
Report to Planning Committee

Date of Meeting: 12 March 2026

Subject: Application 25/00178/PPP seeking planning permission in principle for the erection of 4 new homes on land at Devonside

Report by: Jacob Muff, Planning and Building Standards Team Leader

1.0 Purpose

- 1.1. The purpose of this report is to provide an assessment of the above application which seeks planning permission in principle (PPP) for the erection of four houses on land at Devonside.
- 1.2. Although the development is “local development”, it has been requested by a ward councillor that the application be decided by the Planning Committee rather than by Officers under their delegated Powers. It is possible to do this under an amendment to the scheme of delegation dated the 31st October 2013.
- 1.3. The reason the Councillor has requested for the application to be decided by the Planning Committee is for transparency, the sensitivities surrounding an existing unauthorised use, and the significant local concern, making the case that it is in the public interest for the proposal to be decided by the Planning Committee.

2.0 Recommendations

- 2.1. For the reasons set out in the Appendix 1 and as assessed in section 3.0, it is recommended that the application is refused.

3.0 Considerations

- 3.1. Background and Relevant Site History
- 3.2. The site has been developed in the past, with historic maps showing a number of buildings associated with the textile industry positioned within its boundaries. Although these have long since been removed and the site has re-greened, it is considered to be brownfield land.

- 3.3. The site for many decades had retained a single building close to its centre, with open land surrounding it, and a band of trees.
- 3.4. Since at least 2021 the current owner has been using it for unauthorised storage, and it can be seen enclosed with heras-type fencing, a number of shipping containers, vehicles, and construction equipment, all visible from public land.
- 3.5. The use and appearance of the site have been the subject of ongoing concerns by the community and a number of complaints to the Council which resulted in an Enforcement Notice being served in 2023.
- 3.6. The owner has failed to comply with the terms of the Notice and in 2024 a report was put to the Planning Committee detailing a number of enforcement options in respect of the non-compliance. A decision was taken at that time to report the offence to the Crown Office and Procurator Fiscal Service (COPFS). A report was submitted in 2025.
- 3.7. Since the report to the COPFS, the building on the site appears to have been demolished and all of the trees have been removed. Although there can be permitted development rights for the demolition of buildings, this is subject to prior approval of the Planning Authority being sought and subject to the land owner complying with any limitations and conditions applied. No prior approval was sought.
- 3.8. The alleged demolition of the building does not form part of the reported offence to the COPFS, but taking into consideration the high likelihood that planning permission would have been granted for the demolition of this building, it was not considered in the public interest at this time to pursue a separate enforcement case for the demolition of the building, but to focus time and resources on the pursuing the unauthorised use.
- 3.9. The loss of the trees although unfortunate was unavoidable by the Planning Authority. The site is not in a conservation area and the trees were not the subject of a Tree Protection Order, and so were not afforded any statutory protections in Planning.
- 3.10. Further information was sought from the Council by the COPFS in January 2026 and at the time of writing this report, the unauthorised use appears to still be underway. A decision by the COPFS on whether to pursue a prosecution for the offence is still pending.
- 3.11. The enforcement action against the existing unauthorised use is separate to the considerations of the use proposed by this application. The application is considered on its own merits against relevant planning policies and any other material planning considerations.
- 3.12. Consultations
- 3.13. Road and Transportation Team – Raise no objection following a change to the indicative layout.
- 3.14. Environmental Health Team – Object, raising concerns that there is a lack of information in relation to noise impact and how a noise sensitive development in this area could affect both the existing and proposed uses. They also seek

a dust management plan and lighting impact assessment and give detail about hours of work and awareness of the Environmental Protection Act in relation to statutory nuisance.

- 3.15. Contaminated Land Team– Do not object to the proposed development but have suggested conditions as their records indicate a former potentially contaminative use on this site and its surrounding areas, with potentially filled ground with unknown materials.
- 3.16. Scottish Water – Raise no objection to this planning application and suggest that there is sufficient capacity for foul water connections in the system. They indicate that there is live infrastructure within a close proximity of the development area and that further consents beyond the Planning process will be required.
- 3.17. Coal Authority – Object, raising fundamental concerns with respect to the coal mining legacy of this site. The application site falls within a defined development high risk area and there is a lack of information to support the planning application. No Coal Mining Risk Assessment has been submitted and there are coal mining features and hazards which need to be considered within the site and surrounding area, which will help determine the suitability and stability of the land for future housing.
- 3.18. Publicity and Representations
- 3.19. The application was advertised by individual neighbour notification letter, a site notice and in the Alloa Advertiser. One representation was received.
- 3.20. The representation was from the local branch of the Scottish Wildlife Trust. They gave comments neither objecting to nor supporting the development which in summary sought to remind both the Applicant and the Council of their responsibilities regarding bats and birds, and other wildlife which may live on or close to the site. They advised for an ecological assessment to be done before any works start and that, if approved, mitigation to improve the biodiversity value of the site be sought.
- 3.21. Planning Authority Response: The impact on the natural environment will be considered in the assessment below in accordance with planning policy and the Council’s Biodiversity Duty, but there are no longer any trees or shrubs on this site, and all buildings have already been demolished.
- 3.22. The Development Plan
- 3.23. Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise. The Statutory Development Plan for the Clackmannanshire Council Planning Authority Area comprises the adopted National Planning Framework 4, 2023 (NPF4) and the Clackmannanshire Local Development Plan, 2015 (LDP). As NPF4 and LDP policies form the Development Plan, all the policies are to be read and applied as a whole.

3.24. The key NPF 4 policies are considered to be:

Policy 1 – Tackling the Climate and Nature Crises

Policy 2 – Climate Mitigation and Adaption

Policy 3 – Biodiversity

Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings

Policy 11 – Energy

Policy 13 – Sustainable Transport

Policy 14 – Design, Quality and Place

Policy 15 – Local Living and 20 Minute Neighbourhoods

Policy 16 – Quality Homes

Policy 18 – Infrastructure First

Policy 22 – Flood risk and Water Management

Policy 23 – Health and Safety

3.25. The key LDP policies are considered to be:

Policy SC1 – Maintaining a Housing Land Supply

Policy SC5 – Layout and design principles

Policy SC7 – Energy efficiency and low carbon development

Policy SC9 – Developer contributions

Policy SC10 – Education, community facilities and open spaces

Policy SC11 – Transport Networks

Policy SC12 – Access and transport Requirements

Policy SC20 – Water and drainage infrastructure and capacity

Policy EA2 – Habitat networks and biodiversity

Policy EA11- Environmental quality

Policy EA25 - The development of brownfield, unstable and contaminated land

3.26. Assessment

- 3.27. The proposal seeks planning permission in principle for the erection of 4 new homes on an unallocated site within the settlement boundary of Devonside. At this stage, permission is sought only for the principle of a residential development on this site and for the total number of units.
- 3.28. An indicative layout has been submitted for illustrative purposes, but should a PPP be granted, detailed matters would need to be addressed through conditions and through the submission of subsequent Matters Specified in Conditions (MSC) Application(s).
- 3.29. The site fronts the A908 and is positioned on a bend in the road, sandwiched between the main road to the front; a residential site to much of the west; and an access road which wraps around to serve the existing businesses to the north-west. The surrounding area has a mixed in character, comprising of a combination of residential properties and established commercial uses, which include a storage and distribution facility and a gym at Devonpark Mills
- 3.30. The site is not allocated for development in the LDP but lies within the settlement boundary of Devonside. Policy 16 of NPF 4 provides support for new housing development on unallocated sites within settlement boundaries where proposals are supported by an agreed timescale for build-out and are otherwise consistent with the spatial strategy and relevant planning policies.
- 3.31. In May 2024 the Government declared a housing emergency, and the Planning Authority recognises that there is a need to increase the supply of housing both locally and nationally. The provision of up to four additional homes could make a modest contribution.
- 3.32. Although the site has since re-greened, it is a brownfield site within the settlement boundary and is in a position where it could connect into existing infrastructure, supporting an infrastructure first approach. It doesn't appear to be at risk of any flooding, and is also in a location that would support the principle of local living and 20 minute neighbourhoods.
- 3.33. An agreed build-out timescale has not been provided with the application, but given that this is a PPP application and not a detailed Planning Permission being sought, works could not commence until further applications are approved, therefore it is considered that this requirement, which is primarily to protect the amenity of residents, could reasonably be required through condition should approval be given.
- 3.34. Although there does appear to be some policy support that can be offered the summary of the consultation responses highlights fundamental concerns with the principle of development, which are further assessed below.

3.35. Land Quality

- 3.36. The site is in a defined high risk area for potential coal mining activities. The Coal Authority have stated that there is evidence of coal workings on or close to the site, but no coal mining risk assessment has been submitted as part of this application. As such, based on the consultation response the Planning

Authority cannot be satisfied that the site would be suitable for a residential development. The application has not demonstrated that it would be (or could be made) safe and stable for the proposed residential use, or that it would not result in public safety issues should the development go ahead. The Coal Authority's objection represents a significant material consideration, and in the absence of a technical assessment, it is not possible to conclude that the risks can be addressed. These concerns conflict with Policies 9 and 23 of NPF 4 and Policy EA25 of the LDP.

3.37. It also appears that from historic maps, the site was in the past used in relation to the textile industry in the area. The Council's records indicate that there is potentially unknown infill within the site which would indicate a high potential for the land been contaminated. Although the Contaminated Land Team have not objected to the proposal they have suggested that investigations will need to take place prior to development commencing. They have suggested conditions for the investigation and any potential remediation works should these be required.

3.38. Impact on Future Occupants and Neighbouring Uses

3.39. It should be recognised that the planning system is not only a mechanism for facilitating new development but is also there to safeguard existing land uses from unreasonable impacts arising from change.

3.40. This site fronts a busy A-classified road and is close to established commercial premises at Devonpark Mills which are not currently restricted in terms of their operating hours. Their uses include a gym and storage and distribution facility. NPF 4 Policy 23 incorporates the 'Agent of Change Principle', which recognises that where a new development is introduced into an area, it is the responsibility of the incoming development to ensure that it can operate without adversely affecting those existing uses.

3.41. In this case the policy requires the Applicant to demonstrate that the new residential use will not only provide an acceptable standard of amenity for its future occupants but should also demonstrate that the proposed use can exist without the established commercial operations been adversely constrained due to the introduction of a noise sensitive development in this location.

3.42. Environmental Health have raised an objection as residential development is inherently noise sensitive and there is no supporting information relating to noise impacts. In the absence of a Noise Impact Assessment to establish the baseline noise environment, in this location close to established businesses and busy roads, the proposal has not demonstrated that it represents a suitable location for new residential development. This would conflict with Policies 14 and 23 of NPF 4.

3.43. Assessment of Other Planning Matters

3.44. If the concerns raised in the sections above can be overcome, it is considered that a residential development that fits suitably with the character and appearance of this area could be achieved. It is also considered that a development could that has an acceptable impact on the natural environment could be achieved and that access and parking would unlikely be an issue.

3.45. Detailed matters would be the subject of appropriate conditions and an assessment. It is unlikely that given the scale of the development and the sustainable location, that any developer contributions would be sought.

3.46. Conclusion

3.47. Planning policy requires new homes to be delivered in safe and sustainable locations, as well as seeking to protect established businesses from unreasonable constraints. Without information to demonstrate otherwise and in the absence of sufficient technical information relating to noise impacts and the legacy of coal mining in this area, it is recommended that Planning permission is refused.

4.0 Sustainability Implications

4.1. The recommendation to refuse planning permission has no sustainability implications.

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

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**

Clackmannanshire Council Local Development Plan 2015

National Planning Framework 4

8.0 Impact Assessments

8.1 Have you attached the combined equalities impact assessment to ensure compliance with the public sector equality duty and fairer Scotland duty? Yes X

8.2 If an impact assessment has not been undertaken you should explain why:

The assessment demonstrates that the proposal shows no risk of unlawful discrimination. The Council have taken all opportunities to advance equality of opportunity and foster good relations on this application by providing opportunities for the information required to make a full and proper assessment to be submitted.

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 Appendix 1 – Reasons for Refusal

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

- Adopted Clackmannanshire Local Development Plan (2015)

- National Planning Framework 4 (2023)

- Supplementary Guidance 1 Developer Contributions

- Supplementary Guidance 3 Placemaking

11.0 List of Plans and Other Documents Forming Part of the Planning Application

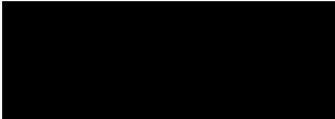
11.1 Location Plan and Site Plan – DRG 001 REV A

11.2 Proposed Site Plan – DRG 002

Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
Pauline Elliott	Chief Planner	

Appendix 1 – Reasons for Refusal

1. The site lies within a defined development high risk area for past coal mining activities. In the absence of a site-specific coal mining risk assessment, the Planning Authority cannot be suitably satisfied that the site represents a safe and stable location for new homes to be constructed, or that the risks arising from past coal mining activities on or close to the site can be appropriately mitigated, conflicting with Policies 9 and 23 of the National Planning Framework 4, and Policy EA25 of the Clackmannanshire Local Development Plan 2015.
2. In the absence of a Noise Impact Assessment, the development by reason of its location close to a busy classified A road and the established commercial premises at Devonpark Mills, fails to demonstrate that the future occupants of the proposed new homes would achieve an acceptable level of amenity; and that existing lawful business operations would not be adversely affected by the introduction of this new residential use, conflicting with Policies 14 and 23 of the National Planning Framework 4.

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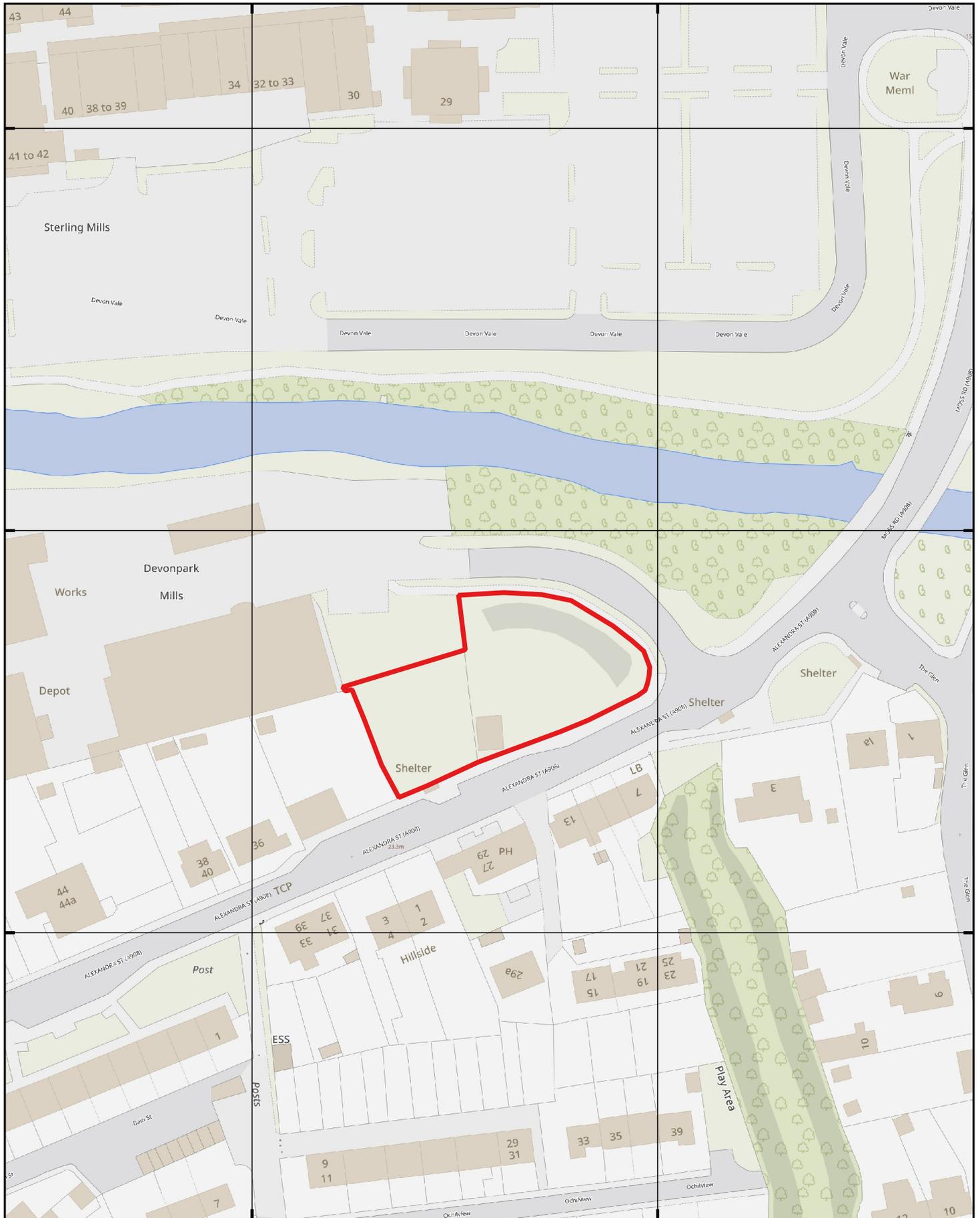
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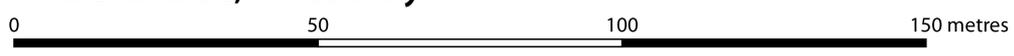
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25/00178/PPP – Land To The East Of 32, Alexandra Street, Devonside, Tillicoultry

Clackmannanshire Council Comhairle Siorrachd Chlach Mhanann
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