

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 22 OCTOBER 2024

**PLANNING APPLICATION: LAND 100M NORTH OF BEECH HILL, LOUR ROAD,
FORFAR**

GRID REF: 346179 : 750129

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

1. ABSTRACT

- 1.1 This report deals with planning application [24/00440/FULL](#) by Cullross Limited for the erection of 7 dwellinghouses and refurbishment of an existing building to provide a dwellinghouse including formation of access road, landscaping, erection of boundary enclosures and associated infrastructure on land 100m north of Beech Hill, Lour Road, Forfar. The application is recommended for approval subject to conditions.

2. RECOMMENDATION

- 2.1 It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

3. INTRODUCTION

- 3.1 The applicant seeks full planning permission for the erection of 7 dwellinghouses and refurbishment of an existing building to provide a dwellinghouse including formation of access road, landscaping, erection of boundary enclosures and associated infrastructure on land 100m north of Beech Hill, Lour Road, Forfar. A plan showing the location of the application site is provided at Appendix 1.
- 3.2 The application site measures around 1.35ha and accommodates a traditional two-storey building in its southwest corner with areas of woodland and individual trees within the site. The site is bound to the north and east by Newmonthill Cemetery, to the south by land safeguarded for an extension to the cemetery and to the west by sheltered housing accommodation and a care home.
- 3.3 The proposed detached dwellings would be 1¾ storeys in height and contained within plots measuring between 425sqm – 984sqm. The existing building within the site would be restored to provide a 4-bedroom dwelling. A new access would be formed at the southwest corner of the site, and it would connect to the access road to the west which links to Lour Road. An amenity area adjacent to the west boundary of the site that accommodates a number of existing trees is retained within the site. A pedestrian access to Core Path 293 is incorporated at the south boundary of the site.
- 3.4 The application has not been subject of variation.
- 3.5 The application has been subject of statutory neighbour notification and was advertised in the press as required by legislation.
- 3.6 This application requires to be determined by committee because the council has a financial interest in the application site, and the application is recommended for approval in circumstances where it has attracted objection.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning application [22/00839/FULL](#) for the erection of 49 affordable housing units along with associated works including the formation of amenity spaces recycling and refuse stores and landscaping at the site was withdrawn prior to determination.
- 4.2 Planning application [23/00304/FULL](#) for the erection of 44 affordable housing units along with associated works including the formation of vehicular access, drainage infrastructure, amenity spaces and landscaping - re-application at the site was withdrawn prior to determination.

5. APPLICANT'S CASE

- 5.1 The following documents have been submitted in support of the application: -
- Design Statement;
 - Transport Statement;
 - Flood Risk Assessment;
 - Drainage Strategy Report;
 - Ecological Assessment;
 - Sustainability Statement; and
 - Tree Survey.
- 5.2 The information submitted in support of the application is available to view on the [Public Access](#) system. The conclusions of the statements and assessments are summarised at Appendix 2.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – no objection subject to conditions.
- 6.2 **Angus Council – Environmental Health** – no objection in relation to amenity impacts or contaminated land subject to conditions.
- 6.3 **Angus Council – Environmental Services – Parks** – the amount of open space within the development meets the minimum requirement identified by Policy PV2 of the Angus Local Development Plan. Comment is provided on matters of detail in relation to the open space, site, boundary enclosures, tree protection measures and landscape maintenance arrangements. These matters can be addressed by condition if applicable.
- 6.4 **Angus Council – Housing Service** – no objection subject to a condition requiring provision of an affordable housing contribution. The specific means of affordable housing delivery or specific units to be provided as affordable homes could be controlled via planning condition/ obligation and an associated approved affordable housing delivery package.
- 6.5 **Aberdeenshire Council Archaeology** – no objection subject to a condition requiring a programme of archaeological works.
- 6.6 **Scottish Water** – no objection.
- 6.7 **Forfar Community Council** – no comment received.

7. REPRESENTATIONS

7.1 One letter of representation has been received raising objection. The letter is provided at Appendix 3 and is available to view on the council's [Public Access](#) system.

7.2 In summary terms the following issues are raised: -

- **Adverse impacts on wildlife.**

7.3 Material planning issues are addressed below but the following matters are addressed at this stage: -

- **Disruption from construction works** – the timescale for construction of houses within the site is predominantly a matter for the developer having regard to market conditions. Notwithstanding that, the site is adjacent to occupied dwellings and it would be reasonable to attach conditions to any permission to minimise impacts associated with construction activity on the amenity of those that live in the area.
- **Future development may be proposed on the wooded area within the application site** – should a future development at the site be proposed it would require an application for planning permission and it would be assessed in accordance with the development plan at that time.
- **Developers experience delivering high quality development** – this is not a material planning consideration.

8. PLANNING CONSIDERATIONS

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 In this case the development plan comprises:

- [National Planning Framework 4](#) (NPF4) (Adopted 2023)
- [Angus Local Development Plan](#) (ALDP) (Adopted 2016)

8.3 The development plan policies relevant to the determination of the planning application are reproduced at Appendix 4 and have been taken into account in preparing this report.

8.4 The ALDP was adopted in September 2016 while NPF4 was adopted in February 2023. Planning legislation indicates that where there is any incompatibility between the provision of the national planning framework and the provision of a local development plan, whichever of them is the later in date is to prevail.

8.5 ALDP Policy DS1 states that proposals on sites not allocated or otherwise identified for development but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP. Both the ALDP and NPF4 encourage the reuse of brownfield land in preference to the use of greenfield land.

8.6 NPF4 Policy 16 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations. It indicates that development proposals for new homes on land not allocated for housing in the local development plan will only be supported in limited circumstances where the proposal is supported by an agreed timescale for build-out; the proposal is otherwise consistent with the plan spatial strategy, and other relevant policies including local living and 20-

minute neighbourhoods; and where (amongst other things) the proposal is for smaller scale opportunities within an existing settlement boundary. ALDP Policy TC2 indicates that proposals for new residential development within identified development boundaries will be supported where the site is not protected for another use and is consistent with the character and pattern of development in the surrounding area. It also includes detailed tests requiring proposals to be compatible in terms of land use; to provide a satisfactory residential environment; not to result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and to include provision for affordable housing in specified circumstances.

- 8.7 In this case the site is located within the development boundary of Forfar as defined by the ALDP. While the site accommodates an existing building, it is understood that the land was historically used as a nursery, and it is largely greenfield in character. However, small-scale residential development on unallocated sites within settlements is broadly consistent with NPF4 housing policy development plan policy, and ALDP policy seeks to facilitate new houses on appropriate sites within development boundaries.
- 8.8 The use of the site for housing would be compatible with existing and proposed land uses in the surrounding area. The proposed plots measure between 425sqm – 984sqm and would be compatible with those in the surrounding area and with council guidance. The proposed plots would provide in excess of 100 square metres of private garden ground and adequate space to provide suitable provision for refuse collection/storage and recycling. Each plot also provides adequate space for vehicular access, parking and turning. The proposed dwellings would have a reasonable separation distance from existing dwellings adjoining the site and would generally comply with the separation distances specified in the council's design guidance. The general distribution and spacing of the proposed buildings are also appropriate having regard to council design guidance and should ensure that prospective residents have acceptable amenity standards. The proposal makes provision for the inclusion of air source heat pumps with each property, but no details of the proposed units has been provided. The environmental health service has advised that provision of the units has the potential to give rise to noise impacts on the occupants of neighbouring properties. A condition is proposed stating that the air source heat pumps are not approved unless it can be demonstrated that they meet required noise emission standards. The proposal would provide a good residential environment for the proposed dwellings and would not give rise to unacceptable impacts on the amenity of existing properties in the area.
- 8.9 The development provides for a low-density form of development that makes provision for eight residential units, that would have their public elevations overlooking the proposed access road and retained amenity space. The detached 1¾ storey house styles would incorporate pitched roofs and gable ends and are broadly reflective of the buildings and character of development in this area of the town. Solar panels are indicated on the roof of the dwellings, but they would be of a domestic scale and as such would not raise any significant issues. A condition is proposed that requires precise details of the exterior finishing materials for the buildings and for boundary enclosures to be submitted and approved. Car parking provision would meet with the council standards. The proposed layout ensures that the new houses would be in general accordance with relevant spatial standards identified in council guidance and the new homes would provide a good living environment for future occupants. Open space would be provided within the site at a level that exceeds council standards, and a condition is proposed requiring provision of a footpath through the area to improve its function as a usable open space. The proposal would be consistent with the character and pattern of development in the surrounding area and would provide an acceptable design solution having regard to the council's design and placemaking supplementary guidance.

- 8.10 The site has good accessibility to the services and facilities within the town and is a short walk from the town centre as confirmed in the supporting transport statement. Pedestrian linkages are proposed to connect the site with existing footways and footpaths in the area. The proposed access would be formed in accordance with council roads standards and the roads service has confirmed it has no objection to the proposal in terms of road traffic or pedestrian safety subject to a number of conditions.
- 8.11 The site is not designated for any natural heritage interest reasons, but it does contain a building and trees that are potentially favourable habitats for protected species. An ecological assessment has been submitted in support of the application which indicates the site was assessed as providing low suitability to support protected species and no evidence of protected species were identified within the site. The assessment recommends biodiversity mitigation and enhancement measures, including the provision of bat and bird boxes and a condition is attached requiring implementation of those measures. There is no evidence to suggest that development would adversely affect any designated site or protected species.
- 8.12 A tree survey has been provided and details the works required to facilitate the proposed development. The site accommodates 72 individual trees which are categorised as having varying importance. However, the majority would be retained with only seven proposed for removal. The extent of tree works proposed is not considered to be unacceptable, with important trees and the overall woodland character of the site retained. Submitted plans provide for hedgerow planting in association with the proposal and the attached conditions require provision of new planting to respect the character of the area and this would provide some compensation for tree loss. A condition is also proposed for the protection of those trees to be retained during development. Overall, subject to the proposed conditions, the development would not result in an unacceptable impact on the local or wider natural environment.
- 8.13 The site is not subject of any built heritage designation however the development proposal has potential to impact local archaeology sites. The archaeological service has considered the proposal and offers no objection subject to a condition requiring a programme of archaeological works. The proposal would not give rise to any unacceptable impacts on built or cultural heritage interests, subject to the aforementioned condition.
- 8.14 In relation to drainage and flood risk, foul drainage from the development would be directed to the public sewer. Scottish Water has been consulted and has offered no objection to this proposal. Surface water from the development would be directed to a sustainable urban drainage system (SUDS) and information in relation to that system has been submitted with the application. A condition is proposed in relation to the proposed surface water drainage system to obtain further information in relation to its detailed design and future management and maintenance. Areas within the application site are identified on SEPA maps as being at risk from surface water flooding. However, available information suggests that this could be addressed through the appropriate design and specification of SUDS and that can be addressed by condition. Overall, the proposed drainage arrangements are compatible with the requirements of development plan policy.
- 8.15 Impact on other infrastructure is considered in the context of relevant development plan policy and the council's adopted developer contributions and affordable housing supplementary guidance. As the site measures over 0.5ha an affordable housing contribution would be required from the development. The council's housing service has advised a contribution of 25% of the total number of dwellings is required. The nature of the contribution and/or the house tenure, size and location can be regulated by a legally binding scheme. A planning condition is proposed that would require a section 75 planning obligation to secure the provision of the affordable housing

contribution. The supplementary guidance does not identify any requirement for residential development in Forfar to make other contributions towards infrastructure and there is no evidence to suggest that there is a requirement for any such contribution because of the proposal.

- 8.16 The proposal does not give rise to any significant issues in terms of other development plan policy.
- 8.17 The proposal provides for a small-scale residential development within a defined development boundary. As with any proposal, it attracts support from some policies and is not entirely compatible with others. However, when those matters are balanced and considered in the round, the proposal is in general compliance with the development plan subject to planning conditions.
- 8.18 In addition to development plan policy, it is necessary to have regard to other material considerations. In this case the letter of representation is material in so far as it raises relevant planning matters.
- 8.19 The concerns regarding impact on protected species are noted. However, the ecological assessment submitted in support of the application indicates that the proposal should not give rise to unacceptable impact on protected species subject to mitigation. Such mitigation can be secured by planning condition and an appropriate condition is proposed. Amenity impacts associated with the development are unlikely to be significant and are not unacceptable. There may be some disturbance during the construction period, but that is generally true for any development and the nature of activity associated with the erection of a small housing development within an urban area is unlikely to be particularly onerous. Conditions are proposed that seek to minimise the impact of construction activities. Conditions are also attached to secure biodiversity mitigation and enhancement measures. Concerns regarding further future development at the site are noted, but approval of this application would not establish a binding or irresistible precedent for further development in the area. There are no material considerations raised in objection which would justify refusal of planning permission.
- 8.20 In conclusion, the proposal is in accordance with the development plan as it provides a small-scale residential development on a site within an identified development boundary in a manner that does not give rise to unacceptable impacts on amenity, natural, built, or cultural heritage interests, or infrastructure, and that does not result in unacceptable flood risk or road safety implications, subject to the proposed conditions. The issues raised in the letter of representation have been considered in the preparation of this report and conditions are proposed to deal with the concerns raised regarding environmental and amenity impacts. There are no material considerations that justify refusal of planning permission contrary to the provisions of the development plan.

9. HUMAN RIGHTS IMPLICATIONS

- 9.1 The recommendation in this report for grant of permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

10. CONCLUSION

- 10.1 It is recommended that the application be approved for the following reason, and subject to the following conditions:

Reason for Approval:

The proposal is in accordance with the development plan as it provides a small-scale residential development on a site within an identified development boundary in a manner that does not give rise to unacceptable impacts on amenity, natural, built, or cultural heritage interests, or infrastructure, and that does not result in unacceptable flood risk or road safety implications, subject to the stated conditions. There are no material considerations that justify refusal of planning permission contrary to the provisions of the development plan.

Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of its grant.

Reason: In order to clarify the duration of this permission in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that it will lapse if not implemented within that period.

2. The development permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in section 27(4)(a)-(f) of the Town and Country Planning (Scotland) Act 1997 (as amended) in relation to the development, until a planning obligation pursuant to Section 75 of the same Act relating to the land has been made and lodged with the planning authority and the planning authority has notified the persons submitting the same that it is to the planning authority's approval. The said planning obligation shall provide that:
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- (a) 25% of all housing provided within the development shall be affordable housing in accordance with Angus Council's Developer Contribution and Affordable Housing Supplementary Guidance or such equivalent contribution as may be consistent with the aforementioned supplementary guidance.

Reason: To ensure the provision of affordable housing in accordance with the requirements of the development plan.

3. No development in connection with the planning permission hereby approved shall take place until the following details have been submitted to and approved in writing by the planning authority: -

- (a) A scheme for the phasing of the development which shall include details of the timing and delivery of housing including conversion of the retained building, the provision of drainage infrastructure, the timing of road and footway/ footpath construction, and the provision of landscaping, including the mitigation measures identified in the ecology assessment, and tree survey all submitted in support of this application. Thereafter the development shall be carried out in accordance with the approved phasing plan except as otherwise required by conditions of this permission.

- (b) A scheme for the provision of soft landscaping within the site which shall include measures for the protection of trees and hedgerows within and adjacent to the site that are to be retained. The scheme shall provide a biodiversity mitigation and enhancement plan which has regard to NatureScot Developing with Nature guidance and shall incorporate mitigation measures as identified in the ecological assessment and tree survey submitted in support of this application. Thereafter the development shall be carried out in accordance with the approved details and in accordance with the approved phasing plan.
- (c) A scheme for the enhancement of the open space area located at the north west extent of the site. The scheme shall make provision for a 1.2m wide windust path through the woodland, utilising the existing informal path for its location, provide information on ground levels, and include provision of benches for public seating. The footpath requires to connect to the formal footpaths in the development. Thereafter the development shall be carried out in accordance with the approved details and in accordance with the approved phasing plan.
- (d) A scheme for the management and maintenance of all proposed open space and amenity areas, existing mature trees and hedgerows, roads or paths, and infrastructure within the site which is not within the curtilage of a dwelling or adopted by a public authority. Thereafter the development and its unadopted infrastructure shall be managed and maintained in accordance with the approved details in perpetuity.
- (e) A scheme to ensure retention and future maintenance of the hedgerows that are to be provided as front garden boundary enclosures and existing trees within the curtilages of the residential units. That scheme shall make provision for the hedges and trees to be maintained as part of the landscape maintenance scheme for the overall development or such other provision that secures their long-term maintenance. Thereafter the approved scheme shall be implemented and enforced for the duration of the development.
- (f) Precise details of the scheme for the treatment and disposal of surface water, including full details of the sustainable urban drainage system. The scheme shall take account of Angus Council's Technical Guidance for Developers and Regulators and shall provide a drainage phasing plan. The scheme shall demonstrate no increase in flood risk to other property in the area. Thereafter the approved surface water disposal arrangements shall be provided in accordance with the approved details and implemented in accordance with the approved phasing plan.
- (g) Precise details of the proposed foul water pumping station. Thereafter the development shall be undertaken in accordance with the approved details.
- (h) An archaeological written scheme of investigation (WSI) and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the

planning authority. The PERD shall be carried out in complete accordance with the approved details.

- (i) Detailed plans and cross section drawings showing existing and proposed ground levels and finished floor levels relative to neighbouring land/properties and a fixed ordnance datum. Thereafter the development shall be undertaken in accordance with the approved details and each house shall be constructed in accordance with the approved finished floor levels and shall not be occupied until the approved finished ground levels within its plot are provided.
- (j) A revised set of drawings that locate all proposed garages a minimum 6.0 metres from the rear of the adjacent footway/verge/service strip. Thereafter the development shall be undertaken in accordance with the approved details.
- (k) Precise details of external materials for the dwellings, which for the avoidance of doubt will include dark grey slate or slate effect roofs. Thereafter each respective dwelling shall be finished in the approved external materials prior to its occupation.
- (l) A revised boundary enclosure and front garden landscaping plan. It shall include provision for: -
 - (i) A revised boundary enclosure for the public interfacing boundary at the south boundary of the plot accommodating the existing building to be refurbished;
 - (ii) A full specification for the front garden hedging including the plant type, method and density of planting; and
 - (iii) Provision of boundary enclosures at the northern and eastern boundaries of the site (the eastern boundary enclosure requires to be sited immediately next to the western edge of the existing hedging).

The approved boundary treatments shall be provided in each plot prior to the occupation of the respective dwellinghouse and shall be retained thereafter. Notwithstanding the provisions of any development order, no alternative boundary enclosure shall be erected to the frontage of any dwelling unless otherwise first approved by the express grant of planning permission on an application made to the planning authority.

- (m) Precise details of the proposed access path to be provided at the south boundary of the site to provide access to the recreational path network. The submitted information shall include details of its construction specification (both within and outwith the application boundary); signage to be provided for path users; and maintenance arrangements. Thereafter the access path shall be provided in accordance with the approved details and implemented in accordance with the approved phasing plan.

Reason: In order that the planning authority may control the specified details in the interests of the amenity, environmental quality, road safety, and to ensure the development is undertaken and maintained in accordance with the approved details in the interests of the amenity of the area.

- 4. That notwithstanding the terms of any other phasing plan approved by this permission, the development shall be undertaken in accordance with the following requirements: -

- (a) prior to the commencement of any development on site protective fencing shall be installed around all trees and hedgerows within and immediately adjacent to the site which are to be retained in accordance with the standards set out in BS 5837: 2012. This fencing must remain in situ until development is completed and there shall be no passage of vehicles; excavations; storage of soil, plant, vehicles or other materials within the protective fencing.
- (b) prior to the occupation of any dwelling within the development the proposed access path at the south boundary of the site that shall be constructed in accordance with the approved details between the application site and recreational path network.
- (c) prior to the occupation of each dwellinghouse, all landscaping and boundary enclosures, including hedge planting shall be provided within the respective plot in accordance with the details approved by this permission and retained and maintained thereafter.

Reason: In order to prevent unnecessary damage to trees and hedgerows; to ensure timely provision of footpath linkages; and to ensure timely provision of provision of landscaping and boundary enclosures in the interests of amenity.

5. That, all accesses shall be designed to prevent the discharge of surface water onto the adjacent road. If finished ground levels fall towards the road, this shall include the provision of a cut-off drain on the respective driveway at its interface with the public road or footway.

Reason: In order to prevent the flow of surface water onto the public road in the interests of traffic safety.

6. That notwithstanding the plans accompanying this permission, the proposed air source heat pumps for each dwellinghouse are not approved by this planning permission unless detailed information demonstrating that noise emissions from the units will not individually or cumulatively exceed: -
 - (a) NR Curve 20 between 2300 and 0700 and NR Curve 30 at all other times as measured within any dwelling or noise sensitive premises with the windows open at least 50mm; and
 - (b) 47 dB(A) Leq(1hr) as measured within the external amenity space of any noise sensitive premises,

are submitted to and approved in writing by the planning authority. Thereafter only air source heat pumps that comply with the required emissions levels shall be installed in accordance with details and at locations approved in writing by the planning authority.

Reason: In order to ensure that the proposed heat pumps do not individually or cumulatively generate an unacceptable level of noise in the interests of the amenity of nearby noise sensitive property.

7. Noise from all fixed plant associated with the pumping station hereby approved shall not give rise to an internal noise level assessed with windows open within any dwelling or noise sensitive building in excess of that equivalent to Noise Rating curve 20 between 2300 and 0700 and NR Curve 30 at all other times as measured within any dwelling or noise sensitive premises at all other times.

Reason: In order to ensure the fixed plant associated with the pumping station would not result in any unacceptable impacts upon the amenity of nearby residential properties by way of noise pollution.

8. Noise associated with construction works including the movement of materials, plant and equipment shall not exceed the noise limits shown in the table below. At all other times noise associated with construction or demolition operations shall be inaudible at any sensitive receptor. For the avoidance of doubt sensitive receptors includes all residential properties, care homes or hospitals, schools, and office buildings or any other similar premises.

Table A

Day	Time	Average Period (t)	Noise Limit
Monday - Friday	0700 - 1900	12 hour	70 dBA Leq t
Saturday	0700 - 1300	6 hour	70 dBA Leq t

Reason: In the interest of the residential amenity of nearby noise sensitive properties.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

REPORT AUTHOR: JILL PATERSON
EMAIL DETAILS: PLANNING@angus.gov.uk

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APPENDIX 1: LOCATION PLAN
APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION
APPENDIX 3: LETTERS OF REPRESENTATION
APPENDIX 4: DEVELOPMENT PLAN POLICIES