the proposal would not either individually or collectively attract sufficient weight to outweigh the support from the Local Development Plan, having regard to the advice from consultees, the scope of the proposed conditions, the material consideration in support of the

application and the roles and responsibilities of the relevant regulatory planning and PPC Permit licensing regimes.

9.0. Resource Implications

9.1 *Financial Details*

9.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

Finance have been consulted and have agreed the financial implications as set out in the report.

Yes

10.0 Exempt Reports

Is this report exempt? Yes (please detail the reasons for exemption below) No **X**

11.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all	X
Our families; children and young people will have the best possible start in life	<input type="checkbox"/>
Women and girls will be confident and aspirational, and achieve their full potential	<input type="checkbox"/>
Our communities will be resilient and empowered so that they can thrive and flourish	<input type="checkbox"/>

(2) **Council Policies** (Please detail)

12.0 Equalities Impact

12.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No **X**

13.0 Legality

13.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes **X**

14.0 Appendices

14.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 – Reasons and Conditions

Appendix 2 – List of Plans and Documents to be Approved

15.0 Background Papers

15.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes **X** (please list the documents below) No

- Clackmannanshire Local Development Plan, 2015
- Scottish Planning Policy
- Planning Advice Note 51 – Planning, Environmental Protection and Regulation
- Planning Advice Note 62 – Radio Telecommunications, 2001

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Keith Johnstone	Principal Placemaking Officer	X2614

Approved by

NAME	DESIGNATION	
Allan Finlayson	Team Leader	
Emma Fyvie	Service Manager	

APPENDIX 1 – CONDITIONS AND REASONS

1. Within one month from the date of this permission, the following details shall have been submitted for the approval in writing by the planning authority;

a) The colour and finish of the materials to be used on the exterior of the buildings hereby approved and any areas of hard surfacing.

b) Details of the location, design and colour of any means of enclosure within and around the perimeter of the site. This shall include;

i) the specification for the design, installation and ongoing maintenance of the acoustic fences to be erected as annotated on Figures 5.1 and 5.2 of the Noise Assessment V7 by SLR dated August 2022 to achieve the attenuation referred to in the Assessment.

ii) the design and specification for the means of operation of the security gates at the vehicular access and egress from the site and associated directional signage. This shall include details of the measures to minimise noise emissions from their operation.

iii) the results of consideration of the design, colour and appearance of any enclosures situated between Craigward and the proposed storage tanks to maintain visibility of the Glass Cone.

c) provision of soft landscaping on the frontage of the site, on Craigward, such as planters. This shall include details of the design, plant species and sizes and arrangements for establishment and maintenance.

d) The design and location of secure cycle parking (4 No spaces) for staff or visitors at the site.

e) A detailed specification for any lighting and floodlighting of outside spaces and the exterior of buildings and plant within the site. This shall include luminance levels, light spillage and coverage of areas of lighting. This shall be produced having regard to the guidance contained in the Institution of Lighting Engineers – The Reduction of Obtrusive Light Note 01/21.

No construction works shall commence to erect buildings on the site until the details have been approved in writing by the planning authority. Thereafter, the development shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

2. Unless otherwise agreed in writing by the planning authority, within 2 months from the date of this planning permission, arrangements for the funding and/or implementation of the off site mitigation works described below, including the timing, responsibility for completion and adoption if appropriate and the method of verification of compliance, shall have been submitted to and approved in writing by the planning authority;

- i) The provision of a pedestrian crossing on Glasshouse Loan comprising a pedestrian island, generally as annotated on the drawing by SLR titled Pedestrian Crossing Glasshouse Loan (dwg no 2-R0). The works shall be designed and installed to a standard adoptable by the Council, as Roads Authority.
- ii) the formation of a 2.0m wide footway on the south side of Craigward to complete a continuous footway between the east boundary of the site and the existing section of footway close to Glasshouse Loan as annotated on the approved drawing titled Access and Footway (dwg no 1-R3) by SLR. The works shall be designed and installed to a standard adoptable by the Council, as Roads Authority.
- iii) The provision of a habitat compensation scheme to provide equal or greater habitat value compared with the loss of 0.7Ha of open mosaic habitat on previously developed land habitat within the site. This shall be generally be in accordance with the details relating to the design, implementation and establishment of the habitat and the funding values towards these elements as set out in the letter of agreement dated 22nd March 2022 signed by Air Products Ltd and RSPB.
- iv) A contribution of a minimum £10,000 to the Council towards compensatory tree and shrub planting outwith the site.

Thereafter, the contributions shall have been made or scheme of works completed as approved and offered for adoption, before the first commencement of use of the air separation unit hereby approved, unless otherwise agreed in writing by the planning authority.

3. The buildings and plant hereby permitted shall not be occupied or commence their first operation until:

- a) any remediation works approved as part of the remediation strategy as set out in the document titled Remediation Method Statement V5, by SLR and dated October 2022, or as amended have been carried out in full and in compliance with the approved strategy. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then the additional contamination should be fully assessed including suitable site investigation and risk assessment for sensitive receptors and an adequate updated remediation scheme shall be submitted to and approved in writing by the planning authority and fully implemented thereafter;
- b) a verification report, produced on completion of the remediation work, has been submitted to and approved in writing by the planning authority. Such report shall include:
 - i) details of the remediation works carried out and
 - ii) results of verification sampling, testing and monitoring and
 - iii) all waste management documentation showing the classification of waste, its treatment, movement and disposal in order to demonstrate compliance with the approved remediation strategy.

If during the development work, areas of contamination are encountered, then the applicant shall immediately notify the planning authority. The nature and

extent of any contamination found shall be fully assessed by way of a site investigation and an adequate site investigation report and remediation strategy shall be submitted to and approved by Planning Authority in writing. Any remediation work agreed shall be fully implemented and a remediation verification report submitted to and approved in writing by the planning authority.

4. Unless otherwise agreed in writing by the planning authority, the development hereby approved shall be implemented in accordance with the procedures, standards and actions set out in the approved document titled Construction Environmental Management Plan (CEMP) (including Construction Transport Management Plan) V5, by SLR and dated October 2022 or as amended and the measures set out in Appendix 04 of the Noise Assessment V7 by SLR dated August 2022.

This shall include the use of screw piling technique only during construction unless otherwise agreed by the planning authority.

5. Notwithstanding the requirements of Condition No 4 above relating to the implementation of the Construction Environmental Management Plan V5, the development hereby approved shall be implemented in accordance with the mitigation measures set out in Section 5.7 of the document titled Habitats Regulations Appraisal V2 by SLR and dated July 2022, unless otherwise agreed in writing by the planning authority.

6. (a) Prior to commencement of construction of above ground works on the site, a television broadcast signal survey shall have been undertaken and its findings, along with any signal mitigation plan considered required, shall have been submitted to and approved in writing by the planning authority. This survey shall;

i) reflect the scope and findings of the document titled Desk Based Television Reception Impact Assessment Report dated Oct 2022 by GTech Surveys Ltd and cover at least the areas containing the houses at Munro Place, Kevevkae and Caledonian Place.

ii) be undertaken by a suitably qualified and experienced tv engineer.

(b) A subsequent post development television reception survey shall be undertaken covering at least the houses at Munro Place, Kevevkae and Caledonian Place no later than completion of the cold box and 7 main gas storage tanks on the site unless otherwise requested in writing by the planning authority. The post development television reception survey findings together with an update to any reception mitigation plan shall be submitted to the planning authority for its written approval within 1 month of its completion.

(c) Any television and radio reception mitigation required under (1) and (2), above, shall thereafter be implemented in full.

(d) Any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building shall be submitted to the Council as planning authority within 12 months of the final installation of the cold box and 7 main gas storage tanks to its north. If the planning authority are satisfied that the complaints appears valid, the complaint shall be passed to the developer, Air Products (BR) Ltd or any successor). The complaint shall subsequently be investigated by an

independent qualified engineer appointed by the developer in consultation with the planning authority and the results shall be submitted to the planning authority. The engineer shall be appointed within 21 days from receipt of a complaint from the planning authority unless otherwise agreed by the planning authority. Should any impairment to the TV signal be attributable, or considered likely to be attributable, to the approved development by the engineer, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception. Any impairment shall be mitigated within 1 month of the date of the engineer's advice according to the mitigation scheme outlined and otherwise agreed in advance by the planning authority.

For the avoidance of doubt the resolution of disputes shall be determined by an independent arbiter e.g. OFCOM or other professional body as deemed appropriate by the planning authority.

7. Unless otherwise agreed in writing by the planning authority, the access, parking and footway works annotated on the approved drawings titled Site Layout Plot Plan North, 2 of 2 and Access and Footway (dwg no 1-R3) by SLR, shall have been completed no later than before the first use of the air separation unit hereby approved. The works affecting the public road shall have been designed and constructed in accordance with the Council's relevant Development Standards as Roads Authority and offered up for adoption to the Roads Authority before the first use of the air separation unit hereby approved. These works shall include;

- i) the 3 accesses from Craigward,
- ii) the staff parking area and HGV parking and yard spaces,
- iii) the 3.0m wide footway across the frontage of site, and
- iv) the achievement of visibility splays of 2.4m by 60m in both directions within which there shall be no obstruction over 1m in height above carriageway level, at the 3 access points referred to in i) above.

8. Any trees and shrubs adjacent to the site shall be protected throughout the entire duration of construction work in accordance with BS 5837 (2012) – Trees in Relation to Construction. The protection measures shall be installed before development commences on site, unless otherwise agreed in writing by the planning authority.

Reasons

1. Further details are required in the interests of visual and residential amenity, biodiversity, amenity and the setting of the Alloa Glass Cone.

2. In order to ensure the off site compensation measures are successfully and timeously delivered in the interests of biodiversity, visual amenity, active travel and pedestrian and road safety.

3. Further information is required to satisfactorily demonstrate that the potential risks to the environment arising from previous site uses has been adequately assessed, evaluated and suitable remediation is provided where necessary.

4. To consider these details yet to be submitted, in the interests of minimising the impact on residential amenity, road safety and natural heritage.

5. In order to safeguard the nature conservation interests associated with qualifying species of the Firth of Forth Special Protection Area and Ramsar and Site of Special Scientific Interest.
6. To safeguard the existing TV reception in the area.
7. In the interests of road and pedestrian safety.
8. In the interests of visual amenity.

Reasons for Decision

1. Subject to the proposed conditions, it is concluded that the development would accord with the provisions of the adopted Clackmannanshire Local Development Plan.
2. Having regard to the issues raised by consultees and third parties, the additional information submitted by the applicant, and the regulatory control of the operation required under the PPC (Scotland) Regulations 2012 it is concluded that there are no other material considerations which would outweigh the Development Plan support for the development and justify withholding permission.

APPENDIX 2 – LIST OF PLANS AND DOCUMENTS TO BE APPROVED

Location Plan – Figure 1

Existing Site Plan – Figure 2

Site Layout Plan (South) (dwg no 30011529-PIP-PP501-001) Sheet 1 of 2

Site Layout Plan (North) (dwg no 30011529-PIP-PP501-002.3) Sheet 2 of 2

Composite Site Layout Plan (dwg no 416.05744.00002 / SAI-SLP 006)

Access and Footway Works Plan (Dwg No 1-R3 V2)

Control and Workshop Building Elevations (dwg No EN212039-CIS-OD2-00003)

Control and Workshop Building Floor Plan (dwg no EN212039-CIS-OD2-00001)

PDC Building Floor Plan and Elevations

Compressor Building Floor Plan and Elevations (dwg no EN212039-CIS-OD2-00002)

Autoload Container Elevations (dwg no DOC0000921382 -3)

Autoload Container Floor Plan (dwg no DOC0000921382- 1)

Analyser Building Elevations (dwg No 0000929435)

Analyser Building Floor Plan (dwg No 0000929436)

SPEN Substation Floor Plan and Elevations (dwg no EL5-00019)

Site Section - North-South Views

Site Section - East-West Views

Drawing 1- R3 - Highways Works Plan V2

Dwg No CIS-OF201-001 - Foundation Overall Area Pile Layout Sheet 1 of 2

Dwg No CIS-OF201-002 - Foundation Overall Area Pile Layout Sheet 2 of 2

Dwg No SAI-005 – Indicative Building Massing Profiles

Construction Environmental Management Plan (CEMP) V5, October 2022, SLR

Habitats Regulations Appraisal (Updated) V2, July 2022, SLR

Remediation Method Statement V5, October 2022, SLR

Revised Detailed Quantitative Risk Assessment, 16th Sept 2022, Cundall

Supplementary Detailed Quantitative Risk Assessment and Remedial Options
Appraisal Report V5, October 2022, SLR

Environmental Piling Risk Assessment Report V2, SLR

Preliminary Ecological Appraisal (Updated) V3, October 2022, SLR, July 2022

Arboricultural Bat Survey for Craigward, Professional Tree Climbing Ltd, March 2022

Archaeological Trial Trench Evaluation Rev2, SLR, April 2022

Archaeological Mitigation – Written Scheme of Investigation, SLR, March 2022

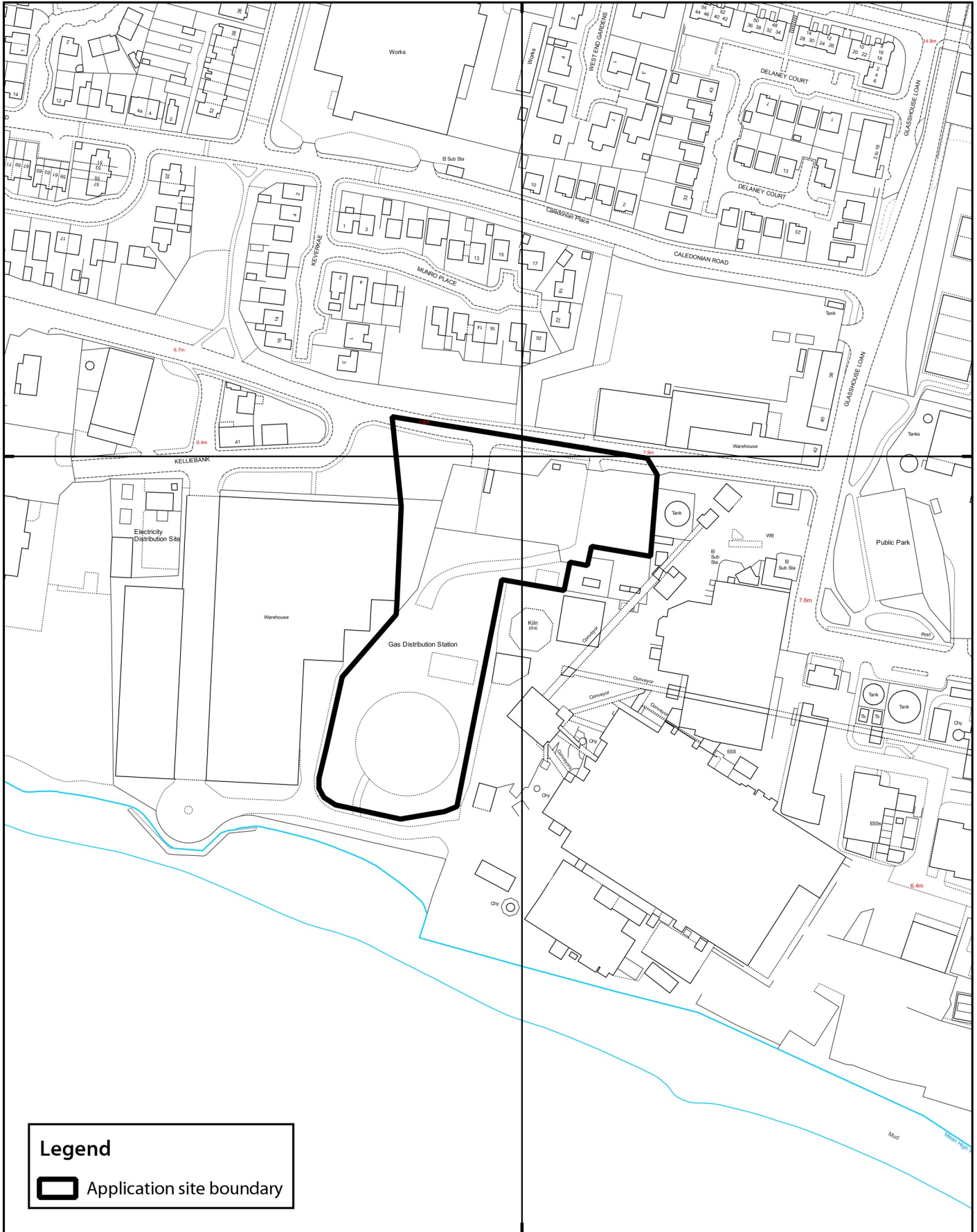
Heritage Addendum Revised, SLR, June 2022

Noise Impact Assessment V7, SLR, August 2022

Air Quality Assessment V6, SLR, Jan 2022

Phase 1 Geotechnical and Geoenvironmental Desk Study, Dunelm Geo&Env Ltd,
Feb 2021

288000



692500

692500

288000

Legend

 Application site boundary

22/00012/FULL – OI Manufacturing Ltd, Glasshouse Loan, Alloa
Erection of Air Separation Plant and Associated Infrastructure

 **Clackmannanshire Council**
www.clacks.gov.uk

Comhairle Siorrachd
Chlach Mhanann



Ward: Clackmannanshire South

OS Grid Ref: NS879924

0 50 100 150 200 250 metres

Scale: 1:2,500

Date:
19 Oct 2022

Development & Environment
Tel: 01259 450 000
planning@clacks.gov.uk

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Report to: **Planning Committee**

Date of Meeting: **3rd November 2022**

Subject: **10 Gannel Hill View, Devon Village, FK10 3GN – Further Update Report**

Report by: **Grant Baxter, Principal Placemaking Officer**

1.0 Purpose

- 1.1. This report has been prepared to provide the Planning Committee with an update on matters in relation to both the incomplete house and residential caravan at 10 Gannel Hill View, Devon Village (“Property”), following the last report to Committee on this matter, on 4th November 2021.

2.0 Recommendations

- 2.1. It is recommended that the Planning Committee:
- 2.1.1 Note the contents of this report in relation to the Completion Notice;
 - 2.1.2 Note the options available to the Planning Committee contained in paragraph 3.12; and
 - 2.1.2 Agree and delegate to the Senior Manager for Development the preferred option and/or options the Planning Committee wish to take forward in terms of paragraph 3.12 in respect of the Property

3 Considerations

- 3.1 As provided for in the Planning Committee Report dated 4 November 2021 (Appendix 1) it was agreed that officers would bring back a report to Planning Committee once the decision, and the recommendations of the Reporter to Scottish Ministers in respect of it, have been fully considered.
- 3.2 It was agreed at the November 2021 Planning Committee that the Council obtain legal advice in respect of the decision of the Scottish Ministers wherein they declined to confirm the Completion Notice served by the Council on the owner of the Property on 7th January 2020. The effect of Scottish Ministers’ decision in respect of the Completion Notice was to deem that the house currently under construction on the Property was not a lawful development.
- 3.3 The Planning Committee are reminded of an earlier decision of a Reporter on behalf of Scottish Ministers (for which a report went to the Planning

Committee on 8 November 2018 (see Appendix 2)) deeming the siting and occupation of the static caravan on the Property to be permitted development in association with construction of the house. On that basis, the Reporter quashed the Enforcement Notice served by the Council on the owner in respect of the caravan.

- 3.4 In line with the legal advice obtained by the Council (a copy of which has been circulated to the Planning Committee) and in accordance with Scottish Government's guidance on planning enforcement together with the Council's Enforcement Charter, the Planning Service served a Section 33(a) Notice ("Notice") (such Notice can be used where the Council considers that a development, which does not have planning permission, may be acceptable) on the owner of the Property, which required submission of a planning application for the construction on the Property.
- 3.5 In response to the Notice, the owner of the Property submitted an application for a Certificate of Lawfulness of Proposed Use or Development (CLPUD) for the erection of a house on the Property received by the Council on 29 August 2022.
- 3.6 The owner of the Property under the Notice was required to submit a planning application the owner submitted an application for CLPUD which in itself is competent because it is an application that seeks regularise the development on the Property. Therefore the owner of the Property has complied with the intention of the Notice.
- 3.7 Applications for CLPUD require to be assessed, not on the basis of the planning merits of the proposal, but whether the planning authority are provided with information satisfying them that the development is lawful. Consequently, such applications are not subject to the same publicity and notification procedures as planning applications and are determined by officers under delegated powers both in law and the Council's Scheme of Delegation. The assessment is an evidenced based examination of information (see below in paragraph 3.8) provided in terms of the application for CLPUD.
- 3.8 The application for a CLPUD was accompanied by:
 - 3.8.1 A covering letter stating that material operations were carried out on construction of the house between 29th March 2011 and 29th March 2014.
 - 3.8.2 A set of 14 date and time stamped photographs showing the house at various stages of construction and with people (including the applicant and his wife) undertaking construction activity. The photographs are from a time period 25/09/2012 to 17/09/2013, and variously show house and garage foundations and concrete slabs, structural steel and timber panels.
 - 3.8.3 Three separate signed letters by individuals (including the applicant's wife) stating that they can be seen working on house construction at the site in referenced photographs referred to above.

3.8.4 An email from the Council's Principal Building Standards Surveyor to the applicant confirming that open track drain testing was carried out at the site on 28th and 29th August 2013 and a closed track drain test was carried out on 9th September 2013.

3.9 In assessing the application, the Planning Service was satisfied, based on the evidence submitted (as detailed above) that the erection of a house, based on the planning permission approved in 2011 (11/00020/FULL) would be lawful, as it demonstrated that material operations on construction of the house were commenced within three years of the date of planning permission being granted. It should be noted that none of the evidence submitted by the owner of the Property with the CLPUD application had been put before the Reporter when the Reporter was considering the Completion Notice.

3.10 The effect of the decision on the CLPUD:-

3.10.1 that the house approved in terms of the planning permission approved in 2011(11/00020/FULL) is a lawful development, and can be completed, subject to the owner regularising outstanding matters in relation to approval of finishing details as required by the conditions of the Planning Permission and regularising minor changes to the approved plans; and

3.10.2 the siting and occupation of the caravan on the Property is permitted development in accordance with the decision of the Reporter on the Enforcement Notice Appeal in 2018 (Appendix 2).

3.11 Essentially, the current circumstances are now as they were in January 2019, when the Committee determined that a Completion Notice should be served on the owner, requiring completion of the development of the house on the Property within 2 years, insofar as the proposed house is lawful, but remains incomplete.

3.12 Options available for completion of dwellinghouse:

Planning powers that the Council has at its disposal in order to achieve completion of the house are as set out below. These were previously presented to the Planning Committee in January 2019, wherein the Planning Committee agreed the route of the Completion Notice:-

3.12.1 Notice Requiring Proper Maintenance of Land (Amenity Notice)

It is unlikely that this power is specifically aimed at this type of situation, but more typically where a site has been left in a very poor condition, and where the actions required to comply with the notice would be to tidy it up, or to remove waste material for example, rather than to complete the construction of a house. It should be noted that failure to comply with such a notice is not an offence, and the only action the Council can take in respect of non-compliance is to enter the land itself and take the steps necessary to comply with the notice. This would incur costs to the Council and it may be that material removed from the site include items that would be required for the house build itself.

3.12.2 Completion Notice

The issuing of the CLPUD now confirms that the proposed house is a lawful development and as such, the Planning Committee could again consider serving a Completion Notice requiring completion of the approved development within a specified timescale.

Subject to validation of the Completion Notice by the Scottish Ministers, once the period specified in the Completion Notice has expired, no development carried thereafter will be competent/authorised by the owner of the Property. This could therefore mean that the house remains incomplete at the expiry of the compliance period, but that further works on it would then not be permitted or lawful and require further a further planning permission.

If it is the intention of the Planning Committee is to achieve a completed dwellinghouse on the Property then the Committee needs to be aware that failure to comply with the Completion Notice means there is no longer a planning permission for completion of the dwellinghouse. Only the construction that is in existence at the time of expiry of the Completion Notice would be lawful. At that point no further construction can take place whether by the owner or any party to complete the dwellinghouse. A further planning application would need to be made for any further constructions works.

Therefore we recommend that, before serving another Completion Notice, the Planning Committee give consideration to what it can or should do in the event that such a Notice is not complied with.

3.12.3 Compulsory Purchase Order (CPO)

This power allows public authorities to acquire land without the owner's permission subject to a number of conditions including public interest. CPO powers exist in various Acts of Parliament, including the Planning Acts.

This is a complex area of legislation, with the process involving several stages, including potentially a public local inquiry together with an impact on time and cost for the Council. It is not therefore possible to fully illustrate the process and possible scenarios that a CPO may involve in this report, however key elements of that process are described below.

The Council would normally be expected to engage with the people affected by a CPO and attempt to buy land by agreement, where this is at all possible. The Council would also have to consider alternative ways to achieve its objective, which in this case, is principally the completion of the approved house.

The Council would have to properly assess the wider public interest and impact on people affected before embarking on a CPO process.

CPO powers cannot be used where they would breach the European Convention of Human Rights (ECHR), and must be proportionate and

demonstrably in the public interest. This reinforces the requirement to only use the powers where it is a proportionate response to the circumstances and there is a strong enough case in the public interest.

CPO under planning powers may be used for a number of purposes, and should accord with planning policies; such as to assemble land for regeneration or to acquire a single property that needs redevelopment or improvement, such as a derelict or abandoned property or empty home. This property would not necessarily fall into any of these categories, as it is an active construction site, rather than a site that has been abandoned or a complete house left vacant.

The Council would have to be satisfied that it can secure the funds to acquire land and if necessary to complete a development on it. These costs would include an estimate of likely levels of compensation.

A CPO can be undertaken with a third party, and indeed can be requested by a third party. Such an arrangement may involve a “back to back” agreement where the authority purchases the land and disposes it to the third party, who would then carry out the development. The third party would normally indemnify the authority against costs incurred. The Planning Committee should note that the Council has had no formal approach from any 3rd party proposing such an arrangement.

In all cases, the authority must weigh the public interest and be satisfied that this over-rides the interests of the people affected if it decides to proceed with a CPO. A decision to authorise a CPO would require to be made by full Council, budget found to deal with the acquisition, compensation, professional costs and alternative accommodation and thereafter be authorised by Scottish Ministers before it could be served.

The Council would require to engage with the affected parties throughout the process and where the CPO is opposed by the affected parties, a public local inquiry may be held.

Compensation to the affected parties may include:

- the open market value of the property;
- compensation for severance and/or injurious affection;
- compensation for disturbance and other losses not directly based on the value of the property (including professional fees; and
- a home loss payment may also be made.

The option of CPO carries with it potential costs, many of which are at this stage unknown. As such before any recommendation can be put to the Council for a CPO, as confirmed above, budget would need to be found in advance of such recommendation

The CPO process is a long, complex, and potentially costly process, which could be successfully challenged. Any decision to proceed with

this process would fundamentally need to be based on the weight of public interest, and that this outweighed the interests of the affected parties. Officers cannot say, with confidence, that in this case involving an incomplete, but under construction house within an approved residential development, that this test would be met in this case.

3.13 Conclusions

3.14 In conclusion, the Planning Committee is being asked to note the foregoing assessment of options in respect of both completion of the house and siting and occupation of the static caravan on the site, in light of the above. above.

4 Sustainability Implications

4.13 There are no sustainability implications in respect of this report.

5 Resource Implications

5.13 *Financial Details*

5.14 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.15 Finance has been consulted and has agreed the financial implications as set out in the report. Yes

5.16 *Staffing*

6 Exempt Reports

6.13 Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

- The area has a positive image and attracts people and businesses
- Our communities are more cohesive and inclusive
- People are better skilled, trained and ready for learning and employment
- Our communities are safer
- Vulnerable people and families are supported
- Substance misuse and its effects are reduced
- Health is improving and health inequalities are reducing
- The environment is protected and enhanced for all

The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 – Planning Committee Report dated 4 November 2021

Appendix 2 – Planning Committee Report dated 8 November 2018

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

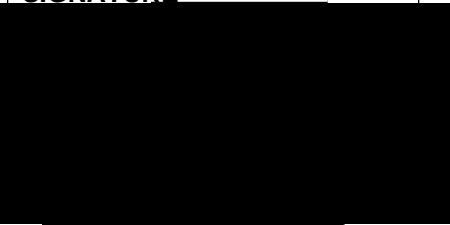
Yes (please list the documents below) No

- Report to Planning Committee of 24th January 2019
- The Reporters Appeal Decision on the Enforcement Notice

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Placemaking Officer	2615

Approved by

NAME	DESIGNATION	SIGNATURE
Allan Finlayson	Planning & Building Standards Team Leader	
Emma Fyvie	Senior Manager, Development	

CLACKMANNANSHIRE COUNCIL

Report to: Planning Committee

Date of Meeting: 4th November 2021

**Subject: Scottish Ministers' Decision on Completion Notice -
Erection of House - Modification to Approved House Type
"C" (10 Gannel Hill View) (Planning Permission Ref No.
05/00241/FULL) at 10 Gannel Hill View, Devon Village.
Clackmannanshire**

Report by: Grant Baxter, Principal Planner

1.0 Purpose

- 1.1. The purpose of this report is to advise Members of the recent decision made by Scottish Ministers on the Completion Notice served by the Council on the owner of 10 Gannel Hill View, in connection with the construction of a house on that site. The report is for noting only and a further report will be brought to a future Planning Committee setting out options to secure completion of the house and removal of the static caravan from the site.

2.0 Recommendations

- 2.1. It is recommended that Members note the decision of Scottish Ministers in respect of the Completion Notice, and the intention of officers to bring a report to a future meeting of the Planning Committee once the decision, and the recommendations of the Reporter to Scottish Ministers in respect of it, have been fully considered.

3.0 Considerations

- 3.1. Members will be aware of the lengthy history in connection with both the incomplete house and the siting and occupation of a static caravan within this plot at 10 Gannel Hill View, Devon Village.
- 3.2. At its meeting of 24th January 2019, the Committee voted to delegate authority to the Development Services Manager and Legal Services Manager to serve a Completion Notice on the owner of the site, as the Committee was of the view that it would not be completed within a reasonable timescale. The Committee decided that the period for completion of the house specified in the Completion Notice would be two years.
- 3.3. The Council subsequently served a Completion Notice on the owner of the property (Mr Steve Smith), on 7th January 2020, requiring the works to build

the house to be completed by 9th January 2022 (two years from the Planning Committee's decision). The effect of the Notice would be that the planning permission would cease to have effect at the expiration of the specified period, and only that part of the construction completed would be deemed to be lawful.

- 3.4. A Completion Notice cannot take effect until it has been confirmed by Scottish Ministers, who may also vary the time period specified in the Notice. In this case, Scottish Ministers appointed a Reporter from the Planning and Environmental Appeals Division (DPEA) to provide a report on the case, and this report was completed and submitted to Scottish Ministers on 20th July 2020.
- 3.5. The Reporter recommended that Scottish Ministers decline to confirm the Completion Notice, and the Scottish Government subsequently advised the Council in writing on 12th October 2021 that Ministers agreed with the Reporter's overall conclusions and have declined to confirm the Completion Notice.
- 3.6. The Reporter's recommendation to not confirm the Completion Notice is based on his view that the development on the site does not relate to Planning Permission 11/00020/FULL - Erection of House - Modification to Approved House Type "C" (10 Gannel Hill View) (Planning Permission Ref No. 05/00241/FULL) and that the structure on site is a breach of planning control which materially differs from that approved by the Council in 2011. Specifically, the Reporter considers that there is no evidence that the planning permission for the house, granted in 2011 was lawfully begun within the statutory three years from the date of consent.
- 3.7. The Reporter's makes comments and arrives at conclusions on a number of other matters, such as consideration of non-material variations, discharge of planning conditions and the Council's responses to requests for information during his consideration of the case. Officers of the Planning and Legal Services have concerns about these comments and conclusions, as they differ significantly from those arrived at by officers, and collectively appear to be given considerable weight in the Reporter's conclusion that the Completion Notice should not be confirmed by Scottish Ministers.
- 3.8. Set out below are notable examples of areas of concern with the Reporter's assessment and conclusions:
- 3.9. Lawfulness of the dwellinghouse at 10 Gannel Hill View
- 3.10. The Reporter acknowledges that the Council, as Planning Authority, is empowered by legislation to determine the lawfulness of development, however, arrives at his own conclusion that the dwellinghouse at 10 Gannel Hill View is not lawful (on the basis that planning permission 11/00020/FULL has lapsed) without seeking any clarification from the Council as to its view on this critical point.
- 3.11. The Reporter refers to the previous DPEA Reporter's decision to quash the Council's enforcement notice on the residential caravan at 10 Gannel Hill View, but fails to acknowledge that in quashing the enforcement notice, the previous Reporter concluded that the residential caravan was permitted

development on the basis that the dwellinghouse at 10 Gannel Hill View **was lawful**.

- 3.12. Officers are therefore concerned that in arriving at his conclusion that the house is not lawful, the Reporter has failed to take into account either the Council's view on this matter or that of the previous Reporter. A conclusion upon which the Reporter's recommendation not to confirm the Completion Notice mainly rests.
- 3.13. The Reporter's conclusions on the lawfulness of the existing house being built on site are fundamental to his recommendation not to confirm the Completion Notice and appear to officers to be based on a narrow assessment of evidence and without full consideration of the Council's or previous Reporter's views.
- 3.14. Notification of Development Commencement and Compliance with Planning Conditions
- 3.15. The Reporter has concluded that the failure of the applicant to notify the Council of the initiation of development is an indication that development did not commence. The Council has noted the failure of the applicant to submit such notification, however, Members should note in respect of the above, there is no provision in legislation to deem that a planning permission would fall or be revoked simply by the failure of the applicant to submit a Notification of Initiation of Development.
- 3.16. The Reporter has also concluded that the breach of planning conditions of planning permission 11/00020/FULL are an indication that planning permission 11/00020/FULL was not lawfully implemented. This view has been arrived at despite the Council providing the Reporter with reasoned justification for reaching a contrary conclusion.
- 3.17. Material variation from planning permission 11/00020/FULL
- 3.18. The Reporter acknowledges that the Council, as Planning Authority, is empowered by legislation to determine whether amendments to planning permission are material variations requiring further planning permission.
- 3.19. In contradiction to the above the Reporter has arrived at the conclusion that material variations to the approved dwellinghouse at 10 Gannel Hill View have been undertaken despite the Council confirming otherwise and without seeking clarification of the reasons for the Council's conclusions.
- 3.20. Criticism of the Council's response to requests for information
- 3.21. The Reporter is critical of the Council in stating that responses to all procedure notices were not provided and that not all requested information was supplied. Officers can confirm to Members that this is not the case and documented evidence to the contrary exists both on the Council's planning application file and on DPEA's case file.
- 3.22. Next Steps
- 3.23. On the basis of the above points, Members are advised that it is the intention of officers to seek external legal advice on the above matters and write to

Scottish Ministers seeking clarification of the considerations of the Reporter. These actions are considered necessary for the Council to have confidence or otherwise in the Reporter's conclusions in the best interests of all parties. Officers will update Planning Committee following conclusion of this process.

4.0 Sustainability Implications

4.1. None

5.0 Resource Implications

5.1. Financial Details

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
 Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

11.0 Background Papers

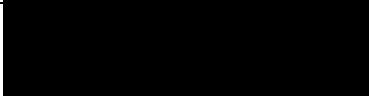
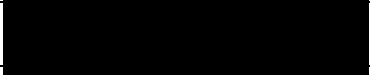
11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

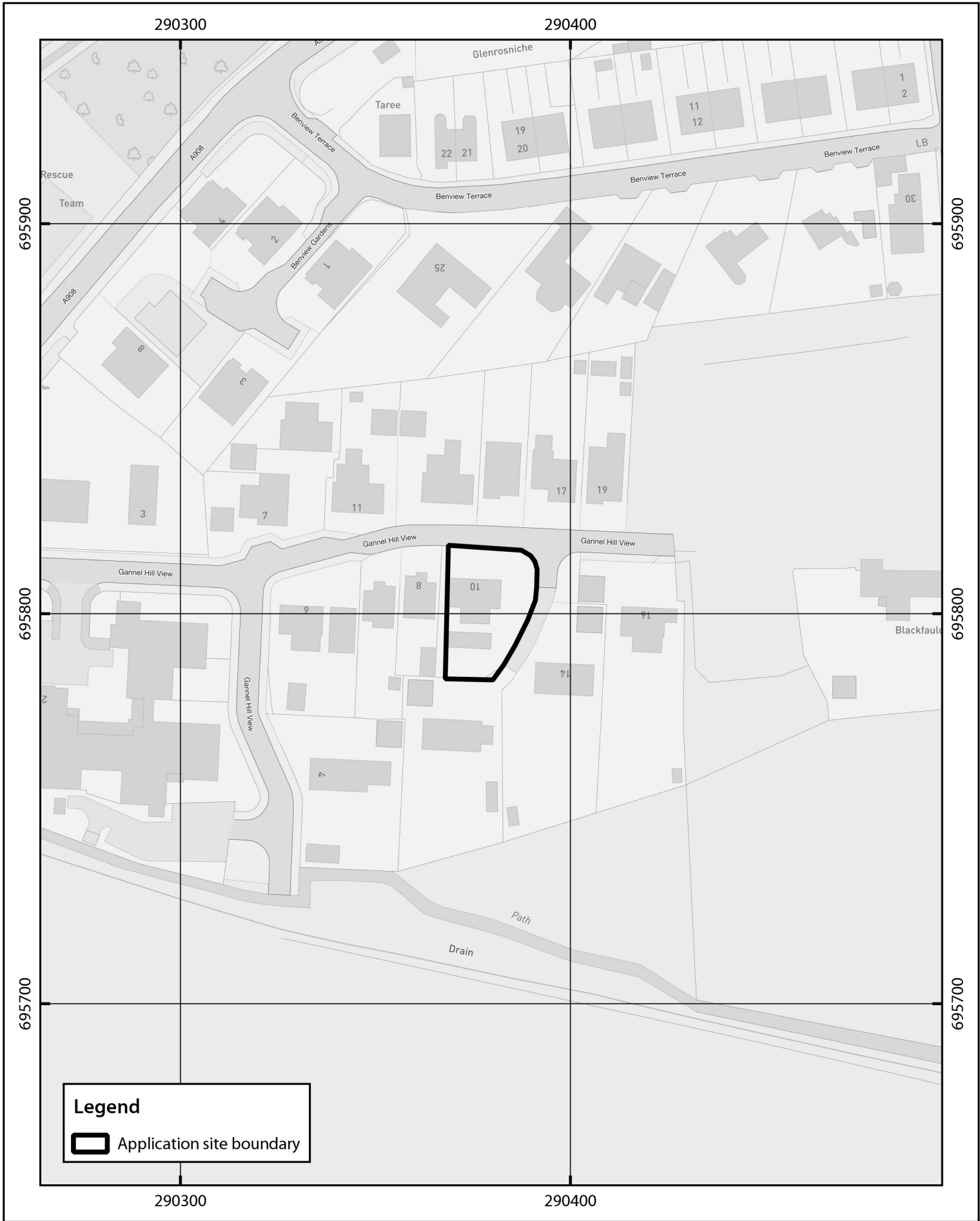
Yes (please list the documents below) No


Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Grant Baxter	Principal Planner	

Approved by

NAME	DESIGNATION	SIGNATURE
Allan Finlayson	Planning and Building Standards Team Leader	
Emma Fyvie	Senior Manager (Development)	





Date:
21 Oct 2021

11/00020/FULL – Land At Blackfaulds, Fishcross


Erection of House - Modification to Approved House Type "C" (10 Gannel Hill View) (Planning Permission Ref No. 05/00241/FULL)

Ward: Clackmannanshire Central

OS Grid Ref: NS903958

Scale: 1:1,250

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CLACKMANNANSHIRE COUNCIL

Report to: Planning Committee

Date of Meeting: 8th November 2018

Subject: 10 Gannel Hill View, Devon Village, FK10 3GN – Update Report following Enforcement Appeal – Planning Application ref: 18/00037/FULL

Report by: Grant Baxter, Principal Planner

1.0 Purpose

- 1.1. To provide the Committee with an update on the recent enforcement notice appeal decision and related matters in respect of the siting and occupation of a static caravan and construction of a house at 10 Gannel Hill View, Devon Village, and to provide advice on the possible next steps available to the Council in respect of both the caravan and incomplete house on the site.

2.0 Recommendations

- 2.1. It is recommended that the Committee note the contents of this report and delegate authority to the Development Services Manager and Legal Services Manager to determine any appropriate actions that the Council may progress in order to achieve the cessation of occupation of the caravan, and its removal from the site and ensure completion of a house on the site.

3.0 Considerations

3.1. Background

- 3.2. Members will recall that at their meeting of 26th April 2018 they refused planning permission for the “Use of Land for Temporary Siting and Occupation of Static Residential Caravan During Construction of House (Variation of Condition 1 of Planning Permission 17/00095/FULL to Extend Permission for a Minimum Period of 1 Year” at 10 Gannel Hill View by the owner of the site, Mr Steve Smith. The reason for refusal was:

1. The siting and occupation of the caravan on the house plot since September 2014 has not resulted in significant progress on house construction towards a stage of habitation. The continued siting and occupation of the caravan is beyond what could reasonably be considered a temporary period and given its location, visual appearance, proximity to and relationship with surrounding households, would have an unacceptable impact on residential amenity for surrounding householders.

- 3.3. At their meeting of 26th April 2018, the Committee also unanimously agreed to delegate authority to the Development Services Manager in respect of any enforcement action deemed necessary to require cessation of occupation of the caravan and its removal from the site. Following this, the Council served an Enforcement Notice on the owner of the site, dated 11th May 2018. This required occupation of the static caravan to cease and for it to be removed from the site within 28 days of it taking effect. The owner, Mr Smith lodged an appeal to the Enforcement Notice on 8th June 2018, on two grounds:
1. That the matters stated in the notice did not constitute a breach of planning control.
 2. That the compliance period specified in the notice fell short of what should reasonably be allowed.
- 3.4. Following an accompanied site visit, the Reporter appointed by Scottish Ministers to determine the appeal issued his Appeal Decision Notice on 13th September 2018. The decision was to uphold the appeal and quash the enforcement notice. The Reporter concluded that the siting and occupation of the caravan is permitted development under either Class 14 (Temporary Buildings and Uses) and Class 16 (Caravan Sites) of The Town & Country Planning (General Permitted Development) (Scotland) Order, 1992, as amended, (the GDPO), and did not therefore constitute a breach of planning control. The Council had argued in its response to the appeal that the matter did not constitute permitted development under either of these classes of the GDPO.
- 3.5. Following the decision on the enforcement notice appeal, a separate planning appeal against refusal of the application was withdrawn by Mr Smith, on the basis that following the Reporter's decision on the enforcement notice appeal, the development was deemed to be permitted development.
- 3.6. The effect of the Reporter's decision is that the caravan may be retained and occupied on the site until building operations on the house have been completed.
- 3.7. Subsequent to the Reporter's decision, officers have considered potential options available to the Council that may be progressed to seek cessation of occupation of the caravan and completion of a house on the site. These options are now presented to Planning Committee for information and consideration.
- 3.8. Options in respect of cessation of occupation of the caravan and its removal from the site are set out below.

OPTION	EFFECT
Discontinuance Order	The planning authority has the power to require discontinuance of any use of land, alteration or

removal of any buildings or works, or to impose conditions on the continuance of land. The power is exercised in the interests of the proper planning of its area (including the interests of amenity).

Regard has to be had to the development plan and any other material considerations. One of which would be the enforcement appeal decision, which has determined that the caravan is permitted development. Therefore it could only be on the grounds of an amenity issue. The partly built house is however part of the negative amenity.

Also, an order would not take effect until confirmed by the Scottish Ministers, and there is provision for a hearing to be held at the request of anyone affected by the order.

There is a right to reclaim the costs of the works from the Council and also for compensation in respect of depreciation and disturbance of enjoyment.

It is an offence not to comply with the order and the Council may enter the land and take the required steps and recover their expenses from the owner.

It is important to note that where the requirements of an order will involve displacement of persons residing in any premises, it shall be the duty of the Council, as planning authority, where there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of displacement.

All of which may incur considerable costs to the Council.

<p style="text-align: center;">Judicial Review</p>	<p>The Council, and indeed other interested parties, may seek a judicial review of the enforcement notice appeal decision within 3 months of it being made. The grounds for seeking a review are not based on the planning merits of the case, but that the Reporter acted outwith his powers in upholding the appeal and quashing the enforcement notice. The grounds for judicial review fall under three main headings; illegality, irrationality and procedural impropriety.</p> <p>Officers from Planning and Legal Services have reviewed the Reporter's decision in the context of legislation and relevant case law. The Officers do not believe there has been any irrationality or procedural impropriety. The final ground would be the Reporter's decision being wrong in law. Legal Services have carried out a review of the legislation and case law and is of the view that a successful challenge to the Reporter's decision is unlikely.</p>
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3.9. In respect of progress with completion of the house on the site, Members should note that there is evidence of construction work being undertaken on the site by the owner since the appeal decision. A water pipe that was affecting the solum of the proposed integral garage has now been moved by Scottish Water. The owner had previously cited this as an issue preventing progress on this part of the build. Subsequent to this a concrete base has been formed for the garage by the owner. The owner has also contacted officers to agree limited extension to approved hours of construction. Information has also been received from a neighbouring property that works have been undertaken outwith these agreed hours and this has been taken up by the Planning Service with the owner.

3.10 Conclusions

3.11 As confirmed above it is the view of officers of both Planning and Legal Services that a successful challenge to the Reporter's Decision through Judicial Review is unlikely to be successful.

3.12 It is recommended to Members that given the fact that the appeal decision is very recent and also that some construction activities have taken place on site that progress and activity in respect of the house build is regularly monitored by officers and a further report brought to the Committee, providing further advice on any actions, if any, at that stage.

4.0 Sustainability Implications

4.1. There are no sustainability implications in respect of this report.

5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance has been consulted and has agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

- | | |
|--|-------------------------------------|
| The area has a positive image and attracts people and businesses | <input type="checkbox"/> |
| Our communities are more cohesive and inclusive | <input type="checkbox"/> |
| People are better skilled, trained and ready for learning and employment | <input type="checkbox"/> |
| Our communities are safer | <input type="checkbox"/> |
| Vulnerable people and families are supported | <input type="checkbox"/> |
| Substance misuse and its effects are reduced | <input type="checkbox"/> |
| Health is improving and health inequalities are reducing | <input type="checkbox"/> |
| The environment is protected and enhanced for all | <input checked="" type="checkbox"/> |
| The Council is effective, efficient and recognised for excellence | <input type="checkbox"/> |

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

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9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

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Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
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Julie Hamilton	Service Manager, Development	