

**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 26 FEBRUARY 2014 at 9.30 A.M.**

**COUNCILLORS:** Baillie William Buchanan (Convener)  
Steven Carleschi  
Adrian Mahoney  
Craig Martin  
Cecil Meiklejohn  
John McLuckie  
John McNally  
Malcolm Nicol  
Alan Nimmo  
Baillie Joan Paterson  
Sandy Turner

**OFFICERS:** John Angell, Head of Planning and Transportation  
Ian Dryden, Development Manager  
Rose Mary Glackin, Chief Governance Officer  
Iain Henderson, Legal Services Manager  
Stuart Henderson, Environmental Health Officer  
John McPeake, Trainee Planning Officer  
John Milne, Senior Planning Officer  
Anna Perks, Biodiversity Officer  
Julie Seidel, Planning Officer  
Antonia Sobieraj, Committee Officer  
Russell Steedman, Network Co-ordinator

**P124. APOLOGIES**

Apologies for absence were intimated on behalf of Councillor Chalmers.

**P125. DECLARATIONS OF INTEREST**

No declarations were made.

Prior to consideration of business, the Members below made the following statements:-

- Councillor Mahoney informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/13/0012/FUL and P/13/0663/VRC (minute P130 and P131) but he would take part in consideration of planning application P/13/0689/FUL (minute P129) as he was sufficiently familiar with the site.

- Councillor Meiklejohn informed the Committee that, while she had not attended the site visits, she would take part in consideration of planning applications P/13/0689/FUL, P/13/0012/FUL and P/13/0663/VRC (minute P129, P130 and P131) as she was sufficiently familiar with the sites.

**P126. REQUESTS FOR SITE VISITS**

Having heard requests by Members for site visits, the Committee agreed to the continuation of planning applications P/13/0741/FUL, P/13/0754/FUL, P/14/0009/ADV, P/13/0760/FUL and P/12/0546/FUL.

**P127. MINUTES**

**Decision**

- (a) **The minute of meeting of the Planning Committee held on 29 January 2014 was approved; and**
- (b) **The minute of the meeting Planning Committee held On Site on 10 February 2014 was approved.**

**P128. DEMOLITION OF EXISTING BUILDINGS AND DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT CASTINGS COMMUNITY SPORTS AND SOCIAL CLUB, ETNA ROAD, FALKIRK FK2 9EG FOR MR MARK AGNEW - P/12/0543/PPP (CONTINUATION)**

With reference to Minutes of Meetings of the Planning Committee held on 25 June, 22 August and 18 September 2013 and 29 January 2014 (Paragraphs P46, P59, P84 and P116 refer), Committee gave (a) further consideration to reports by the Director of Development Services, and (b) considered an additional report by the said Director on an application for planning permission in principle for the demolition of existing buildings and the development of land for residential purposes at Castings Community Sports and Social Club, Etna Road, Falkirk.

With reference to Standing Order 33, Baillie Buchanan referred to applications received from (1) Grahamston, Middlefield and Westfield Community Council, and (2) Andrew Bennie (Planning) Limited, the agent for the applicant, for admission to the meeting as deputations to be heard in relation to this item of business.

The Committee consented to hear the deputations.

Mr McKerrell, Chair, Grahamston, Middlefield and Westfield Community Council gave details of concerns by the Community Council on the loss of an important facility in the local area, the amount and suggested use of the proposed contribution and the insufficient level of community consultation. This was followed by Mr Bennie, Andrew Bennie (Planning) Limited, the agent for the applicant, detailing on the history of the site and the application.

Members then asked questions of Mr McKerrell and Mr Bennie.

With the consent of the meeting, Ms Jones, SportsScotland and Mr Finnie, Falkirk Community Trust, who were present as observers at the meeting, responded to Members questions.

The Committee thereafter reconvened normal business.

Baillie Buchanan, seconded by Councillor McLuckie, moved that Committee be minded to grant the application in accordance with the recommendations detailed in the Report dated 13 August 2013 and subject to there being a requirement, in relation to paragraph 8.1(a), for the Council to consult with the local community as to where the developer contribution monies would be spent. In the event that no agreement is reached on the said spend within three years from the date of the commencement of development, the matter would be brought back to the Committee to determine where the said monies would be spent.

By way of an amendment, Councillor Meiklejohn, seconded by Councillor Turner, moved that the application be refused on the grounds that the development was contrary to Falkirk Council Local Plan Policies SC11 'Developer Contributions to Community Infrastructure' and COM.5 'Developer Contributions' and the terms of Policy INFO2 of the emerging Local Development Plan.

Councillor Turner gave notice of a further amendment.

On a division, 7 Members voted for the motion and 4 for the amendment.

In terms of Standing Order 20.7, the motion became the substantive motion upon which the further amendment could be moved.

By way of a further amendment, Councillor Turner, seconded by Councillor Meiklejohn, moved that Committee be minded to grant the application in accordance with the terms of the substantive motion but with an amendment to the effect that the level of the developer contribution be increased from £40,000 to £100,000.

On a division, 7 Members voted for the motion and 4 voted for the amendment.

## **Decision**

**The Committee agreed that it is MINDED to GRANT planning permission in principle subject to the following conditions:-**

- (a) Approval of an appropriate legal agreement to secure financial mitigation in the sum of £40,000 from the applicant toward sports provision, it being noted that, in relation to the said sum of £40,000, the Council will consult with the local community in relation to where the developer contribution monies will be spent. In the event that no agreement is reached on the said spend within three years from the date of the commencement of development, the matter would be brought back to the Committee to determine where the said monies will be spent; and**

- (b) Referral of any decision to approve to Scottish Ministers, due the presence of a registered hazardous installation and thereafter, on conclusion of the foregoing, to remit to the Director of Development Services to grant planning permission subject to:-
- (1) As part of any application for Matters Specified in Conditions, a Contaminated Land Assessment shall be submitted for the written approval of the Planning Authority. Before the dwellinghouse is occupied, any necessary remedial works to make the ground safe shall be completed in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by the Planning Authority.
- (2) (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
- (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
- (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (3) Development shall not begin until a Drainage Assessment has been submitted to and approved in writing by the Planning Authority.
- (4) The development hereby approved shall be limited to no more than 16 units.
- (5) For the avoidance of doubt, any development proposal exceeding 16 units shall incur a requirement for commuted payment towards Education provision on a pro-rata basis of £900 per unit, details to be submitted to and approved in writing by the Planning Authority.

**Reason(s):-**

- (1-2) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (3) To ensure the ground is suitable for the proposed development.
- (4) To ensure that the development is adequately drained.
- (5) To allow the Planning Authority to control the capacity of the site in relation to educational provision in the area.

**Informative(s):-**

- (1) Plans and particulars of the matters listed above shall be submitted for consideration by the Planning Authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of Falkirk Council as Planning Authority has been given, and the development shall be carried out in accordance with that approval.
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number 01.

The Convener agreed an adjournment at 11.25 a.m. prior to consideration of the following item of business. The meeting reconvened at 11.40 a.m. with all Members present as per the sederunt.

**P129. CHANGE OF USE FROM CLASS 1 (SHOP) TO HOT FOOD TAKE-AWAY (SUI-GENERIS) AT 52 HIGH STATION ROAD, FALKIRK FK1 5QX FOR MR & MRS IJAZ SARDAR - P/13/0689/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 29 January 2014 (Paragraph P118 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the change of use from a class 1 (shop) to a hot food take-away (sui-generis) at 52 High Station Road, Falkirk.

**Decision**

**The Committee agreed to continue consideration for further information.**

Councillor Mahoney left the meeting prior to consideration of the following item of business.

Councillor Nimmo left and re-entered the meeting during consideration of the following item of business.

**P130. ERECTION OF DETACHED DWELLINGHOUSE ON LAND TO THE WEST OF BARRDEN, MARCHMONT AVENUE, POLMONT FOR APSIS SOLUTIONS (CONSTRUCTION) LTD - P/13/0012/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 29 January 2014 (Paragraph P117 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the erection of a detached dwellinghouse on land to the west of Barrden, Marchmont Avenue, Polmont.

**Decision**

The Committee agreed to refuse planning permission on the basis that the proposal is contrary to Falkirk Council Local Plan Policies SC3 'Housing Development in the Countryside', Policy SC8 'Infill Development and Subdivision of Plots' and EQ27 'Watercourses' in that the proposed development is not required for the pursuance of a countryside activity or involves the rehabilitation or conversion of existing rural buildings, a section of the Polmont Burn corridor would be lost to the residential development, there would be a detrimental impact on visual amenity, loss of trees and vegetation and the proposed building would be of an inappropriate scale and massing.

**P131. AMENDMENT TO PLANNING PERMISSION P/07/1129/REM - CHANGE GROUND FLOOR COMMERCIAL UNITS TO RESIDENTIAL UNITS (COMPRISING 4 FLATS) ADJUSTMENT TO POSITION OF ENTIRE FLATTED BLOCK - 0.5 METRES TO THE NORTH AND 0.5 METRES TO THE EAST AT 1 - 11 (ODD) CROWN CRESCENT, LARBERT FK5 4XP FOR CALA MANAGEMENT LTD - P/13/0663/VRC (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 29 January 2014 (Paragraph P119 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for the amendment to planning permission P/07/1129/REM to change the ground floor commercial units to residential units (comprising 4 flats) and adjusting the position of the entire flatted block, 0.5 metres to the north and 0.5 metres to the east, at 1-11 (odd) Crown Crescent, Larbert.

**Decision**

The Committee agreed to grant planning permission subject to the following conditions:-

- (1) The applicants submit to the Director of Development Services for approval, a marketing strategy for the four commercial units and following the grant of such approval, the applicants shall market the said commercial units for a period of not less than one year in line within the approved strategy. In the event that there has been no take up of the said commercial units within said period of one year, the developer shall be entitled to change the said ground floor commercial units to residential units (comprising four flats); and
- (2) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of the permission unless a variation is required by a condition of the permission or a non-material variation had been agreed in writing by Falkirk Council as Planning Authority.

**Reason(s):-**

- (1) To ensure that adequate opportunity is provided for commercial occupation as previously approved in planning permissions P/07/1129/REM and P/2002/0611.
- (2) As these drawings and details constitute the approved development.

**Informative(s):-**

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which the permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01- 03.
- (3) For the avoidance of doubt the development shall comply with all conditions of planning permission P/07/1129/REM.

In accordance with the decision taking at the start of the meeting, **NOTED** the following three items had been continued to a future meeting to allow an inspection of the sites by Committee:-

**P132. ERECTION OF REPLACEMENT FARMHOUSE AND OUTBUILDING ANNEXE, INCORPORATING GARAGE AND ESTATE OFFICE ON LAND TO THE WEST OF NETHERVIEW COTTAGE, BONNYBRIDGE FOR BLACK BULL ESTATES LTD - P/13/0741/FUL**

**P133. SUB DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT 92 BANKHEAD CRESCENT, DENNYLOANHEAD, BONNYBRIDGE FK4 1RX FOR MR BARRY SAVILLE - P/13/0754/FUL**

**P134. DISPLAY OF NON-ILLUMINATED ADVERTISEMENTS (RETROSPECTIVE) AT 84 HIGH STATION ROAD, FALKIRK FK1 5QX FOR REGENCY RACING - P/14/0009/ADV**

Baillie Paterson left and re-entered the meeting during consideration of the following item of business.

**P135. MODIFICATION OF PLANNING OBLIGATION UNDER SECTION 75 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 ATTACHED TO PLANNING PERMISSION P/09/0457/OUT TO THE EXTENT THAT CLAUSE 5, THE REQUIREMENT THAT ALL RESIDENTIAL UNITS ERECTED WITHIN THE SITE WILL BE AFFORDABLE HOUSING IS REMOVED AND IS REPLACED WITH REQUIREMENT THAT 25% OF ALL RESIDENTIAL UNITS ERECTED WITHIN THE SITE WILL BE AFFORDABLE HOUSING ON LAND TO THE NORTH EAST OF BURNSIDE, MADDISTON, FALKIRK FOR MANOR FORREST LTD - P/13/0795/75M**

The Committee considered a report by the Director of Development Services on an application to modify a planning obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 attached to planning permission P/09/0457/OUT to the extent that clause 5 (the requirement that all residential units erected within the site will be affordable housing) be removed and replaced with the requirement that 25% of all residential units erected within the site will be affordable housing on land to the north east of Burnside, Maddiston, Falkirk.

Councillor Carleschi, seconded by Councillor McNally, moved that consideration of this item of business be continued to allow an inspection of the site by Committee.

By way of an amendment, Councillor C Martin, seconded by Councillor McLuckie, moved that Committee grant planning permission in accordance with the recommendations in the Report.

Councillor Turner gave notice of a further amendment.

On a division, 4 Members voted for the motion and 6 for the amendment.

In terms of Standing Order 20.7, the amendment became the substantive motion upon which the further amendment could be moved.

By way of a further amendment, Councillor Turner, seconded by Councillor Meiklejohn, moved that the application be refused on the grounds of there being no evidence that affordable units had to date been effectively marketed by the applicants and that there was insufficient information to merit a modification of the original consent.

On a division, 6 Members voted for the motion and 4 for the amendment.



## **Decision**

**The Committee agreed to modify the Section 75 Planning Obligation requiring 100% affordable housing and to reduce the requirement to 25% affordable housing.**

In accordance with the decision taking at the start of the meeting, **NOTED** the following two items had been continued to a future meeting to allow an inspection of the sites by Committee:-

- P136. DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL**
  
- P137. PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE ON LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES - P/12/0546/FUL**



**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held ON SITE on MONDAY 10 MARCH 2014 commencing at 9.30 a.m.**

**COUNCILLORS:**

Baillie William Buchanan (Convener) (for applications P/12/0546/FUL, P/13/ 0754/FUL and P/13/ 0741/FUL)  
Colin Chalmers  
John McLuckie (Convener) (for applications P/13/0760/FUL and P/14/0009/ADV)  
John McNally  
Adrian Mahoney  
Cecil Meiklejohn (for applications P/13/0760/FUL and P/14/0009/ADV)  
Malcolm Nicol  
Sandy Turner

**OFFICERS:**

John Angell, Head of Planning and Transportation (for applications P/14/0009/ADV and P/12/0546/FUL)  
Katherine Chorley, Assistant Planning Officer (for application P/12/0546/FUL)  
Kevin Collins, Transport Planning Co-ordinator (for application P/12/0546/FUL)  
Ian Dryden, Development Manager  
Allan Finlayson, Senior Planning Officer (for applications P/13/0760/FUL and P/14/0009/ADV)  
Stuart Henderson, Environmental Health Officer (for applications P/13/0760/FUL and P/12/0546/FUL)  
Kirsty Hope, Assistant Planning Officer (for application P/12/0546/FUL)  
David Paterson, Planning Officer (for application P/12/0546/FUL)  
Julie Seidel, Planning Officer (for application P/13/ 0754/FUL)  
Antonia Sobieraj, Committee Services Officer  
Russell Steedman, Network Co-ordinator  
Karen Quin, Solicitor  
Brent Vivian, Senior Planning Officer (for application P/13/ 0741/FUL)

**P138. APOLOGIES**

Apologies were intimated on behalf of Baillie Paterson.

**P139. DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL**

With reference to Minute of Meeting of the Planning Committee held on 26 February 2014 (Paragraph P136 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the demolition of garage premises, the erection of a class 1 shop unit with ancillary delicatessen (class 1) and the formation of a car park at 50 Dalderse Avenue, Falkirk.

The Convener introduced the parties present.

The Senior Planning Officer (A Finlayson) outlined the nature of the application.

Mr Beaton, the applicant's agent, was heard in relation to the application.

Mr Fernie, the applicant, was heard in relation to the application.

Mr McKerrell, on behalf of Grahamston, Middlefield and Westfield Community Council, was heard in relation to the application.

Mr Churchill, an objector, was heard in relation to the application.

Mr Rowberry, an objector, was heard in relation to the application.

Mrs Archibald, an objector, was heard in relation to the application.

Mrs Halley, an objector, was heard in relation to the application.

Ms Caleary, an objector, was heard in relation to the application.

Mr A Laird, an objector, was heard in relation to the application.

Mr Laird, an objector, was heard in relation to the application.

Mr McCue, an objector, was heard in relation to the application.

The objections included the following issues:-

- The inadequate parking provision and the road safety issues;
- The adverse impact on amenity from noise, odour, litter and anti-social behaviour;
- The vehicle noise and headlight glare from use of the car park;
- The close proximity of the car park;
- The adverse impact on the privacy of neighbouring properties;
- The disturbance from the building's demolition;
- The overprovision of retail and food uses in the surrounding area;
- The overdevelopment of the site; and

- The exacerbation of anti social behaviour from the proposed path links.

Questions were then asked by Members of the Committee.

Councillor Alexander, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 26 March 2014.

Members thereafter viewed the area at the back of the current building, the public walkway and the driveway of the neighbouring property.

**P140. DISPLAY OF NON-ILLUMINATED ADVERTISEMENTS (RETROSPECTIVE) AT 84 HIGH STATION ROAD, FALKIRK FK1 5QX FOR REGENCY RACING - P/14/0009/ADV**

With reference to Minute of Meeting of the Planning Committee held on 26 February 2014 (Paragraph P134 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for advertisement consent (in retrospect) for the display of non-illuminated advertisements at 84 High Station Road, Falkirk.

The Convener introduced the parties present.

The Senior Planning Officer (A Finlayson) outlined the nature of the application.

Mr Aitken, the applicant's agent, was heard in relation to the application.

Questions were then asked by Members of the Committee.

Depute Provost Patrick, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 26 March 2014.

Baillie Buchanan entered the meeting following consideration of the foregoing matter and took over the Convenership of the meeting.

**P141. PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE ON LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES – P/12/0546/FUL**

With reference to Minute of Meeting of the Planning Committee held on 26 February 2014 (Paragraph P137 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the proposal of 307 new homes (including 46 affordable homes) and Denny Eastern Access Road (DEAR) including provision of greenspace, sustainable urban drainage and associated infrastructure on land to the south of Mydub Farm, Glasgow Road, Denny.

The Convener introduced the parties present.

The Planning Officer (D Paterson) outlined the nature of the application.

The Head of Planning and Transportation outlined the nature of the Denny Eastern Access Road (DEAR) proposals.

Mr Shricke, the applicant's representative, was heard in relation to the application.

Mr Riddle, the applicant's representative, was heard in relation to the application.

Mr Buchanan, an objector, was heard in relation to the application.

Mr Waddell, an objector, was heard in relation to the application.

The objections included the following issues:-

- The potential for excessive noise from the development and the impact on the amenity of the area during construction;
- The proposal was detrimental to visual amenity and would interrupt views from outwith the site;
- The adverse impact on the educational and medical care provision in the area;
- The overshadowing of adjacent properties; and
- The excessive traffic generation and the effect on road safety.

Mr Belbin, on behalf of Denny and District Community Council, was heard in relation to the application.

Questions were then asked by Members of the Committee.

Councillor Blackwood, as local Member for the area, was heard in relation to the application.

Councillor Oliver, as local Member for the area, was heard in relation to the application.

Councillor McCabe, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 26 March 2014.

Members thereafter viewed the site of the proposed new roundabout at Glasgow Road and the layout of the proposed development as it related to the physicality of the site features. This was followed by a stop at the north end of the proposed Denny Eastern Access Road (DEAR) where it joined the existing section adjacent to Denny High School.

**P142. SUB DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT 92 BANKHEAD CRESCENT, DENNYLOANHEAD, BONNYBRIDGE FK4 1RX FOR MR BARRY SAVILLE - P/13/0754/FUL**

With reference to Minute of Meeting of the Planning Committee held on 26 February 2014 (Paragraph P133 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the sub division of garden ground and the erection of a dwellinghouse at 92 Bankhead Crescent, Dennyloanhead, Bonnybridge.

The Convener introduced the parties present.

The Planning Officer (J Seidel) outlined the nature of the application.

Mr Saville, the applicant, was heard in relation to the application.

Questions were then asked by Members of the Committee.

Councillor Blackwood, as local Member for the area, was heard in relation to the application.

Councillor Oliver, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 26 March 2014.

**P143. ERECTION OF REPLACEMENT FARMHOUSE AND OUTBUILDING ANNEXE, INCORPORATING GARAGE AND ESTATE OFFICE ON LAND TO THE WEST OF NETHERVIEW COTTAGE, BONNYBRIDGE FOR BLACK BULL ESTATES LTD - P/13/0741/FUL**

With reference to Minute of Meeting of the Planning Committee held on 26 February 2014 (Paragraph P132 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the erection of a replacement farmhouse and an outbuilding annexe, incorporating a garage and an estate office on land to the west of Netherview Cottage, Bonnybridge.

The Convener introduced the parties present.

The Development Manager, followed by the Senior Planning Officer (B Vivian), outlined the nature of the application.

Mr Mitchell, the applicant's agent, was heard in relation to the application.

Mr McClurg, the applicant, was heard in clarification of the application.

Mr Buchanan, an objector, was heard in relation to the application.

Mr Main, an objector, was heard in relation to the application.

Mr Wilson, an objector, was heard in relation to the application.

The objections included the following issues:-

- There was no obvious necessity for the administrative offices and an owners private residence at the location, which would be better accommodated in a more central location;
- The existing farmhouse at Tomfyne had been alienated from the holding by binding it to an application for quarrying applications;
- There was no valid reason for excluding Doups farmhouse as alternative accommodation;
- The high visibility of the buildings;
- The disregard of the Council's design guide and no attempt to integrate with the surroundings;
- The prominent position without concealment, the external composition and the protruding frontage gable;
- The non comparable scale to the existing Tomfyne farmhouse;
- The drainage issues from the septic tank and the discharge to watercourses and the Auchincloch Burn;
- The plans for two houses for farm workers and an additional land purchase to expand the enterprise further thereby representing an undesirable surge of major building works and countryside residences;
- That the field was pasture and within a green belt; and
- That the proposal was contrary to Structure and Local Plan policy.



Questions were then asked by Members of the Committee.

Councillor Blackwood, as local Member for the area, was heard in relation to the application.

Councillor Oliver, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 26 March 2014.



**FALKIRK COUNCIL**

**Subject:** DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk North

Provost Pat Reid  
Councillor David Alexander  
Councillor Dr C R Martin  
Councillor Cecil Meiklejohn

**Community Council:** Grahamston, Middlefield and Westfield

**Case Officer:** Allan Finlayson (Senior Planning Officer), Ext. 4706

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended) when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant's architect spoke in support of the proposal stating that the proposed use was considered to be an opportunity to redevelop a contaminated site and provide a valuable use to serve surrounding residential areas. Opportunities to amend the proposed development to address concerns of residents were identified in relation to boundary treatment, car parking and landscaping.
4. Comments of concern were heard from a number of residents of the surrounding area and a representative of the Community Council. These included concerns relating to road safety, parking provision, access position, opening hours, vibration from cars, path position and demolition works.

5. A representative of the Roads Development Unit spoke to provide confirmation that the proposed development was considered acceptable in respect of all road considerations. The proposed access position was as far from the busy Dalders Road/Thornhill Road as possible, junction visibility was acceptable and an over provision of car parking spaces was proposed.
6. A representative of the Environmental Protection Unit advised that vibration from cars was unlikely to result from the use of the proposed car park in proximity to residential properties. The boundary wall proposed in the application was considered to afford protection against noise and headlight glare emanating from cars using the car park.
7. The applicant and his architect advised that the proposed number of parking spaces were provided to ensure no off-site parking would occur. The business operation was described as were delivery arrangements to the site. Alternative options for boundary walls, landscaping and footpath access to the site were presented to address concerns raised regarding these matters.
8. Members of the Planning Committee sought clarification of the methods of traffic impact assessment and retail impact assessment undertaken during assessment of the proposed development. Anti-social behaviour in the Castings area was discussed. Members agreed to conduct an inspection of all site boundaries.
9. Councillor Alexander, attending as a Local Member, raised questions of proposed access position, the criteria used in assessing potential transport impacts, car park capacity assessment, impacts on residents from early deliveries to the store and impact assessment on surrounding retail business.
10. The case officer confirmed that the floorspace of the proposed development (below 500m<sup>2</sup>) did not allow for either retail impact or transport impact assessment. The proposed retail use was considered to be an acceptable use in terms of Local Plan policies and surrounding residential and commercial uses.
11. The representative from the Roads Development Unit again confirmed that the proposed development was considered to meet established roads standards. Subsequent to the meeting on site the Roads Development Unit has confirmed that potential impacts on the roads network for a development of this size were fully considered in terms of road safety, congestion, parking and infrastructure.
12. The case officer agreed to circulate amended plans to Councillor Meiklejohn and Councillor Alexander to further address concerns of residents. These plans would be made available for the Planning Committee to consider at their next meeting as agreed with residents.
13. Subsequent to the Committee site visit the applicant's architect has submitted amended plans. These plans are considered to resolve concerns made by objectors and Councillor Alexander and address questions raised by the Planning Committee. The amended plans:-
  - Confirm increased boundary wall heights from 2 metres to 2.4 metres;
  - More parking spaces further from residential boundaries;
  - Provide increased landscaping on residential boundaries;

- Reduce the originally proposed eastern footpath;
- Provide a revised centrally located footpath.

The amended plans are considered to address concerns made in respect of anti-social behaviour, privacy, noise and general amenity. The amended plans have been circulated to Local Members, residents and the Community Council for comment. Plans will be made available to the Planning Committee for consideration and a verbal update will be provided on comments received.

14. No matters were raised which would amend the original recommendation to approve planning permission.

## 15. **RECOMMENDATION**

15.1 **It is recommended that Committee grant planning permission subject to the following conditions:-**

- (1) **The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2) **Prior to the commencement of development a landscape plan including detailed specification for all hard and soft landscaped areas and species type shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.**
- (3) **Prior to the commencement of development samples of all construction materials relating to masonry, fenestration and roof construction shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.**
- (4) **Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.**

**Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.**

Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.

In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

- (5) Pedestrian railings, of a type to be agreed in writing with Falkirk Council, shall be installed on the south end of the footpath on the east side of the new premises, on Dalderse Avenue prior to the opening of the approved building to the public.
- (6) A barrier of a type to be agreed in writing with Falkirk Council, shall be provided along the frontage of Dalderse Avenue to prevent vehicles entering or egressing the pedestrian/cycle area to the west side of the proposed premises prior to the opening of the approved building to the public.
- (7) The existing drop kerb accesses shall be removed and full footpath construction with 100mm high kerbs will be installed along the site frontage on Dalderse Avenue prior to the opening of the approved building to the public.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2-3) In the interests of amenity
- (4) To ensure that the site is made suitable for the development approved.
- (5-7) In the interests of road safety

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03B, 04C, 05C, 06C, 07B, 08, 09, 10, 11, 12A, 13A.

- (2) The applicant should have regard to controlling any noise produced by the construction and future use of the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.
- (3) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.

Pp

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 Director of Development Services

Date: 17 March 2014

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Local Development Plan (Proposed Plan)
4. Letter of Objection from Mrs Susie Skinner, 19 Middlemass Court, Falkirk FK2 7ER on 20 December 2013.
5. Letter of Objection from Mr Alan Rowberry, 7 Goosedubs Place, Falkirk FK2 7GW on 21 December 2013.
6. Letter of Objection from A & G Graham, 81 Dalderse Avenue, Falkirk FK2 7EP on 24 December 2013.
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28. Letter of Objection from Mr and Mrs Robertson, 17 Middlemass Court, Falkirk FK2 7ER on 22 January 2014.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.



**FALKIRK COUNCIL**

**Subject:** DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk North

Provost Pat Reid  
Councillor David Alexander  
Councillor Dr C R Martin  
Councillor Cecil Meiklejohn

**Community Council:** Grahamston, Middlefield and Westfield

**Case Officer:** Allan Finlayson (Senior Planning Officer), Ext. 4706

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The application site lies within a predominantly residential area at 50 Dalderse Avenue, Falkirk.
- 1.2 The former use of the application site was for a Class 5 (General Industrial) vehicle repair and tyre replacement Class 5 (General Industrial) Use. Other commercial sites exist in close proximity to the application site in Grahams Road to the west and Dalderse Avenue to the east.
- 1.3 The application site is close to the busy Dalderse Avenue/Thornhill Road roundabout. Poor access to the site and very limited car parking opportunities currently exist.
- 1.4 The proposed development is for the demolition of the existing building and replacement with a smaller building with improved site access and parking opportunities. The replacement building is proposed to provide for a Class 1 (Retail) supermarket use of 450 square metres in floorspace. Incorporated within this space is a delicatessen franchise proposing to sell take-away food such as filled rolls, macaroni, stovies and soup.
- 1.5 It should be noted that on submission of the application it was considered that the proposed food take-away facility was intended to provide for a hot food take-away. Consideration of further information from the applicant has confirmed that the type of food to be sold is similar to a take-away bakery and therefore considered to be consistent with a Class 1 Retail use. In this respect the application description has been amended accordingly.

## **2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application was called to Committee by Councillor Alexander.

## **3. SITE HISTORY**

3.1 The building at 50 Dalderse Avenue has been used for Class 5 General Industrial Use for in excess of 15 years. No recent planning applications have been submitted for consideration.

## **4. CONSULTATIONS**

4.1 The Roads Development Unit has no objections to the proposed development subject to improvements to the existing road network. These improvements relate to new access formation and footpath reconstruction across the site frontage. The proposed site access is considered to be significantly improved over the existing access and positioned further west from the busy Dalderse Avenue/Thornhill Road roundabout.

4.2 Forty car parking spaces are now proposed above an existing provision of approximately five spaces. Parking provision is considered to be generous for the retail floor space proposed.

4.3 The Environmental Protection Unit has no objections subject to the imposition of a contaminated land condition. The applicant has confirmed that the existing site is contaminated and that full remediation will be required before any development can commence.

## **5. COMMUNITY COUNCIL**

5.1 No representation as been received.

## **6. PUBLIC REPRESENTATION**

6.1 25 objections have been received from residents in the surrounding area. The grounds of objection relate to:-

- Inadequate parking provision.
- Road safety.
- Adverse impact on amenity by means of noise, odour, litter and anti-social behaviour.
- Noise and headlight glare of vehicles using the proposed car park.
- Adverse impact on privacy.
- Demolition disturbance.

- Over provision of retail and food uses in the surrounding area.
- Over development of the site.
- Proposed path links will exacerbate anti-social behaviour.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 There are no relevant policies in the Structure Plan.

#### *Falkirk Council Local Plan*

7a.2 Policy EP7 – ‘New Retail Development’ states:

- (1) *New retail development in excess of 500 m<sup>2</sup> gross will be permitted where it is consistent with Policies ECON.5 and ECON.6 of the Structure Plan, and specific policies for individual centres in the Settlement Statements.*
- (2) *Retail developments smaller than 500 m<sup>2</sup> serving neighbourhood needs will be permitted within the urban area, subject to other Local Plan policies.*
- (3) *Retail development must demonstrate a high level of design quality, compatibility with adjacent land uses and an ability to integrate functionally and visually with any centre of which it is to form part.*

7a.3 The proposed development is smaller than 500 square metres and considered to further improve access to neighbourhood shops, particularly for housing areas to the north of the site which have limited supermarket provision within walking distance. The proposal exhibits a high level of design quality and compatibility with surrounding areas.

7a.4 Policy EQ3 ‘Townscape Design’ states:

*‘New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*

- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
- (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*

- (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) *The contribution to the townscape of important landmarks, skylines and views should be respected.”*

7a.5 The application proposes a smaller building on the existing site providing the opportunity for a greater design contribution to the surrounding area. The proposed design is considered to be modest but imaginative and to reflect surrounding townscape character. Landscape improvements are proposed to soften the proposed car parking area and provide a less dense section of streetscape on Dalderse Avenue.

7a.6 Policy SC7 - ‘Established Residential Areas’ states:

*“Within established residential areas, there will be a general presumption against the introduction of uses which would be incompatible with the residential character and amenity of the area. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.”*

7a.7 The proposed retail use with ancillary delicatessen is considered to be compatible with the residential character and amenity of the surrounding area. The change of use from existing Class 5 General Industrial Use is considered appropriate and to result in a positive land use change more consistent with surrounding uses.

7a.8 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan (Proposed Plan), objections received and consultation responses.

### ***Falkirk Local Development Plan (Proposed Plan)***

7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council’s views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.3 Policy HSG06 - 'Non-Residential Uses in Residential Areas' states:

*“Within established residential areas, the introduction of uses which would be incompatible with the residential character and amenity of the area will generally not be permitted. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.”*

7b.4 Policy HSG06 reinforces policy EP7 of the extant Falkirk Council Local Plan. The proposed use is considered to be compatible with the established residential character and amenity of the area.

7b.5 In respect of the above policy considerations the proposal is considered to comply with the emerging Development Plan.

### **Objections**

7b.6 As referred to in paragraph 1.5 of this report the proposed development is not considered to incorporate a hot food take-away (Sui Generis) use as was originally thought. The proposed food take-away element is considered to be consistent with Class 1 Retail Food sales and similar to a take-away bakers shop. The application description has been amended accordingly. Any future change to a hot food take-away (Sui Generis) use would require further planning permission.

7b.7 The Roads Development Unit is satisfied with the proposed development. Improved access is to be provided further from the busy Dalderse Avenue / Thornhill Road roundabout. A surplus of parking is available for the uses and floor space proposed. Upgraded footpaths will be provided on the site frontage with Dalderse Avenue. The applicant's agent has provided detailed information that demonstrates delivery vehicles can turn within the site. The conclusion of consultation with the Roads Development Unit is that the proposal would provide acceptable infrastructure to support the development and no road safety concerns exist.

7b.8 The deletion of reference to a hot food take-away addresses concerns of residents in respect of potential impact on amenity.

7b.9 Noise and headlight glare within the proposed car park are addressed by the proposed erection of a two metre high boundary wall on all development boundaries shared with existing housing. This is an increase over existing one metre walls adjacent to housing on the western side boundary (Towers Court).

7b.10 The demolition of the existing buildings would result in the proposed building being in excess of 20 metres further from housing to the west. The existing building is of a significant height (8metres) located within two metres of the gables of existing housing to the west. The increase of space between buildings is considered to represent an opportunity for an improved environment with additional planting areas being provided in the proposed car park. The replacement building has a maximum height of 5.75 metres.

- 7b.11 Demolition disturbance is a temporary inconvenience only and inevitable with any development proposed.
- 7b.12 The level of provision of retail is only a material consideration in respect of the type of retail proposed and its location. It is considered that the proposed retail use complies with relevant Development Plan policies and is suitable for the proposed site in terms of being a compatible land use.
- 7b.13 The proposed development would represent a significantly smaller building on the site than the existing general industrial building. A surplus of car parking is proposed for the use. In these respects it is considered that the proposal does not represent over development.
- 7b.14 The proposed improvements to path linkages surrounding the site will open existing footpaths to provide greater circulation space, lighting and connections for path users and will result in more direct footpath access through the surrounding areas. It is considered that these improvements are likely to decrease the potential for anti-social behaviour in existing locations.

## **7c Conclusion**

- 7c.1 The proposed development is considered to comply with all relevant Development Plan policies. Deletion of the reference to a proposed hot food take-away and amendments to address the concerns of residents are considered to result in an opportunity to enhance the site and provide improved services to the community with associated environmental improvements.
- 7c.2 No material considerations are considered to exist that would justify the setting aside of Development Plan policy and refusing the proposed development.

## **8. RECOMMENDATION**

- 8.1 It is recommended that Committee grant planning permission subject to the following conditions:-
- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
  - (2) Prior to the commencement of development a landscape plan including detailed specification for all hard and soft landscaped areas and species type shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.
  - (3) Prior to the commencement of development samples of all construction materials relating to masonry, fenestration and roof construction shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.

- (4) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.

Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report / validation certificate has been submitted to and approved in writing by the Planning Authority.

In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

- (5) Pedestrian railings, of a type to be agreed in writing with Falkirk Council, shall be installed on the south end of the footpath on the east side of the new premises, on Dalderse Avenue prior to the opening of the approved building to the public.
- (6) A barrier of a type to be agreed in writing with Falkirk Council, shall be provided along the frontage of Dalderse Avenue to prevent vehicles entering or egressing the pedestrian / cycle area to the west side of the proposed premises prior to the opening of the approved building to the public.
- (7) The existing drop kerb accesses shall be removed and full footpath construction with 100mm high kerbs will be installed along the site frontage on Dalderse Avenue prior to the opening of the approved building to the public.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2-3) In the interests of amenity
- (4) To ensure that the site is made suitable for the development approved.

**(5-7) In the interests of road safety**

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03B, 04C, 05C, 06C, 07B, 08, 09, 10, 11, 12A, 13A.**
- (2) The applicant should have regard to controlling any noise produced by the construction and future use of the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.**
- (3) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.**

**Pp**

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**Director of Development Services**

**Date: 14 February 2014**

**LIST OF BACKGROUND PAPERS**

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2. Falkirk Council Local Plan
3. Falkirk Local Development Plan (Proposed Plan)
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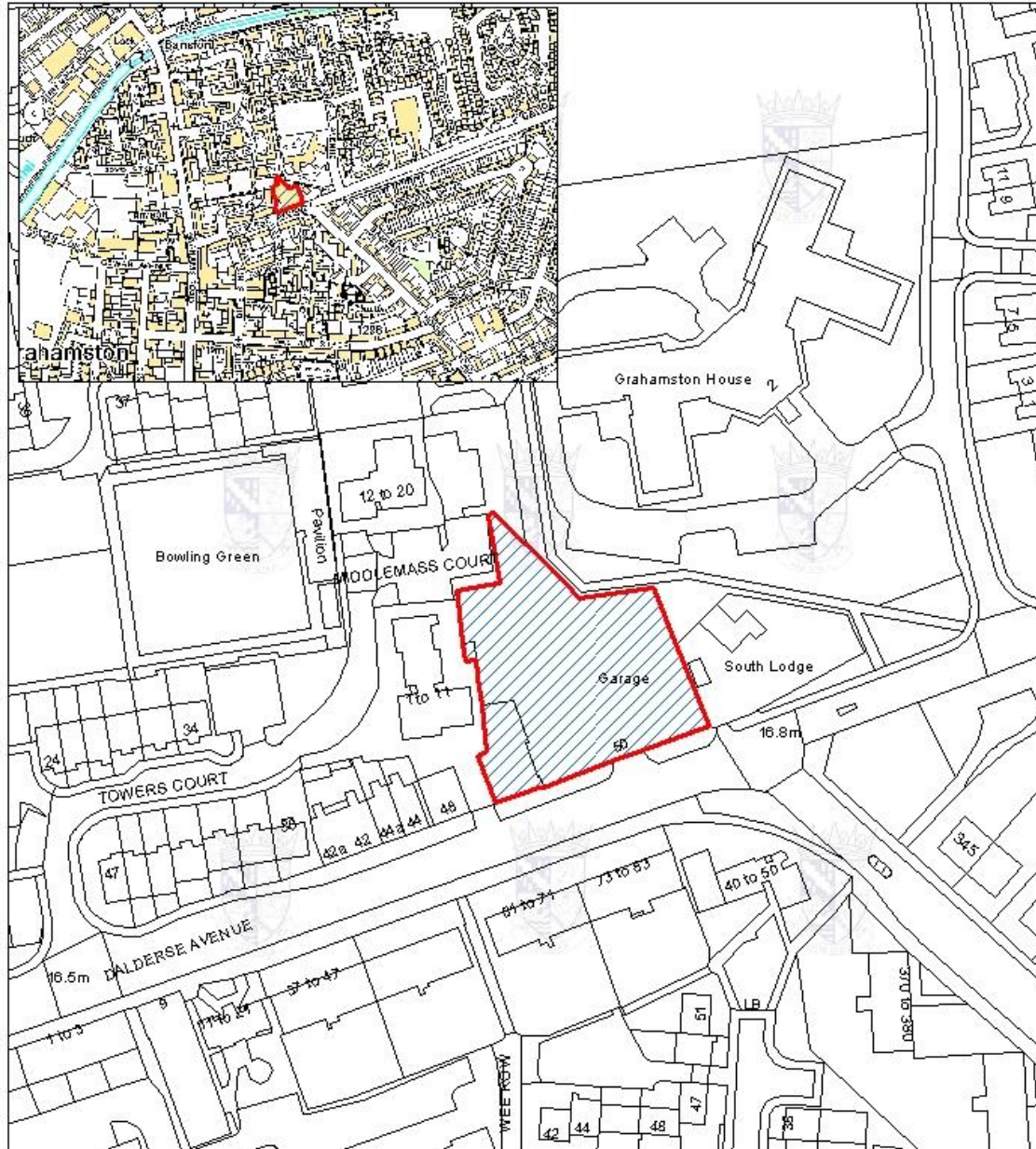
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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/13/0760/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** DISPLAY OF NON-ILLUMINATED ADVERTISEMENTS  
(RETROSPECTIVE) AT 84 HIGH STATION ROAD, FALKIRK  
FK1 5QX FOR REGENCY RACING – P/14/0009/ADV

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

**Case Officer:** Allan Finlayson, (Senior Planning Officer) Ext. 4706

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended) when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant spoke in support of the proposal, stating that the advertisements were no larger than others at alternative locations in the Falkirk Council area. In addition it was stated that the unauthorised adverts replaced signage that had occupied the same position since the 1980's.
4. Members of the Planning Committee raised questions relating to the number of accidents that had occurred in proximity to the site since the advertisements had been displayed, the type of advertisements that were formerly displayed at the site and whether there was the potential for the unauthorised advertisements to establish a precedent for further unauthorised signage. Comment was also made in relation to the amount of wording contained on the unauthorised signage.
5. The Roads Development Unit has subsequently confirmed that no accidents have occurred since the display of the unauthorised advertisements. It is considered however that the 5 previous accidents at the site within the last 10 years identify a continued risk of accidents occurring at busy road junctions and pedestrian crossing points surrounding the site.

6. The site meeting was also attended by Depute Provost John Patrick as a Local Member who advised that he had not received complaints regarding the signage but confirmed that he was not aware of signage of this size and detailed information having been displayed prior to the display of the unauthorised signage under consideration. Depute Provost Patrick expressed concern with regard to the size of signage, the amount of text information and in particular the sign displayed onto Gartcows Road and the potential for driver distraction on the approach to a pedestrian crossing point. Depute Provost Patrick considered that the unauthorised signage should be removed and a new application for advertisement consent submitted for consideration by the Planning Committee.
7. No matters were raised which would amend the original recommendation to refuse advertisement consent.

**8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee refuse advertisement consent for the following reasons:-**

- (1) The proposal is contrary to Policy EQ10 – Advertisements of the Falkirk Council Local Plan and Policy DO5 – Advertisements within the Falkirk Local Development Plan (Proposed Plan) as they, by means of size, detail and location, result in visual clutter and a distraction to road users in the immediate proximity to a busy road junction and pedestrian crossing point. The advertisements are not therefore in the interests of road safety.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

PP

.....  
**Director of Development Services**

**Date: 14 March 2014**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Local Development Plan (Proposed Plan).

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

**FALKIRK COUNCIL**

**Subject:** DISPLAY OF NON-ILLUMINATED ADVERTISEMENTS  
(RETROSPECTIVE) AT 84 HIGH STATION ROAD, FALKIRK  
FK1 5QX FOR REGENCY RACING – P/14/0009/ADV

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Councillor Colin Chalmers

Councillor Dennis Goldie

Councillor Gerry Goldie

Councillor John Patrick

**Community Council:** No Community Council

**Case Officer:** Allan Finlayson, (Senior Planning Officer) Ext. 4706

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

1.1 The application site is a betting office at 84 High Station Road, Falkirk. The premises comprise a single storey building located at the corner of High Station Road and Gartcows Road, Falkirk.

1.2 The application under consideration seeks retrospective advertisement consent for the erection of two unauthorised advertisement panel signs. One panel sign (Sign 1 2970 x 2835mm) has been erected on the north east building elevation visible from High Station Road and Gartcows Road. Another panel sign (Sign 2 4955 x 1860mm) has been erected on the north west elevation facing directly onto Gartcows Road.

1.3 The site at 84 High Station Road is surrounded to the north and west by housing, to the east by a small public car park and to the south by a commercial car garage and valet use.

**2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application was called to Committee by Councillor Chalmers.

### **3. SITE HISTORY**

- 3.1 Planning permission 06/1190/FUL was granted on 1 March 2007 for the Change of Use of Shop (Class 1) to Betting Office (Class 2) and Alterations to Property.
- 3.2 The erection of advertisement signs was subject to an enforcement enquiry in July 2013. The applicant was advised that the erected signs were unauthorised. The current application has been submitted seeking to regularise the unauthorised signage.

### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has advised that the size of the erected signage and the level of detailed information displayed represents a distraction to drivers in the proximity of the busy junction of Gartcows Road and High Station Road and in immediate proximity to a controlled pedestrian crossing point.
- 4.2 The Roads Development Unit has advised that the recorded road accident statistics for the immediate area confirm a total of 5 accidents within the last 10 years. This comprised 4 slight accidents and 1 serious accident.
- 4.3 The Roads Development Unit has advised that the erected signs result in visual clutter at a busy junction, distract driver attention and that granting advertisement consent for the signs in their current form is not in the best interests of road safety.

### **5. COMMUNITY COUNCIL**

- 5.1 No Community Council exists for this area.

### **6. PUBLIC REPRESENTATION**

- 6.1 No letters of representation have been received.

### **7. DETAILED APPRAISAL**

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

#### **7a The Development Plan**

##### ***Falkirk Council Structure Plan***

- 7a.1 There are no relevant policies within the Falkirk Council Structure Plan.

## **Falkirk Council Local Plan**

7a.2 Policy EQ10 – ‘Advertisements’ states:

*“Proposals for advertisements will not be permitted where they would have an adverse effect on the visual amenity of the property or the wider area, or would create a road safety hazard. In particular:*

- (1) the prevention of advertising clutter through a proliferation of signs on a property or in a locality will be a priority;*
- (2) advertising should be sensitive to the property on which it is mounted in terms of scale, design and positioning, and should be seen as part of the overall design of the property, rather than an add-on;*
- (3) illumination of adverts will be controlled in the interests of amenity and road safety, and will generally be prohibited outwith the Urban Limit.*
- (4) advance directional signs will not generally be permitted unless the display is considered to be in the public interest;*
- (5) advertising boardings and rotating/moving advertisements will not be permitted where:*
  - they will prejudice the area enhancement priorities set out in Policy EQ7 by virtue of visual intrusion;*
  - they will compromise residential amenity; or*
  - they are likely to cause driver distraction, or interfere with visibility at conflict points such as junctions, pedestrian crossings, hazard warning signs, low bridges and sections of road with poor forward visibility.”*

7a.3 The erected advertisements are considered to result in visual clutter and an unnecessary proliferation of signs. The advertisements are considered to be unnecessarily large and unrelated to the building design of 84 High Station Road by means of being added on to all available elevations. The erected advertisements are considered likely to cause drivers distraction in proximity to the busy junction at Gartcows Road and High Station Road and in proximity to a controlled pedestrian crossing on Gartcows Road. The erection of advertisements of the proposed size and complexity of displayed information at this location is not considered to be in the best interests of road safety.

7a.4 Accordingly, the proposal does not accord with the Development Plan.

### **7b Material Considerations**

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan (Proposed Plan), Roads Development Unit consultation response and site history.

#### ***Falkirk Local Development Plan (Proposed Plan)***

7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council’s views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.3 Policy DO5 'Advertisements' reinforces policy EQ10 of the extant Development Plan. The application is therefore considered to be contrary to the emerging Falkirk Local Development Plan (Proposed Plan).

### ***Additional Planning Considerations***

- 7b.4 The Roads Development Unit has expressed concern with regard to driver distraction resulting from the size of the erected signage and the level of text and detail displayed.
- 7b.5 The application site is located immediately adjacent to the busy junction of High Station Road/Gartcows Road and to the pedestrian crossing on Gartcows Road. Given the site location the views of the Roads Development Unit are considered to be a strong material consideration in the assessment of the acceptability of the proposal.
- 7b.6 In July and August of 2013 the applicant was advised that the erected signage was unauthorised. A number of options were presented to the applicant with the intention of addressing the concerns of the Roads Development Unit and agreeing alternative signage.
- 7b.7 In respect of the above the applicant was advised to reduce the dimensions of Signs 1 and 2 by approximately one third of the sign area. The suggested signage reduction would have retained the business name but removed some ancillary details. The signage, if amended, was considered to address the concerns of the Roads Development Unit. The applicant has declined to alter the original signage.

### **7c Conclusion**

- 7c.1 The size of the erected signage, the level of detail displayed and the signage position in immediate proximity to the busy junction of High Station Road/Gartcows Road and controlled crossing point on Gartcows Road are considered unacceptable on the basis of the likely potential for driver distraction. The erected signage is therefore considered to result in an unnecessary danger to road safety. For these reasons the advertisements are considered to be contrary to the extant Falkirk Council Local Plan and emerging Falkirk Local Development Plan (Proposed Plan).
- 7c.2 There are no material considerations which are considered to outweigh the terms of the Development Plan.



**8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee refuse advertisement consent for the following reasons:-**

- (1) The proposal is contrary to Policy EQ10 – Advertisements of the Falkirk Council Local Plan and Policy DO5 – Advertisements within the Falkirk Local Development Plan (Proposed Plan) as they, by means of size, detail and location, result in visual clutter and a distraction to road users in the immediate proximity to a busy road junction and pedestrian crossing point. The advertisements are not therefore in the interests of road safety.**

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.**

**Pp**

.....  
**Director of Development Services**

**Date: 14 February 2014**

**LIST OF BACKGROUND PAPERS**

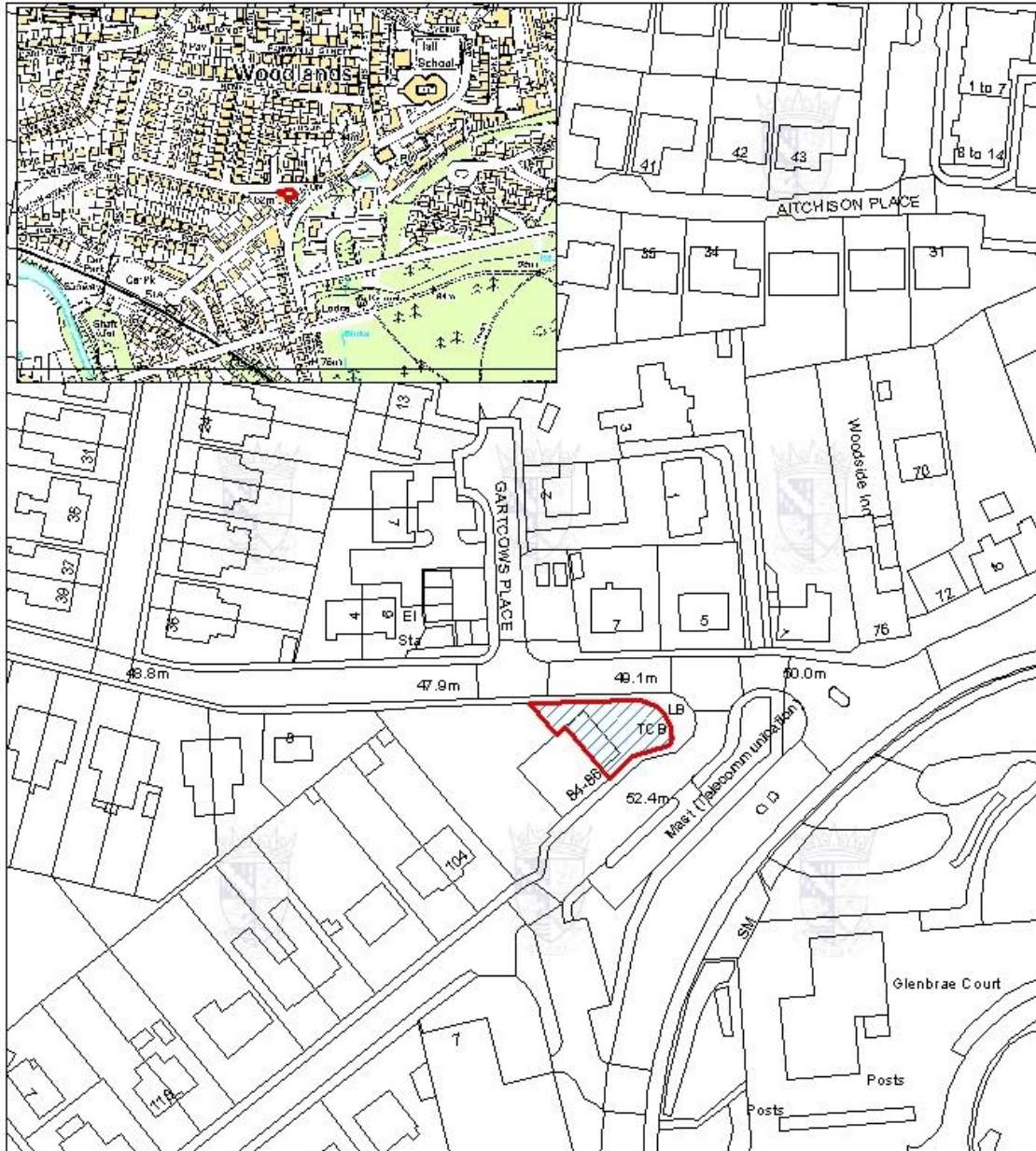
- 1. Falkirk Council Structure Plan.
- 2. Falkirk Council Local Plan.
- 3. Falkirk Council Local Development Plan (Proposed Plan).

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/14/0009/ADV**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES – P/12/0546/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended) when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The planning case officer presented a summary of the proposed development, representations received and the issues which have been addressed in making the recommendation to the Planning Committee. The Head of Planning and Transportation then presented a summary of proposed development as it relates to the funding and delivery of the Denny Eastern Access Road (DEAR), which forms part of the proposed development, and Supplementary Planning Guidance Note (SPG), "Delivery of Denny Eastern Access Road" (DEAR). The Head of Planning and Transportation also clarified the possible implications of a current appeal by MacTaggart and Mickel against the payment of a developer contribution of £550,000 towards the development of the proposed new roundabout at Glasgow Road under the terms of planning permission P/08/0296/FUL, for redevelopment of former paper mill at Carrongrove to provide 129 dwellinghouses and 53 flats, 750 sqm of commercial floor space, roads infrastructure including new roundabout, open space, landscaping, woodland management and public pathway provision at land to the west of 21 Old Mill Way, Kirkland Drive, Stoneywood.

3. The applicant's agent made a presentation to Members summarising the proposed development as it relates to the Development Plan and guidance. It was clarified that the applicant would intend to commence work on site on issue of planning permission.
4. The Chairman of Denny and District Community Council, Community Councillor Belbin, requested further details in respect of:
  - The timescale for the completion of the proposed development;
  - The number of crossing points proposed along the line of DEAR.
5. A further representative of Denny and District Community Council, Community Councillor Waddell, although acting independently, requested clarification in respect of:
  - The number of houses built in the Denny area since the opening of the current Denny High School;
  - The availability of health care provision to facilitate the proposed development;
  - Any proposed footpath connection to Bonnybridge;
  - The methodology of the calculation of development contributions required to fund DEAR;
  - The expected timescales for the completion of the number of dwellinghouses referred to in Section 8.1 of the Committee report which would trigger the payment of the developer contribution toward the funding of DEAR.

Community Councillor Waddell also commented that the Council owns land which, if sold for development, could raise sufficient capital to fund the development of DEAR prior to the development of any further residential developments.

6. A member of the public raised concern that the proposed development would result in the loss of part of the countryside to development which has value both in terms of amenity and as a means of settlement separation.
7. Members of the Planning Committee raised concern that there had been no comment in respect of the proposal from NHS Forth Valley. It was also noted, however, that general practitioners are a private enterprise and it is not possible to regulate health care provision through the planning process. Members also requested clarification regarding:-
  - Whether there is any proposal, or need, to redevelop the existing road infrastructure adjacent to the current Denny High School.
  - The funding required for the completion of DEAR.
  - The possible implications of the pending appeal in respect of planning permission P/08/0296/FUL referred to in section 2 of this update report.

8. Councillors Oliver, Blackwood and McCabe noted concern that funding the development of DEAR by means of developer contributions would result in the development of residential developments prior to the development of DEAR, adding pressure to roads infrastructure prior to mitigation measures being implemented. Furthermore, in addition to points already raised, clarification was requested in terms of:

- Details of the proposed mix of dwellinghouses;
- The reason for the payment of a developer contribution towards nursery school provision prior to the payment of developer contributions towards the provision of education services at Denny Primary School and Denny High School;
- The reasoning for the location of affordable housing units at phases of development later than the proposed phase 1;
- The reason for the withdrawal of the previous application reference 05/0904/LA referred to in Section 3.1 of the original report;
- The omission of NHS Forth Valley as a consultee;
- The reason for consultation with Stirling Council;
- The extent of DEAR proposed to be developed on the ground by the applicant;
- Why no developer contribution has been requested in respect of provision of education services at Nethermains Primary School.

9. Officers of Development Services clarified at the site visit:

- The number of crossing points proposed along the line of DEAR;
- The methodology of the calculation of developer contributions required under the terms of SPG "Delivery of the Denny Eastern Access Road (DEAR) to fund the development of DEAR;
- The traffic capacity of the existing road infrastructure adjacent to Denny High School as it relates to the projected traffic capacity which DEAR would be required to accommodate;
- The level of finance required to fund the development of DEAR;
- The possible implications of the pending appeal in respect of planning permission P/08/0296/FUL referred to in Section 2 of this update report;
- Details of the proposed mix of residential units;
- The reason for the withdrawal of planning application 05/0904/LA referred to in Section 3.1 of the original report;

- The extent of DEAR proposed to be developed on the ground by the applicant.
10. The applicant advised that, currently, the expected build out rate is 20 dwellinghouses per annum. This rate is, however, subject to fluctuation, and could possibly increase to 40 units per annum. The build out rate could also increase if a second developer became involved in the development. It is, therefore, not possible to accurately predict when the proposed development would be completed or the date on which the trigger for the outstanding payment of the developer contribution towards the funding of DEAR, as referred to in Section 8.1. of the original report, would be reached.
  11. The applicant's agent clarified that the proposed residential development is designed to omit any affordable housing units from phase 1 in order to maximise return from mainstream units to frontload funding to cover the cost of the roundabout on Glasgow Road and part of the first section of DEAR to a point 50 metres east of the centre of the said roundabout. The planning case officer commented that the location of affordable housing units as proposed fits well with the layout of the proposed residential development in terms of setting and integration. In terms of funding, it is noted that paragraph 1.5 of the original report dated 19 February 2014 sets out the intended approach with a final decision on the structuring of the applicant's transport contribution towards DEAR awaiting the outcome of the MacTaggart and Mickel appeal process as the Council does not accept that the planning agreement should be modified to remove the obligation related to MacTaggart and Mickel's transport contribution.
  12. It will be noted from the recommendation below that a suspensive condition (condition 20) has been introduced to ensure that the said roundabout on Glasgow Road and part of the first section of DEAR are completed before construction of the first dwellinghouse.
  13. The concerns raised at the site meeting in terms of health care provision are noted. It is also noted that NHS Forth Valley is not included as a consultee in respect of the proposed development. Doctors and dentists surgeries are operated as private enterprises, the provision of which is not possible to regulate through the planning process. The market is the principal driving mechanism for the provision of doctor and dentist facilities. NHS Forth Valley would not as a matter of course be consulted to comment in this regard. However, for clarification, Forth Valley NHS has confirmed that there is no mechanism in place at this time which could serve to either achieve contributions towards medical care or be considered as a material consideration in the determination of planning applications. NHS Forth Valley has advised that the level of health care capacity in the Denny area indicates that a new health centre is likely to be required at a future date, and discussions have begun with the planning authority to investigate mechanisms which could be put in place by the planning authority, working in conjunction with NHS Forth Valley, to address provision of health care issues. Discussions are currently in their infancy and it is not envisaged that any potential emerging mechanism would be in place before the adoption of the emerging Falkirk Local Development Plan in 2015.
  14. The rate and phasing of developer contributions towards education services provision is based on the timing of the expected impact of the proposed development and the existing capacity of provision. It is expected there would be an immediate impact on nursery school services as a result of the proposed development. The proposed phasing of the required developer contribution reflects this and that there would be an immediate need for funding additional places.

15. For clarification, the current Denny High School was occupied in February 2009. The following house completion data from that date is based on the catchment areas of primary schools which feed into Denny High School:

Catchment Area	House Completions Since February 2009
Antonine Primary School	2
Bankier Primary School	26
Denny Primary School	38
Dunipace Primary School	2
Head of Muir Primary School	64
Total	132

16. It is not expected to provide any additional footpath connections from Denny to other settlements as a result of the proposed development. Focus has been to ensure that:
- There would be provision of crossing points along the length of DEAR to safeguard connection of the core path network;
  - There would be satisfactory pedestrian access to bus stops;
  - There would be a pedestrian/cycle path provision along the entire length of DEAR.
17. No developer contribution has been sought in respect of the provision of education services at Nethermains Primary School as the application site does not fall within the catchment area for that school.
18. Stirling Council has been consulted for comment as it is considered that the proposed development would have an impact on the road network, in close proximity to the Stirling Council area, of a strategic nature. Furthermore, the catchment area for St Modan's RC High School, in the Stirling area, includes the Denny area.
19. The comment in respect of the loss of an area of countryside land which has high amenity and settlement separation value is noted. The proposed development, however, accords with the Development Plan in that the site is allocated for residential development. The proposed development is considered to be acceptable for reasons detailed in the original report.
20. Comments in respect of Council assets which could be realised to provide funding for the development of DEAR are noted. As noted at paragraph 1.5 of the original report of 19 February 2014, if the Council had appropriate funding, it could consider contributing an element of front funding to best achieve the practical delivery of the roundabout on Glasgow Road in the context of the Council's strategy to secure developer contributions. No such consideration has been given to front funding the whole of the DEAR.
21. No matters were raised which would amend the original recommendation for the Planning Committee to be minded to grant planning permission subject to the conclusion of a Section 75 obligation and, thereafter, the conditions detailed in the original report subject to the undernoted amendments to the proposed conditions.

22. It is noted that Conditions 8 and 10 as included in the recommendation of the original report, would ensure that there is no development outwith the area of phase 1 as detailed on the drawing bearing the planning authority's reference 120A, until such time as details of subsequent phases and details of play equipment, including a maintenance schedule, have been agreed. The planning case officer clarified at the Committee site visit that ground reprofiling works outwith the area of phase 1 would be necessary to allow phase 1 to be developed. It is recommended therefore that condition 8 and 10 be amended to read:

8. "Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling works or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded".

10. "Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with conditions 8".

23. **RECOMMENDATION**

23.1 It is recommended that the Committee indicate that it is minded to grant planning permission subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure the following, with sums indexed linked from the date of any minded to grant decision by the Committee:-

(a) A developer contribution towards education provision at Denny Primary School, Denny High School and nursery school provision. The developer contribution should consist of:-

Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings
<b>Total</b>		<b>£1,550,350</b>



The nursery provision contribution should be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time.

- (b) A pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. Payment of the developer contribution is to be phased, with the first contribution comprising any sum directly met by the applicant (and, for the avoidance of doubt, not reimbursed by the Council) in relation to the proper and reasonable cost of works carried out by the applicant to construct the roundabout on Glasgow Road and the first part of DEAR, including the new roundabout to provide access to the residential development, as detailed on the drawing bearing the applicant's reference RMDC/319/SL (1:500)/001 Revision N and the planning authority's reference 03B, (“the works”), said proper and reasonable costs to be fully vouched and demonstrated by the applicant to the satisfaction of the Director of Development Services. The nature and extent of the developer’s contribution towards the works shall be the subject of written agreement and shall be quantified taking account of any potential funding available to the Council for delivery of the works. The residual monetary contribution (which shall be quantified by deduction of the developer’s contribution in respect of the works from the total developer’s contribution of £3,383,900) shall be paid in full by the applicant no later than :-

- The completion of the 251<sup>st</sup> dwellinghouse, including the 46 affordable housing units; or
- The completion of the 210<sup>th</sup> mainstream dwellinghouse, excluding the 46 affordable housing units;

whichever occurs first.

- (c) Development of 46 affordable housing units, the type, tenure, mix and means of delivery to be agreed in writing with the Planning Authority. Development of the housing development shall not progress beyond phase 1, as detailed on the drawing bearing the Planning Authority’s reference 120A, until written agreement is secured.
- (d) A developer contribution towards the development of an adoptable standard footway at the north side of Nethermains Road, Denny to provide adequate pedestrian access to public transport links. The contribution required is £20,000 and is to be paid prior to the commencement of development.

In the event that an agreement has not been concluded with the applicant in respect of any or all of the above within a period of 6 months from the date of the Committee's agreement to be minded to grant planning permission, the application shall be referred back to the Planning Committee for further consideration.

23.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission subject to the following conditions and informatives:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the development will minimise its energy use and, consequently, its carbon footprint through design, materials and any other integral features.
- (3) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the Falkirk Council Outdoor Access Network would be maintained free of obstruction during the development or, alternatively, what temporary arrangements would be put in place to mitigate any temporary closure. If temporary closure of any outdoor access footpath is proposed, the details to be submitted shall demonstrate how this would be achieved. For the avoidance of doubt, the outdoor access footpaths and access ways to be considered are numbered 012/327, 012/296, 012/340 and 012/343 as identified in the Falkirk Council Core Paths Plan May 2010.
- (4) There shall be no development which would have any physical impact on the Little Denny Burn until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the proposed box culvert to be formed at the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.
- (5) Development shall not commence on site until such time as the scheme of archaeological work detailed in the Archaeological Written Scheme of Investigation has been carried out with the written approval of the Planning Authority.
- (6) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of drainage maintenance have been submitted to, and approved in writing by, the Planning Authority.

- (7) (i) No development shall commence on site unless otherwise agreed with the Planning Authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.
- (ii) Where contamination (as defined by Part 11A of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
- (iii) Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
- (iv) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (8) Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling works or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded.
- (9) Notwithstanding any details previously submitted, development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the development of, and diversion of, culverts on site shall not constitute a flood risk either on or off site.

- (10) Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with condition 8.
- (11) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the implementation and future maintenance of the landscaping scheme have been submitted to, and approved in writing by, the Planning Authority.
- (12) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of external finishes in respect of the proposed residential development have been submitted to, and approved in writing by, the Planning Authority.
- (13) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of boundary treatments along the length of the proposed Denny Eastern Access Road have been submitted to, and approved in writing by, the Planning Authority.
- (14) There shall be no development of dwellinghouses, other than within phase 1 of the residential development as shown on the drawing bearing the Planning Authority's reference 120A, until such time as the temporary vehicular access to phase 1 of the residential development has been closed off with the written approval of the Planning Authority, in accordance with the drawing bearing the Planning Authority's reference 03B.
- (15) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the first junction within the proposed residential development have been submitted to, and approved in writing by, the Planning Authority, demonstrating that service vehicles shall be able to negotiate the junction.
- (16) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of final surfacing of roads and hard landscaped areas within the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (17) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation and surfacing of the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121, have been submitted to, and approved in writing by, the planning authority.

- (18) No dwellinghouse shall be occupied until such time as the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121 and referred to in condition 17, has been finished with the written approval of the planning authority.
- (19) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the footpath to be constructed from the proposed new roundabout at Glasgow Road running between plots 25 and 26 to the internal roadway at the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (20) For the avoidance of doubt, the extent of road infrastructure to which this condition refers comprises of the new roundabout at Glasgow Road in its entirety to the north, south and west, as shown on the drawing bearing the applicants reference RMDL/319/SL (1:500)/001 Revision N and the planning authority's reference 03B, and also part of the Denny Eastern Access Road from the proposed new roundabout at Glasgow Road to a point measuring 50 metres eastward of the centre of the said roundabout (together referred to as "the initial road works"). There shall be no work on site in respect of the proposed residential development, other than ground reprofiling work, until such time as the initial road works have been completed to wearing course level, together with all necessary traffic management features, in accordance with the written approval of the Planning Authority.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure that the proposed development is energy efficient.
- (3) In order that satisfactory pedestrian access to the transport network and the Core Path Network is maintained.
- (4) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (5) To safeguard archaeological remains.
- (6) To ensure adequate drainage is safeguarded.
- (7) To ensure the ground is suitable for the proposed development.
- (8) In order that the Planning Authority can control phasing of the development beyond phase 1.

- (9) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (10) To ensure a satisfactory standard of play equipment is installed.
- (11) To ensure that a satisfactory standard of landscape quality is maintained.
- (12-13) In the interests of visual amenity.
- (14-16) In the interests of safety of highway users.
- (17-19) To ensure the formation of pedestrian links to, form the proposed residential development.
- (20) To safeguard the safety of users of the wider road network at Glasgow Road and to ensure that there is a satisfactory standard of roadway in respect of site traffic taking access to and from the east side of the proposed new roundabout at Glasgow Road.

**Informative(s):-**

- (1) For the avoidance of doubt, the plans to which this decision refers bears the approved drawing numbers indicated on the Council's web site.

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**Director of Development Services**  
**Date: 18 March 2014**

**LIST OF BACKGROUND PAPERS**

- 1. Falkirk Council Structure Plan.
- 2. Falkirk Council Local Plan.
- 3. Falkirk Local Development Plan Proposed Plan April 2013.
- 4. Notice of Intention to Develop 05/0904/LA.
- 5. Supplementary Planning Guidance Note (SP) ) “Housing and Layout Design”.
- 6. SPG “Design Statements”.
- 7. SPG “Education and New Housing Development”.
- 8. SPG “Trees and Development”.
- 9. SPG “Affordable Housing”.
- 10. SPG “Flooding and Sustainable Urban Drainage”.
- 11. SPG “Public Open Space, Falkirk Greenspace and New Development”.
- 12. SPG “Delivery of Denny Eastern Access Road (DEAR)”.
- 13. Planning Advice Note (PAN) 68 “Design Statements”.
- 14. Circular 3/2009 “Notification of Planning Applications”.
- 15. Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.

16. Letter of Objection from Mr Scott Waller, Gibson Street, Denny, FK6 5BG on 9 October 2012
17. Letter of Representation from Mr Colin Duguid, 6 Demoreham Avenue, Denny FK6 5BJ on 9 October 2012

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES – P/12/0546/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks planning permission for a development consisting of three components.
- 1.2 Firstly it is proposed to erect 307 dwellinghouses, which would include 46 affordable units at land to the south of Mydub Farm, Denny
- 1.3 Secondly, it is proposed to construct the Denny Eastern Access Road (DEAR), at land to the south and east of Mydub Farm which would connect from a new roundabout at the junction of A872 Glasgow Road and Nethermains Road (the “Main Roundabout”), which forms part of the proposed development, to the existing section of DEAR east of Denny High School, connecting to the Herbertshire Roundabout at the A883 east of Broad Street, Denny.
- 1.4 It is proposed that the applicant would develop the first 420 metres of the DEAR from Glasgow Road, including the Main Roundabout, a temporary access to phase 1 of the residential development, and then a permanent roundabout (the “Second Roundabout”) providing access to later phases of the residential development.



- 1.5 It is recognised however that in accordance with the terms of Supplementary Planning Guidance Note (SPG) “Delivery of Denny Eastern Access Road (DEAR)” (the “DEAR SPG”), the delivery of this section of DEAR, including the Main Roundabout, could be achieved by a combination of developer contributions (albeit the required amounts could take some time to accrue) and “in kind” works in lieu of such financial contributions. The application site lends itself to a more flexible approach being adopted. Again, as envisaged by the DEAR SPG, the Council has already secured a contribution of £550,000 (index linked) towards the Main Roundabout from another development, although that contribution has not yet been triggered or paid. If the Council had appropriate funding it could therefore contribute the £550,000 for the Main Roundabout to best achieve the practical delivery of this section of the DEAR in the context of the Council’s strategy to secure developer contributions. This sum could then be recouped by the Council in due course from developers’ contributions. The remainder of the DEAR is likely to be developed by Falkirk Council as developer contributions are realised in accordance with the terms of the DEAR SPG.
- 1.6 Thirdly, it is proposed to construct two sustainable drainage ponds, to connect to the proposed residential development and DEAR, at areas to the south and east of Mydub Farm.
- 1.7 The application site extends to 22.7 hectares in area, 15.3 hectares of which would accommodate the proposed residential development.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The Director of Development Services considers it inappropriate to consider the application under delegated powers because of the complexity of the application and the wider context.

## **3. SITE HISTORY**

- 3.1 Notice of Intention to Develop 05/0904/LA for the construction of a new 7.3 metres wide carriageway approximately 1.5km long at land to the north east of Mydub Farm, Denny was withdrawn on 19 June 2006.

## **4. CONSULTATIONS**

- 4.1 The Scottish Environment Protection Agency (SEPA) has raised no objections. It is advised that conditions be attached to ensure that:-
- The proposed box culvert at the watercourse crossing over the Little Denny Burn is designed to convey a 1 in 200 year flood flow, and
  - The proposed drain 1 as shown in the drainage proposals, at both culverted and open sections, is designed to convey a 1 in 200 year flood flow.
- 4.2 Scottish Natural Heritage has raised no objections.
- 4.3 Historic Scotland has raised no objections.

- 4.4 The Keeper of Archaeology and Local History has advised that a condition be attached to ensure there is no commencement of works on the site until such time as a programme of archaeological work has taken place in accordance with the approved archaeological report.
- 4.5 The Coal Authority has raised no objections.
- 4.6 Central Scotland Police made no comment.
- 4.7 Scottish Power has made no comment.
- 4.8 Stirling Council has raised no objection.
- 4.9 Scottish Water has agreed to an agreement under Section 7 of the Sewerage Scotland Act 1968 which would determine the responsibilities of both Falkirk Council and Scottish Water in terms of drainage maintenance responsibilities for the proposed development. The Section 7 Agreement has yet to be concluded.
- 4.10 Housing Management is satisfied with the mix of affordable housing proposed. However, it is noted that the construction of the affordable housing units is not likely to be carried out until several years into the construction of the residential development. There would be no construction of affordable housing units until after phase 1 of the residential development. It is unclear whether the proposed mix of affordable units would still meet needs in the area, or what means of delivery would be appropriate, at that time. Housing Management has agreed that it would be appropriate to determine the type, tenure and means of delivery of the affordable housing at a later date, no later, however, than the completion of phase 1 of the residential development. This arrangement can be secured by means of a Section 75 Planning Obligation. It is noted that any amendment to the proposed development may require a further planning application.
- 4.11 The Environmental Protection Unit (EPU) has advised that contamination can be addressed by condition.
- 4.12 The Roads Development Unit (RDU) has advised that there remain issues to be concluded in terms of road geometry, surfacing and formation of footpaths:-
- A satisfactory swept path analysis is required to demonstrate that service vehicles would be able to negotiate the first junction within the residential development.
  - Final surfacing of roads and hard landscape areas within the residential development.
  - Formation and surfacing of footpath at the east side of Glasgow Road as shown on the drawing bearing the planning authority's reference 121.
  - Details of the formation of the footpath to be constructed from the new roundabout to be formed at Glasgow Road, running between plots 25 and 26 to the internal roadway of the proposed residential development.

Furthermore, the RDU has advised that there remain issues to be concluded in respect of the formation and diversion of culverts at the site:-

- Details required to demonstrate that culverts to be formed and diverted at the site shall not constitute a flood risk on or off the site.
- Details required to demonstrate that the box culvert to be formed at the crossing of the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.

4.13 Education Services has advised that the proposed development would put significant pressure on the provision of education services at Denny Primary School and Denny High School and, additionally, nursery school provision in the area. A developer contribution would be appropriate to mitigate the impact on education provision. The appropriate developer contribution is calculated:-

Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings
Total		£1,550,350

It is advised that the nursery provision contribution be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments, with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time. The contribution can be secured by means of a Section 75 Planning Obligation.

4.14 The Transport Planning Unit has raised no objections. However, it has advised that the developer would be required to make a pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. Furthermore, the developer should meet the cost of the provision of an adoptable footway at Nethermains Road and secure the provision of a satisfactory footway adjacent to Glasgow Road. The contribution would be secured by means of a Section 75 Planning Obligation, some of it probably being “in kind” works.

## 5. COMMUNITY COUNCIL

5.1 No comments have been received from the Denny and District Community Council.

## 6. PUBLIC REPRESENTATION

6.1 Two letters of objection have been received. Concerns include:-

- There is potential for excessive noise from the development during the construction phase of the proposed development.

- The proposed development would be detrimental to visual amenity and would interrupt views from outwith the site.
- There would be an adverse impact on education provision in the area.
- There is likely to be an adverse impact on medical care provision in the area.
- There would be an adverse impact on the amenity of the area during the construction phase due to excessive dust.
- There would be overshadowing of adjacent properties.
- The proposed development would generate traffic to the detriment of road safety.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 Policy COM.1 ‘Housing Land Allocations’ states:

*“The Council will:*

- 1 support the phased provision of land for new housing as detailed in Schedule COM.1a to which a flexibility allowance of 10% will be added under Policy COM.2;*
- 2 maintain an effective 5 year supply of the housing land set out in Schedule 1a;*
- 3 review the housing calculations and allocations at intervals of no more than 5 years; and*
- 4 In delivering the requirement in Schedule Com.1a the Council will support special initiatives for residential led regeneration at the location listed in Schedule Com.1b, provided that action plans and masterplans/ development frameworks are prepared in accordance with the local plan. In particular these must address phasing, social and physical infrastructure provision, the avoidance of adverse impacts on European sites, the removal of significant restraints and land acquisition as appropriate.”*

7a.2 It is noted that in order to meet the aspirations of the Falkirk Council Structure Plan (FCSP) to provide 1000 new homes 2001-2020, the application site has been identified in the Falkirk Council Local Plan (FCLP) as an opportunity for residential development. The proposed development accords with Policy COM.1.

7a.3 Policy COM.2 ‘Implementation of Housing Land Requirement’ states:

*“In implementing the housing land requirement set out in Schedule COM.1a, Local Plans will:*

- 1 *take into account completions since 30th June 2001 and the current effective and established housing land supply;*
- 2 *make an assessment of the likely output from windfall and small sites in arriving at the amount of land to be allocated and add to that amount a 10% flexibility allowance;*
- 3 *adopt an approach to site selection whereby priority is given to brownfield sites and to sites which enjoy a high level of accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4 *ensure the housing land allocation is based on the phasing guidelines set out in Schedule COM.1a;*
- 5 *ensure that there are adequate community facilities and physical infrastructure to accommodate the allocation;*
- 6 *ensure that the location, scale, and design of allocated sites is sympathetic to the character of settlements and that significant land releases are accompanied by the preparation of masterplans; and*
- 7 *take into account the location and firm development proposals of business and industrial premises including chemical and petrochemical facilities.*
- 8 *Local Plans will also identify the site or area of search of the general locations listed in Schedule Com.1b taking into account the avoidance of adverse impact on European sites and specific requirements for new social and physical infrastructure.”*

7a.4 The identification of the application site as an opportunity for residential development integrates with appropriate development completions in the Denny area, and a 10% flexibility for windfall sites, to meet the requirements of the FCLP. The proposed residential development would be sympathetic to the area in terms of scale, design and character. Furthermore, it is considered that the proposal would be appropriately located in terms of transport, community and infrastructure. The proposed development accords with Policy COM.2.

7a.5 Policy COM.3 ‘Special Needs and Affordable Housing’ states:

*“The Council will support the provision of affordable and special needs housing, based on housing needs assessments for each community. Local Plans will identify suitable sites and where appropriate, stipulate the proportion of larger housing sites which should be reserved to meet specific housing needs.”*

7a.6 It is noted that the applicant proposes on site affordable housing provision and that Housing Management is satisfied with the proposed mix of affordable housing units. However, it is also noted that, in order to ensure delivery of affordable housing meets needs over time, Housing Management has agreed that type, tenure and delivery of affordable housing can be agreed at a later date, no later than the completion of phase 1 of the proposed residential development. This can be secured by means of a Section 75 Planning Obligation.

7a.7 It is noted that Policy SC4 of the FCLP “Affordable Housing” and the Supplementary Planning Guidance Note (SPG) “Affordable Housing” express that the viability of proposed developments should be considered when assessing a suitable method of Affordable Housing delivery. The applicant has submitted a viability statement in support of the proposed development which has been checked by the District Valuer. The District Valuer has assessed that after meeting the required developer contributions and obligations, the site would realise a modest positive land value. The proposed development accords with Policy COM3.

7a.8 Policy COM.5 ‘Developer Contributions’ states:

*“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:*

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

*The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”*

7a.9 It is noted that the proposed development would have a significant impact on the provision of education services in the area. It is considered that a developer contribution would be appropriate to mitigate the potential impact. The consultation response of Education Services in section 4 of this report is noted. The applicant has agreed to meet the required contribution.

7a.10 It is noted that delivery of the DEAR is to be financed by developer contributions. This road scheme is necessary to provide mitigation in respect of the impact of new development on the existing roads network. The contribution required is calculated at £3,383,900 in accordance with the Council’s DEAR SPG. The applicant has agreed to meet the required contribution.

7a.11 In order to provide residents of the proposed residential development satisfactory links to public transport, it is considered that it would be necessary to form a pedestrian footpath to the bus stop at Nethermains Road. The applicant has agreed to make a developer contribution of £20,000 for the formation of the footpath.

7a.12 It is noted that the applicant proposes to provide on site affordable housing in accordance with the Development Plan and the supplementary Planning Guidance Note (SPG) “Affordable Housing?”. Phasing and Delivery of the affordable housing would be concluded under the terms of a Section 75 Planning Obligation.

7a.13 The proposed development accords with Policy COM.5.

7a.14 Policy COM.6 ‘Open Space and Recreational Facilities’ states:

*“The Council will seek to ensure that a satisfactory distribution and quality of open space and recreational facilities exists across the Council area. Accordingly:*

- (1) the loss of open space and recreational facilities will not normally be permitted except where, as part of a community-wide assessment of provision, it is demonstrated that the loss will have no adverse impact on visual or recreational amenity and will release resources for qualitative improvements to facilities in the community as a whole;*
- (2) Local Plans will identify and seek to address any remaining localised deficiencies in provision;*
- (3) resources will generally be concentrated on improving the quality, management and accessibility of existing provision; and*
- (4) all new housing development must contribute to the provision and maintenance of open space and recreational facilities either through on-site provision or contributions to off-site provision. Standards will be set out in Local Plans based on the provision of 2.8ha per 1000 persons.”*

7a.15 It is noted that the proposed development would include on-site provision of open and recreational space. The provision would be principally in the form of a central village green style open space with a green corridor across the site to allow connectivity for people and wildlife. It is noted that the provision accords with Policy SC13 of the FCLP “Open Space and Play Provision in New Developments” detailed in sections 7a.64 - 7a.65 of this report and SPG “Public Open Space, Falkirk Greenspace and New Development” detailed in sections 7b.17 - 7b.18 of this report. The proposed development accords with Policy COM.6.

7a.16 Policy COM.7 ‘School Provision’ states:

*“New housing development will not be permitted unless adequate school capacity is available or will be made available.”*

7a.17 It is noted that a developer contribution would be required to safeguard satisfactory provision of education services. The applicant has agreed to meet the contribution required. The proposed development would accord with Policy COM.7.

7a.18 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.19 It is noted that the proposed line of the DEAR lies outwith the Denny urban area. It is also noted that the proposed DEAR is identified as an opportunity for new roads infrastructure in the FCLP (TR.DEN.01). It is considered that the partial countryside location is essential for the provision of the DEAR. The proposal accords with Policy ENV.1.

7a.20 Policy ENV.7 ‘Quality of Development’ states:

*“(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been addressed and how quality objectives will be achieved.*

*(2) Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements.”*

7a.21 It is noted that the proposed development is accompanied by a supporting Design Statement. The proposed development would be sympathetic to the area in terms of scale, design and character. There would be a satisfactory provision of open space and greenspace connectivity. The proposed landscape plan would safeguard the amenity of the urban fringe setting. It is also noted that the proposed development accords with “Designing Streets” policy detailed in sections 7b.28 - 7b.29 of this report. The proposed development accords with Policy ENV.7.

7a.22 Policy TRANS.3 ‘Transport Assessment’ states:

*“Proposals which could result in a significant increase in travel demand will be required to submit a Transport Assessment and where appropriate a Green Transport Plan. These should demonstrate how the impact of the development on the surrounding traffic network can be minimised and how other modes of travel rather than the car will be encouraged.”*

7a.23 A Transport Assessment (TA) has been submitted in support of the proposed development. It is considered that the impact of the proposal on the transport network is acceptable provided that developer contributions are made to facilitate the delivery of DEAR. Furthermore, the construction of DEAR would reduce traffic congestion at Denny Cross. The proposed development accords with Policy TRANS.3.

7a.24 The proposal accords with the Falkirk Council Structure Plan.

### ***Falkirk Council Local Plan***

7a.25 Housing proposal H.DEN12 identifies the proposed residential development site as an opportunity for residential development of approximately 300 dwelling units. The residential development opportunity as identified by H.DEN12 is linked to the development of DEAR. H.DEN12 requires the precise definition of the line of DEAR and the formation of a robust settlement edge. The proposed development meets all of the preceding requirements of H.DEN12. The proposed development accords with housing opportunity H.DEN12.



7a.26 Transport opportunity TR.DEN01 identifies DEAR as a means to address traffic capacity problems at Denny Cross which would further exacerbated by further development. It is noted that phase 1 from Broad Street to Denny High School has been completed. The remainder of the route is to be developer funded under TR.DEN01 (see SPG “Delivery of Denny Eastern Access Road (DEAR)” in sections 7b.19 - 7b.20 of this report). The proposed development includes the seeking of planning permission for DEAR, the details of which are acceptable in terms of design etc to the Roads Development Unit and the Transport Planning Unit. The developer has agreed to a contribution towards the construction of DEAR in accordance with the SPG. Such a contribution would be secured by means of a Section 75 Planning Obligation. Part of this contribution is likely to be "in kind" construction. The proposed development therefore meets the requirements and aspirations of TR.DEN01.

7a.27 Policy EQ1 ‘Sustainable Design Principles’ states:

*“New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:*

- (1) Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site’s surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- (6) Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.”*

7a.28 It is considered that the siting and design of the proposed development would be sympathetic to the site’s surroundings and would fit well into the landscape. The residential development, which would be formed around a central open space, would create an attractive environment incorporating designing streets traffic calming features. The proposal is satisfactory in terms of infrastructure connection. The proposal accords with Policy EQ1.

7a.29 Policy EQ2 ‘Implementation of Sustainable Design Principles’ states:

*“In order to ensure that the principles set out in Policy EQ1 are incorporated into development proposals:*

- (1) Masterplans will be required for development proposals requiring a comprehensive approach to design and infrastructure. The Council will set out the basis for the preparation of Masterplans in Development Frameworks or Briefs;*
- (2) Development Briefs will be prepared by the Council for other development sites where merited by the size, sensitivity or complexity of the site;*

- (3) *Supplementary Planning Guidance Notes will be produced to provide detailed advice on the application of the sustainable design principles; and*
- (4) *Planning applications for significant residential, business or commercial development, or smaller proposals affecting protected sites or buildings, should be accompanied by a Design Statement explaining how each of the factors in Policy EQ1 has been complied with."*

7a.30 The application is supported by a design statement. The design statement sets out the site context and background in terms of culture, character, ecology and setting and clarifies how the proposed development would integrate in terms of built form, greenspace and infrastructure. It is considered that the design statement is comprehensive and satisfactory. The proposed development accords with Policy EQ2.

7a.31 Policy EQ3 'Townscape Design' states:

*"New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*

- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site's environs and creates a sense of identity within the development;*
- (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
- (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) *The contribution to the townscape of important landmarks, skylines and views should be respected."*

7a.32 The proposed development would create a sense of identity. The majority of buildings front onto the streets and the buildings along the eastern boundary of the site front onto the open space, which helps to ensure that the site is not inward looking. The buildings are two storey in nature and reflect the scale and height of dwellings along the northern boundary.

7a.33 Policy EQ4 - 'Landscape Design' states:

*"Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:*

- (1) *Be informed by the surrounding landscape;*
- (2) *Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) *Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) *Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*

- (5) *Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) *Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) *Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) *Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7a.34 The application is supported by a landscape plan. The principal landscape elements at the proposed housing development are the retention of a strong tree belt adjacent to Glasgow Road, to attenuate traffic noise, and the village green style central open space. There would be a central boulevard of open space running across the housing development, through the central open space. There would also be open space provision adjacent to DEAR. It is considered that the proposed development would provide a satisfactory level of passive and active open space and provide satisfactory connectivity and wildlife corridors. The proposed development accords with Policy EQ4.

7a.35 Policy EQ6 ‘Design and Energy Use’ states:

“Developers should demonstrate how they have assessed and pursued opportunities for sustainable energy use in new developments. In particular:

- (1) *Local climatic factors should be taken into account, and opportunities taken to maximise solar gain and minimise wind chill in the layout and orientation of buildings;*
- (2) *The utilisation of renewable energy sources in meeting the energy needs of developments will be encouraged where appropriate in terms of type, scale and impact; and*
- (3) *Combined heat and power and community heating schemes as part of new developments will be encouraged.”*

7a.36 It is considered that the issue of energy use can be addressed by condition.

7a.37 Policy EQ16 ‘Sites of Archaeological Interest’ states:

- (1) *Scheduled ancient monuments and other identified nationally important archaeological resources shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances;*
- (2) *all Other archaeological resources shall be preserved in situ wherever feasible. The Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications; and*
- (3) *Developers may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development.”*

7a.38 The application is supported by an archaeological report. It is noted that the Keeper of Archaeology and Local History has advised that a condition be attached to secure the implementation of the programme of archaeological work proposed.

7a.39 The proposal accords with Policy EQ16.

7a.40 Policy EQ19 - 'Countryside' states:

*“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

*(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*

- the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7a.41 It is noted that DEAR would be located outwith the Denny urban area as defined in the Falkirk Council Local Plan. It is considered that a countryside location is essential for the construction of DEAR. Furthermore, it is considered that DEAR, as proposed by the application, would meet Falkirk Council construction and design standards and would integrate well into the rural setting. The proposed development accords with Policy EQ19.

7a.42 Policy EQ21 - 'Falkirk Greenspace' states:

*“Through the Falkirk Greenspace Initiative, the Council will work with its partners to improve the landscape, habitat quality and recreational potential of the network of urban fringe and urban open space around and within settlements. Priority will be given to:*

- (1) Appropriate woodland creation and management, where landscape quality, access, biodiversity, and connectivity across the Greenspace can be promoted;*
- (2) The creation of an interlinked network of paths within the Greenspace, with particular emphasis on a principal circular route, as a key part of the core path network, complemented by secondary routes where appropriate; and*
- (3) Requiring developers in urban fringe locations to contribute to landscape and/or access improvements in association with new development.”*

7a.43 It is considered that the proposed development integrates well with the urban fringe/rural setting in terms of impact on the existing landscape and woodland network. The application proposes to provide an open space network on site in accordance with Council standards. It is considered that the design of the on-site open space as proposed safeguards the visual amenity of the area and connectivity across the site. The proposed development accords with Policy EQ21.

7a.44 Policy EQ22 'Landscape and Visual Assessment' states:

*"Development proposals which are likely to have a significant landscape impact must be accompanied by a comprehensive landscape and visual assessment as part of the Design Statement, which demonstrates that the setting is capable of absorbing the development, in conjunction with suitable landscape mitigation measures, and that best environmental fit has been achieved, in terms of the landscape character of the area."*

7a.45 The application is supported by a landscape and visual assessment. It is considered that the assessment satisfactorily demonstrates that the site is capable of absorbing the development as proposed, that a high level of environmental fit would be achieved and that the proposal is sympathetic to the character of the area. The proposed development accords with Policy EQ22.

7a.46 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

*"The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7a.47 It is noted that there would be existing trees lost at the site which are located centrally within the proposed residential development area, at the eastern edge of the proposed residential area and at the proposed line of DEAR. However, the existing tree planting adjacent to Glasgow Road would be safeguarded and, furthermore, the proposed landscape planting at the residential area and DEAR would satisfactorily mitigate the loss of trees at the site. The proposed development accords with Policy EQ26.

7a.48 Policy EQ29 - ‘Outdoor Access’ states:

- “(1) The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network.*
- (2) In promoting new routes particular emphasis will be placed on
  - opportunities specified on the Proposals Map
  - other opportunities which support and provide linkages in respect of the Falkirk Greenspace Initiative, the recreational use of the major river corridors, including the Forth Estuary, and sustainable travel within and between settlements;
  - other areas of proven demand as identified through community consultation; and
  - the need to safeguard protected habitats and species in accordance with Policies EQ24 and EQ25;
  - the need to safeguard protected buildings and archaeological sites in accordance with Policies EQ16 and EQ17.*
- (3) When considering planning applications, the Council will
  - Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed.
  - Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development, particularly where they relate to the priority areas identified in sub-section (2) above.
  - Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.”*

7a.49 The proposed development would impact on the line of several core paths. It is considered however that connectivity integrated into the development would provide good links to external paths and satisfactory movement. It is noted, however, that beyond phase 1 of the residential development, temporary access routes would require to be provided to co-ordinate with construction. Details of temporary access routes can be secured by condition. The proposed development accords with Policy EQ29.

7a.50 Policy EQ30 - ‘Agricultural Land’ states:

*“Development involving the loss of prime quality agricultural land (Classes 1, 2 and 3.1) will not be permitted unless the site is allocated for development in the Local Plan or there are overriding local or national circumstances.”*

7a.51 It is noted that the proposed development is identified in the Falkirk Council Local Plan as an opportunity for residential development and the development of the DEAR. The proposed development accords with Policy EQ30.

7a.52 Policy EQ30A - ‘Air Quality’ states:

*“The Council will seek to contribute to the improvement of air quality. Impacts on air quality will be taken into account in assessing development proposals, particularly within Air Quality Management Areas (AQMAs). Air Quality Assessments may be required for developments within AQMAs.”*

7a.53 The application site is not within an Air Quality Management Area. However, owing to the proposed layout with houses (i.e. receptors) potentially introduced close to the proposed DEAR, and the size of the development, an air quality assessment was requested. The applicant has demonstrated to the satisfaction of the Environmental Protection Unit that the proposed development would not have a significant impact on air quality. The proposed development accords with Policy EQ30A.

7a.54 Policy SC1 - 'Housing Land Provision' states:

- “(1) Through the Local Plan, the Council will aim to meet the housing land requirements of the Falkirk Council Structure Plan for at least the period up to 2012, as detailed in Table 4.1. Sites contributing towards the requirement are detailed under the relevant Settlement Statements.*
- (2) Sites identified as long-term development opportunities on the Proposals map will be the preferred locations for residential growth within the relevant settlements for the period 2012 - 2020. Consideration will only be given to bringing forward these sites for development prior to 2012 where clearly justified by supply, phasing and infrastructure factors.*
- (3) Within the areas identified as Special Initiatives for Residential-Led Regeneration (SIRRs) on the Proposals Map, housing development in addition to the base requirement will be supported subject to:
  - the preparation of a satisfactory masterplan or development framework for the area; and*
  - demonstration that the necessary social and physical infrastructure requirements for the area will be met through a co-ordinated approach to developer contributions.”**

7a.55 It is noted that the residential development site is identified as housing opportunity H.DEN12. The proposed development accords with Policy SC1.

7a.56 Policy SC4 'Special Needs and Affordable Housing' states:

*“For large new housing developments, the Council will require a diversity of house types and tenures in order to create mixed communities. In particular there will be a requirement across the Council area for new housing sites of 100 units and over to provide 15% of the total number of units as affordable or special needs housing. In the settlement areas of Larbert/Stenhousemuir, Polmont and District and Rural North, where there is an identified shortfall in affordable housing provision, there will be a requirement for sites of 60 units and over to provide 25% of the total number of units as affordable or special needs housing. Acceptable approaches could include:*

- (1) Provision of general needs social rented houses;*
- (2) Provision of social housing for people with particular needs (specifically the elderly and physically disabled); or*
- (3) Provision of shared equity or shared ownership housing*

*Developers will be expected to work in partnership with the Council, Communities Scotland and Registered Social Landlords to comply with this policy.”*

7a.57 It is noted that the proposed housing development includes 46 (15%) affordable housing units in accordance with Policy SC4. Housing Management has indicated that the proposed mix of affordable housing is satisfactory. However, it would be appropriate to agree the means of delivery of affordable housing prior to the construction phase progressing beyond phase 1 in order that the proposal can continue to meet affordable housing needs over time. The means of delivery can be secured by means of a Section 75 Planning Obligation. The proposed development accords with Policy SC4.

7a.58 Policy SC6 - 'Housing Density and Amenity' states:

- “(1) Overall density in new residential developments should conform to the indicative capacity shown for allocated sites or, in the case of windfall sites, be dictated by the character of the surrounding area and the design objectives for the site, as established in the Design Concept Statement. Higher densities may be allowed where this helps to achieve design excellence.*
- (2) On large sites, housing density should be varied to create areas of different character, reflecting the structure of streets and spaces in the development. A mix of housing types will be required.*
- (3) Adequate properly screened private amenity space should be provided for dwellinghouses. In flatted developments, communal space for clothes drying and private amenity should be provided.*
- (4) Housing layouts should be designed to ensure adequate privacy and to avoid excessive overshadowing of houses or garden ground. A minimum distance between overlooking windows of 18 metres will generally be required.”*

7a.59 The proposed residential development generally meets the 300 dwelling units envisaged by housing opportunity H.DEN12. The proposed housing development would provide a satisfactory mix of house types and the amenity and privacy of occupiers would be safeguarded. The proposed development accords with Policy SC6.

7a.60 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

*“Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:*

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996.”*



7a.61 It is noted that it is advised that the applicant contributes towards education provision at Denny Primary School, Denny High School and Nursery School provision. The applicant would also be required to contribute towards the cost of DEAR in accordance with SPG “Delivery of Denny Eastern Access Road (DEAR)”, and the provision of an adoptable footway at Nethermain Road. It is noted that on site provision of affordable housing is proposed. The applicant would be required to agree the delivery of the affordable housing by the conclusion of a Section 75 Planning Obligation. The applicant has agreed to meet the financial and physical infrastructure contributions. The proposed development accords with Policy SC11.

7a.62 Policy SC12 - ‘Urban Open Space’ states:

*“The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:*

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) In the case of recreational open space, it can be clearly demonstrated from a settlement and neighbourhood audit that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded.”*

7a.63 There would be the loss of a small area of open space along the route of DEAR. This open space did not form an integral part of a previous development and its loss is accepted in the context of the benefits DEAR would provide. The housing site and associated DEAR do not have significant ecological value. In addition to this the existing network of footpaths to surrounding areas would be maintained although with some diversions where necessary. The proposal is considered to comply with Policy SC12.

7a.64 Policy SC13 ‘Open Space and Play Provision in New Development’ states:

*“New development will be required to contribute to open space and play provision. Provision should be informed by the Council’s open space audit and strategy and the SPG Note on ‘Open Space and New Development’, once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:*

- (1) Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*

- (2) *Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where*
- *existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
  - *in residential developments, the size of the development falls below the threshold of 10 houses indicated in Table 4.2, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
  - *as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*
  - *The required financial contribution per house will be set out in the SPG Note on ‘Open Space and New Development’.*
- (3) *The location and design of open space should be such that it:*
- *forms an integral part of the development layout, contributing to its character and identity;*
  - *is accessible and otherwise fit for its designated purpose;*
  - *links into the wider network of open space and pedestrian/ cycle routes in the area;*
  - *sensitively incorporates existing biodiversity and natural features within the site;”*
  - *promotes biodiversity through appropriate landscape design and maintenance regimes; and*
  - *enjoys good natural surveillance;*
- (4) *Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it.”*

7a.65 It is proposed to provide all open space on site. The layout and level of provision of both active and passive open space is considered to be satisfactory. Notwithstanding any details previously submitted, the provision of appropriate play equipment, together with a maintenance schedule, can be addressed by condition. The proposed development accords with Policy SC13.

7a.66 Policy SC14 ‘Education and New Housing Development’ states:

*“Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council’s education policies. The contribution will be a proportionate one , the basis of which will be set out in the SPG Note on ‘Developer Contributions; Education and New Housing Development’. In cases where the school cannot be improved in a manner consistent with the Council’s education policies, the development will not be permitted.”*

7a.67 Education Services has advised that the proposed development could have a significant impact on nursery school provision, Denny Primary School and Denny High School. A developer contribution would be appropriate. The level of contribution is detailed in section 4.13 of this report. The applicant has agreed to meet the developer contribution. Such a contribution would be secured by a means of a Section 75 Obligation. The proposed development accords with Policy SC14.

7a.68 Policy ST1 - 'Core Path Network' states:

*"The Council will safeguard and promote the development of the core path network as and when this is defined. Where appropriate, developer contributions to the implementation of the network will be sought."*

7a.69 Sections 7a.44 - 7a.45 of this report in respect of outdoor access are noted. The proposed development accords with Policy ST1.

7a.70 Policy ST7 - 'Transport Assessments' states:

- "(1) Falkirk Council will require transport assessments of developments where the impact of that development on the transport network is considered likely to require mitigation.*
- (2) Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development.*
- (3) Developers will agree the scope of the assessment with Falkirk Council, then undertake the assessment in accordance with the scoping. In all cases, the assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over unnecessary use of the car.*
- (4) The Council will only grant planning permission where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified."*

7a.71 The application is supported by a Transport Assessment (TA). The TA assesses the impact of the proposed development on the transport infrastructure of the area including motor transport, cyclists, pedestrians and disabled access. The Transport Planning Unit (TPU) has advised that the TA is appropriately considered and that the integrity of the transport network would be safeguarded as a result of the proposed development. It is noted that in the short term, there would be an increase in the traffic generated at Denny Cross. The medium term benefits of DEAR in terms of the impact on Denny Cross is welcomed. The proposed development accords with Policy ST7.

7a.72 Policy ST11 - 'Sustainable Urban Drainage' states:

*"Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation. A drainage strategy, as set out in PAN 61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment."*

7a.73 The application is supported by a detailed drainage strategy. It is noted that Scottish Water has agreed in principle to the conclusion of an Agreement under the terms of Section 7 of the Sewerage Scotland Act 1968, see section 4.9 of this report, ensuring maintenance of the drainage system, including ponds, by Falkirk Council and Scottish Water in an agreed joint approach. The proposed development would accord with Policy ST11 on conclusion of a Section 7 Agreement. It is considered that the agreement of a drainage strategy can be addressed by condition.

7a.74 Policy ST12 - 'Flooding' states:

*"In areas where there is significant risk of flooding, there will be a presumption against new development which would be likely to be at risk, would increase the level of risk for existing development or would be likely to require high levels of public expenditure on flood protection works. Applicants will be required to provide information demonstrating that any flood risks can be adequately managed both within and outwith the site."*

7a.75 The application is supported by a Flood Risk Assessment. It is considered that it has been demonstrated that, generally, the proposed development would not constitute a flood risk either within the application site or beyond. It remains, however, to be demonstrated that culverts to be developed or diverted at the site would have no flooding impact. The approval of details in respect of culverts can be addressed by condition. The proposed development accords with Policy ST12.

7a.76 The proposed development accords with the Falkirk Council Local Plan. Accordingly, the proposed development accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration to be assessed in respect of the proposed development are the Falkirk Local Development Plan Proposed Plan April 2013, Supplementary Planning Guidance Notes (SPG's) "Housing Layout and Design", "Design Statements", "Education and New Housing Development", "Trees and Development", "Affordable Housing", "Flooding and Sustainable Urban Drainage", "Public Open Space, Falkirk Greenspace and New Development" and "Delivery of Denny Eastern Access Road (DEAR)", Planning Advice Note (PAN) 68 "Design Statements", Circular 3/2009 "Notification of Planning Applications", Circular 3/2012 "Planning Obligations and Good Neighbour Agreements", Designing Streets Policy, consultation responses and letters of public representation.

### ***The Falkirk Local Development Plan Proposed Plan April 2013***

7b.2 The proposed Falkirk Local Development Plan was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan Policy and constitutes a material consideration in the determination of planning applications.

7b.3 The relevant proposals/policies are:-

Proposals:

- H15 - Mydub 1.
- INE14 - Denny Eastern Access Road.

Policies:

- HSG01 - Housing Growth.
- HSG02 - Affordable Housing.
- HSG04 - Housing Design.
- INF01 - Strategic Infrastructure.
- INF02 - Developer Contributes to Community Infrastructure.
- INF04 - Open Space and New Residential Development.
- INF05 - Education and New Housing Development.
- INF07 - Walking and Cycling.
- INF10 - Transport Assessments.
- INF12 - Water and Drainage Infrastructure.
- GC01 - Countryside.
- GN01 - Falkirk Green Network.
- GN02 - Landscaping.
- GN03 - Biodiversity and Geodiversity.
- GN05 - Outdoor Access.
- D01 - Placemaking.
- D02 - Sustainable Design Principles.
- D04 - Low and Zero Carbon Developments.
- D08 - Sites of Archaeological Interest.
- RW05 - The Water Environment.
- RW06 - Flooding.
- RW07 - Air Quality.

7b.4 The proposals and policies of the Falkirk Local Development Plan Proposed Plan 2013 reflect the proposals and policies of the Development Plan. The proposed development accords with the emerging Local Development Plan.

***Supplementary Planning Guidance Note (PAN) “Housing Layout and Design”***

7b.5 The proposed development would provide a satisfactory level of active and passive open space, centred around a principal village green style area of open space. There would be strong, well defined edges to the development. The residential development would provide frontages onto roadways, including DEAR. Street design would be well proportioned, attractive and accessible.

7b.6 The proposed development accords with SPG “Housing Layout and Design”.

***SPG “Design Statements”***

7b.7 The proposed development is supported by a design statement. The design statement demonstrates that:-

- The development would be well proportioned in terms of the relationship between built form and open space.
- The development would be safe and accessible.
- The scale and mix of residential units would be appropriate.

- The urban fringe setting of the site would be safeguarded.
- The proposed development would fit well with the site's wider setting and community context.
- Community engagement was carried out.

7b.8 The proposed development accords with SPG "Design Statements".

***SPG "Education and New Housing Development"***

7b.9 The impact of the proposed development on the provision of education services in respect of nursery school provision, Denny Primary School and Denny High School is detailed in section 4.13 of this report. It is noted that the applicant has agreed to make a developer contribution to mitigate the impact of the proposed development.

7b.10 The proposed development accords with SPG "Education and New Housing Development".

***SPG "Trees and Development"***

7b.11 It is noted that there would be existing trees at the site, principally centrally located, removed in order to accommodate the proposed development. However, it is considered that the proposed landscaping plan would provide a satisfactory level of amenity and provide wildlife corridors around and through the site. There would be a strong western edge tree belt adjacent to Glasgow Road retained. The impact of the tree planting and landscape design would be that the housing development and DEAR would fit into the landscape with the minimum environmental impact and the urban fringe setting of the application site would be safeguarded.

7b.12 The proposed development accords with SPG "Trees and Development".

***SPG "Affordable Housing"***

7b.13 It is proposed to provide affordable housing on site at a level of 15%. Sections 7a.56 - 7a.57 of this report detail the issue of affordable housing. It is noted that the number and mix of affordable housing units is considered appropriate and that delivery of the affordable units can be secured by the conclusion of a Section 75 Planning Obligation.

7b.14 The proposed development accords with SPG "Affordable Housing".

***SPG "Flooding and Sustainable Urban Drainage"***

7b.15 The proposed development is supported by a drainage strategy which includes measures for the treatment of surface water runoff by sustainable urban drainage principles, which includes the formation of swales and settlement ponds. It is not considered that the proposed development would constitute a flood risk either on or off site. It is proposed that there would be an agreement concluded between Falkirk Council and Scottish Water in respect of maintenance responsibility for the drainage scheme. The implementation of maintenance of the drainage system can be addressed by condition.

7b.16 The proposed development accords with SPG "Flooding and Sustainable Urban Drainage".

### ***SPG “Public Open Space, Falkirk Greenspace and New Development”***

- 7b.17 It is proposed to provide both active and passive open space on site. Open space would meet the minimum standard as set out in the SPG of 40 square metres active open space and 20 square metres passive open space per residential unit. Furthermore, it is considered that the village green style central open space is a satisfactory means of providing both usable and safe open space provision. A satisfactory level of amenity would be provided at both the residential development and DEAR.
- 7b.18 The proposed development accords with SPG “Public Open Space, Falkirk Greenspace and New Development”.

### ***SPG “Delivery of Denny Eastern Access Road (DEAR)”***

- 7b.19 The SPG sets out proposals to secure the delivery of DEAR by developer contributions to be made in respect of a number of development sites identified in the SPG. Each identified site is assessed in terms of its impact on projected traffic movements through Denny town centre and, in some cases such as the current application, on DEAR. Each development site would be expected to secure a developer contribution, the percentage which equates to the level of impact. The proposed development site is identified in the SPG as a contributor site. The applicant has agreed to meet the percentage contribution identified in the SPG, the timing of which would be secured by means of a Section 75 Planning Obligation.
- 7b.20 The proposed development accords with the SPG.

### ***Planning Advice Note (PAN) 68 “Design Statements”***

- 7b.21 The proposed development is supported by a design statement. Sections 7b.7 - 7b.8 of this report provides details of the design statement. The design statement submitted has been prepared in accordance with the guidance of PAN 68.

### ***Circular 3/2009 “Notification of Planning Applications”***

- 7b.22 It is noted that the application site is partially owned by Falkirk Council. Falkirk Council own land at which it is proposed to construct the new roundabout at Glasgow Road. However, it is noted that:-
- The proposed development accords with the Development Plan.
  - There has not been an objection from a government agency.

- 7b.23 In the case that the Planning Committee was minded to grant planning permission, it would not be required to consequently notify the planning application to Scottish Ministers.

### ***Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”***

- 7b.24 It is noted that developer contributions and obligations are considered appropriate in respect of the proposed development. Contributions are appropriate in respect of the delivery of DEAR, the impact on education services and to secure the formation of a footpath at Nethermains Road to provide pedestrian access to public transport. An Obligation is considered appropriate in respect of provision and delivery of affordable housing.

- 7b.25 It is considered that the contributors and Obligations which have been requested, and agreed with the applicant, meet the policy tests specified in the circular. The contributions and obligations are considered necessary for a planning purpose. They relate directly to the proposed development, they are considered appropriate in scale and kind and they are reasonable. In respect of the contribution to DEAR, the cumulative impact of a combination of identified development sites, as identified in the SPG “Delivery of the Denny Eastern Access Road (DEAR)” has been assessed and the contribution calculated in respect of the proposed development is the percentage of the overall cost of DEAR which relates directly to the impact of the proposed development.
- 7b.26 The approach of Falkirk Council, as planning authority, to planning contributions and obligations is set out in the Development Plan and supported by supplementary guidance.
- 7b.27 The consideration of the proposed development accords with Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.

### ***Designing Streets Policy***

- 7b.28 It is noted that the proposed development includes road geometry measures which would encourage the reduction of traffic speeds and create a more interesting living environment.
- 7b.29 The proposed development accords with the principles of the Designing Streets policy.

### ***Consultation Responses***

- 7b.30 The comments of the Roads Development Unit (RDU) detailed in section 4.12 of this report are noted. It is considered that the issues raised can be addressed by condition. Furthermore, it is noted that a drainage maintenance schedule remains to be approved. It is noted that it has been proposed that an agreement under the terms of Section 7 of the Sewerage Scotland Act 1968 be reached between the Council, as roads authority, and Scottish Water to maintain drainage arrangements as a joint partnership. It is considered that the approval of a drainage maintenance schedule can be addressed by condition.
- 7b.31 Scottish Water has agreed in principle to enter into an agreement under the terms of section 7 of the Sewerage Scotland Act 1968, whereby the roads authority and Scottish Water would, as a joint partnership, be responsible for the maintenance of the proposed drainage system. It is considered that the approval of a drainage maintenance schedule can be addressed by condition.
- 7b.32 The Environmental Protection Unit (EPU) has advised that contamination can be addressed by condition.
- 7b.33 Housing Management is satisfied that the proposed mix of affordable housing units to be provided on site is appropriate. It is agreed that the delivery of the affordable housing can be secured by means of a Section 75 Planning Obligation which should ensure that delivery is concluded prior to the housing development site proceeding beyond phase 1.
- 7b.34 The consultation response from Education Services detailed in Section 4.13 of this report is noted. The developer contribution advised, and the phasing as proposed by Education Services, can be secured by means of a Section 75 Planning Obligation.



- 7b.35 The Transport Planning Unit has advised the level of developer contribution towards the delivery of DEAR. Furthermore, the advised provision of a footpath on the north side of Nethermains Road is noted. The contribution to DEAR and the provision of the footpath at Nethermains Road can be secured by means of a Section 75 Planning Obligation.
- 7b.36 The implementation of the scheme of archaeological work agreed by the Council's Keeper of Archaeology and Local History can be secured by condition.
- 7b.37 The Scottish Environment Protection Agency has advised that steps should be taken to ensure that the proposed box culvert at the point where DEAR meets the Little Denny Burn is designed to a 1 in 200 year flooding event standard.
- 7b.38 Scottish Natural Heritage, Historic Scotland, Stirling Council and The Coal Authority have raised no objections. Scottish Power and Police Scotland have made no comment.

### ***Letters of Objection***

- 7b.39 The issues of dust and noise from the construction of the site can be controlled by other legislation. There is no evidence to support any necessity for further control by planning conditions.
- 7b.40 The issue of view is not a material planning consideration. It is not considered that the impact of the proposed development in terms of visual amenity would be significantly detrimental to the urban fringe setting of the application site.
- 7b.41 It is noted that Education Services has advised that the impact on education services can be mitigated by developer contribution.
- 7b.42 There is no evidence to support the views that medical care services in Denny would not be able to provide for the proposed development.
- 7b.43 It is not considered that there would be an impact on any property bordering the application site in terms of overshadowing. The closest distance of any proposed dwellinghouse to dwellings at Demoreham Avenue to the north is in excess of 30 metres.
- 7b.44 It is noted that the Roads Development Unit has not objected to the proposed development. It is considered that the development of DEAR would mitigate traffic congestion concerns in Denny in the long term.

### **7c Conclusion**

- 7c.1 The proposed development accords with the Development Plan and the Falkirk Local Development Plan Proposed Plan April 2013.
- 7c.2 The number and proposed mix of affordable housing units to be provided on site is considered appropriate. The delivery of the affordable housing can be secured by means of a Section 75 Planning Obligation.

- 7c.3 The proposed development would have an impact on the provision of education services at Denny Primary School, Denny High School and nursery school provision. The applicant has agreed to make a developer contribution towards the provision of education services to mitigate against the impact of the proposed development. The developer contribution can be secured by means of a Section 75 Planning Obligation.
- 7c.4 The applicant has agreed to make a developer contribution towards the formation of a footpath at the north side of Nethermains Road to provide access to public transport. The contribution can be secured by means of a Section 75 Planning Obligation.
- 7c.5 In order to provide a satisfactory level of pedestrian access to and from the site, it will be necessary to widen parts of the existing footpath at Glasgow Road to 2 metres. The applicant has agreed to carry out this work. The identification of the necessary areas of the footpath, and the implementation of the work, can be secured by means of a condition.
- 7c.6 The applicant has agreed to make a developer contribution towards the delivery of the Denny Eastern Access Road in accordance with the Supplementary Planning Guidance Note "Delivery of the Denny Eastern Access Road (DEAR)". The contribution can be secured by means of a Section 75 Planning Obligation. Part of this contribution is likely to be "in kind" construction.
- 7c.7 The developer contributions and obligations which have been agreed with the applicant are considered to meet the terms of Circular 3/2012 "Planning Obligations and Good Neighbour Agreements".
- 7c.8 The design of the proposed development in terms of layout, open space and landscaping would safeguard the urban fringe setting in terms of visual amenity.
- 7c.9 Scottish Water has agreed to enter into an Agreement with the Council, as roads authority, under the terms of Section 7 of the Sewerage Act 1968 to secure maintenance of the proposed drainage system. The approval of drainage maintenance details can be secured by condition.
- 7c.10 There would be no significant impact on the amenity of any adjacent properties in terms of visual amenity, overlooking or privacy.

## **8. RECOMMENDATION**

- 8.1 **It is recommended that the Committee indicate that it is minded to grant planning permission subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure the following, with sums indexed linked from the date of any minded to grant decision by the Committee:-**
- **A developer contribution towards education provision at Denny Primary School, Denny High School and nursery school provision. The developer contribution should consist of:-**

Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings
<b>Total</b>		<b>£1,550,350</b>

The nursery provision contribution should be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time.

- A pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. The payment shall be paid in full no later than:-
  - The completion of the 251<sup>st</sup> dwellinghouse, including the 46 affordable housing units; or
  - The completion of the 210<sup>th</sup> mainstream dwellinghouse, excluding the 46 affordable housing units;

whichever occurs first.

- Development of 46 affordable housing units, the type, tenure, mix and means of delivery to be agreed in writing with the Planning Authority. Development of the housing development shall not progress beyond phase 1, as detailed on the drawing bearing the Planning Authority’s reference 120A, until written agreement is secured.
- A developer contribution towards the development of an adoptable standard footway at the north side of Nethermain Road, Denny to provide adequate pedestrian access to public transport links. The contribution required is £20,000 and is to be paid prior to the commencement of development.

In the event that an agreement has not been concluded with the applicant in respect of any or all of the above within a period of 6 months from the date of the Committee's agreement to be minded to grant planning permission, the application shall be referred back to the Planning Committee for further consideration.

8.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission subject to the following conditions and informatives:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the development will minimise its energy use and, consequently, its carbon footprint through design, materials and any other integral features.
- (3) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the Falkirk Council Outdoor Access Network would be maintained free of obstruction during the development or, alternatively, what temporary arrangements would be put in place to mitigate any temporary closure. If temporary closure of any outdoor access footpath is proposed, the details to be submitted shall demonstrate how this would be achieved. For the avoidance of doubt, the outdoor access footpaths and access ways to be considered are numbered 012/327, 012/296, 012/340 and 012/343 as identified in the Falkirk Council Core Paths Plan May 2010.
- (4) There shall be no development which would have any physical impact on the Little Denny Burn until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the proposed box culvert to be formed at the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.
- (5) Development shall not commence on site until such time as the scheme of archaeological work detailed in the Archaeological Written Scheme of Investigation has been carried out with the written approval of the Planning Authority.
- (6) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of drainage maintenance have been submitted to, and approved in writing by, the Planning Authority.
- (7) (i) No development shall commence on site unless otherwise agreed with the Planning Authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.

- (ii) Where contamination (as defined by Part 11A of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
- (iii) Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
- (iv) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (8) Notwithstanding any details previously submitted, there shall be no development on site other than works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded.
- (9) Notwithstanding any details previously submitted, development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the development of, and diversion of, culverts on site shall not constitute a flood risk either on or off site.
- (10) Notwithstanding any details previously submitted, there shall be no development on site, other than works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with condition 8.
- (11) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the implementation and future maintenance of the landscaping scheme have been submitted to, and approved in writing by, the Planning Authority.

- (12) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of external finishes in respect of the proposed residential development have been submitted to, and approved in writing by, the Planning Authority.
- (13) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of boundary treatments along the length of the proposed Denny Eastern Access Road have been submitted to, and approved in writing by, the Planning Authority.
- (14) There shall be no development of dwellinghouses, other than within phase 1 of the residential development as shown on the drawing bearing the Planning Authority's reference 120A, until such time as the temporary vehicular access to phase 1 of the residential development has been closed off with the written approval of the Planning Authority, in accordance with the drawing bearing the Planning Authority's reference 03B.
- (15) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the first junction within the proposed residential development have been submitted to, and approved in writing by, the Planning Authority, demonstrating that service vehicles shall be able to negotiate the junction.
- (16) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of final surfacing of roads and hard landscaped areas within the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (17) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation and surfacing of the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121, have been submitted to, and approved in writing by, the planning authority.
- (18) No dwellinghouse shall be occupied until such time as the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121 and referred to in condition 17, has been finished with the written approval of the planning authority.
- (19) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the footpath to be constructed from the proposed new roundabout at Glasgow Road running between plots 25 and 26 to the internal roadway at the proposed residential development have been submitted to, and approved in writing by, the planning authority.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure that the proposed development is energy efficient.
- (3) In order that satisfactory pedestrian access to the transport network and the Core Path Network is maintained.
- (4) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (5) To safeguard archaeological remains.
- (6) To ensure adequate drainage is safeguarded.
- (7) To ensure the ground is suitable for the proposed development.
- (8) In order that the Planning Authority can control phasing of the development beyond phase 1.
- (9) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (10) To ensure a satisfactory standard of play equipment is installed.
- (11) To ensure that a satisfactory standard of landscape quality is maintained.
- (12-13) In the interests of visual amenity.
- (14-16) In the interests of safety of highway users.
- (17-19) To ensure the formation of pedestrian links to, form the proposed residential development.

**Informative(s):-**

- 1) For the avoidance of doubt, the plans to which this decision refers bears the approved drawing numbers indicated on the Council's web site

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Director of Development Services

Date: 19 February 2014

## LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan Proposed Plan April 2013.
4. Notice of Intention to Develop 05/0904/LA.
5. Supplementary Planning Guidance Note (SP) ) “Housing and Layout Design”.
6. SPG “Design Statements”.
7. SPG “Education and New Housing Development”.
8. SPG “Trees and Development”.
9. SPG “Affordable Housing”.
10. SPG “Flooding and Sustainable Urban Drainage”.
11. SPG “Public Open Space, Falkirk Greenspace and New Development”.
12. SPG “Delivery of Denny Eastern Access Road (DEAR)”.
13. Planning Advice Note (PAN) 68 “Design Statements”.
14. Circular 3/2009 “Notification of Planning Applications”.
15. Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.
16. Letter of Objection from Mr Scott Waller, Gibson Street, Denny, FK6 5BG on 9 October 2012
17. Letter of Representation from Mr Colin Duguid, 6 Demoreham Avenue, Denny FK6 5BJ on 9 October 2012

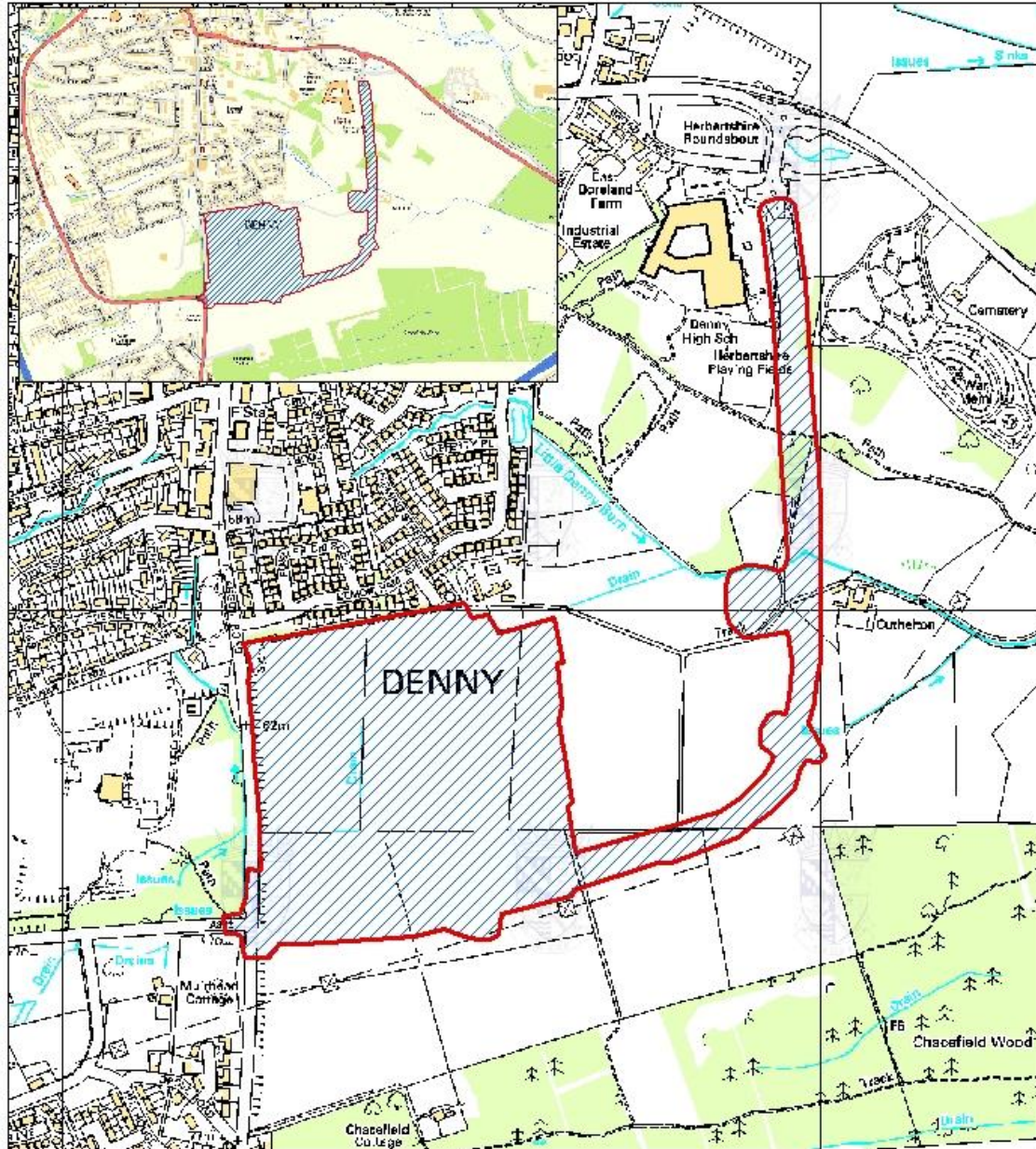
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.



# Planning Committee

## Planning Application Location Plan **P/12/0546/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** SUB DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT 92 BANKHEAD CRESCENT, DENNYLOANHEAD, BONNYBRIDGE FK4 1RX FOR MR BARRY SAVILLE - P/13/0754/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** Julie Seidel (Planning Officer), Ext. 4880

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended), when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant spoke in support of the application, explaining that he wished to develop the large side garden of his property. The proposed dwellinghouse would be for his daughter and the original dwellinghouse would be renovated and upgraded as part of the development proposals.
4. Members of the Planning Committee viewed the application site and application drawings.
5. Members of the Planning Committee, as well as Local Members, were given an opportunity to raise questions regarding the proposal. Clarification was sought in relation to the location of the proposed house, garden area, footpath, window arrangement and its relationship with the original house.

6. Members of the Planning Committee raised the appropriateness of the proposed angled frontage of the dwellinghouse. The applicant advised that he may submit an amended plan showing an amended frontage, this would be in line with the existing frontage, should planning permission be granted. The case officer advised that this could be considered as a non-material variation, subject to a technical assessment of the proposed amendment.
7. Councillor Blackwood, as Local Member, commented that the proposed development would look like an extension to the existing row of terrace properties and as such supported the development. Councillor Oliver as Local Member sought clarification in relation to the arrangements for off-street parking and a dropped kerb, raising concerns in relation to existing parking pressures within the local area. Concern was raised that the proposed development would exacerbate existing parking and road safety concerns as the proposed access arrangements would prevent on-street parking.
8. The case officer confirmed that the proposed development included off-street parking for the proposed house and a new off-street parking area for the existing house to the front of the property was shown on the submitted block plan. As Bankhead Crescent is not a classified road the driveway for the existing house does not require planning permission, however Members were advised that, should they decide to approve the planning application, a condition requiring development of the driveway within a reasonable timescale could be applied.
9. The Planning Committee queried planning guidance in relation to minimum percentages or plot ratios for new dwellinghouses. The case officer referred to the Supplementary Planning Guidance Note (SPG) on 'Housing Layout and Design' which recommends that proposed rear gardens for new houses (including the donor property) are a minimum of 9 metres long. Officers also advised that proposed garden areas (curtilages) for new houses are assessed in relation to the settlement pattern of the surrounding residential area.
10. It should be noted that the SPG on 'House Extensions and Alterations' talks about usable garden ground. It advises as a general rule, that development should not exceed 25% of the original enclosed garden and should not encroach beyond 5.5 metres of the rear garden boundary. Whilst it is noted that this guidance relates to house extensions, it seeks to ensure that an adequate standard of garden ground is maintained post development and could be considered relevant to this application involving the sub-division of an existing garden. It is considered that the proposed development fails to accord with the guidance contained within Falkirk Council's Supplementary Planning Guidance.
11. No matters were raised which would amend the original recommendation to refuse planning permission.

**12. RECOMMENDATION**

**12.1 It is therefore recommended that Committee refuse planning permission for the following reasons:**

- (1) The application proposes the erection of a dwellinghouse in a location where a legitimate opportunity fails to exist and would not be integrated successfully into the surrounding urban fabric. The disposition and design of the proposed development fails to accord with the townscape character or settlement pattern of the area and would result in an incongruous development, all to the detriment of the residential amenity of the area, contrary to policies EQ1 'Sustainable Design Principles', SC02 'Windfall Housing Development Within the Urban/Village Limit' and SC08 'Infill Development and Subdivision of Plots' of the Falkirk Council Local Plan and Falkirk Council's Supplementary Planning Guidance.**
  
- (2) The disposition and design of the proposed development would fail to respect the townscape character of the area or achieve a satisfactory level of residential amenity, contrary to policies HSG03 'Windfall Housing', HSG05 'Infill Development and Subdivision of Plots' and DO2 'Sustainable Design Principles' of the Proposed Falkirk Local Development Plan.**

**Informative(s):**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02, 03A and 04A.**

**Pp**

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**Director of Development Services**

**Date: 14 March 2014**

**LIST OF BACKGROUND PAPERS**

- 1. Falkirk Council Local Plan
- 2. Falkirk Local Development Plan (Proposed Plan)
- 3. Supplementary Planning Guidance Note on Housing Layout and Design

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** SUB DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT 92 BANKHEAD CRESCENT, DENNYLOANHEAD, BONNYBRIDGE FK4 1RX FOR MR BARRY SAVILLE - P/13/0754/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** Julie Seidel (Planning Officer), Ext. 4880

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

1.1 This application relates to the erection of a two storey, end terrace, dwellinghouse in the side garden of 92 Bankhead Crescent, Dennyloanhead. The application site is located within an established residential area and vehicular access would be taken from the front of the site on to Bankhead Crescent.

**2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application was called in by Councillor Jim Blackwood.

**3. SITE HISTORY**

3.1 None of relevance to the application.

**4. CONSULTATIONS**

4.1 The Roads Development Unit do not object to the proposed development and advise of conditions to be attached to any granting of planning permission.

4.2 Scottish Water have no objection.

4.3 The Environmental Protection Unit have no objection.

## 5. COMMUNITY COUNCIL

5.1 The Denny and District Community Council did not make comment.

## 6. PUBLIC REPRESENTATION

6.1 During consideration of the application, no letters of objection or representation were received.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 There are no relevant policies within the Falkirk Council Structure Plan

#### *Falkirk Council Local Plan*

7a.2 Policy EQ1 'Sustainable Design Principles' states:

*"New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:*

- (1) Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- (6) Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure."*

7a.3 It is considered that the proposed development fails to achieve a high standard of design quality as the siting and design of the proposed development would fail to respond positively and sympathetically to the site's surrounding. The applicant has not demonstrated that the proposed development would accord with principles of sustainable development. The application fails to accord with policy EQ1 'Sustainable Design Principles'

7a.4 Policy SC2 - 'Windfall Housing Development Within The Urban / Village Limit' states:

*"Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:*

- (1) The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- (3) The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) Existing physical infrastructure, such as roads and drainage, and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) There is no conflict with any other Local Plan policy or proposal."*

7a.5 Policy SC2 'Windfall Housing Development within the Urban/Village Limit' sets out criteria for the successful integration of windfall housing in the urban area. The proposed residential use is compatible with the surrounding established residential area, however it is considered that a satisfactory level of residential amenity would not be achieved. The site enjoys good accessibility by public transport, recreation and community facilities and existing infrastructure is readily available. The application fails to accord with other Local Plan policies, namely policies EQ1 and SC8 and as such fails to accord with the terms of policy SC2.

7a.6 Policy SC8 'Infill Development and Subdivision of Plots' states:

*"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:*

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies."*



7a.7 Policy SC8 'Infill Development and Subdivision of Plots' seeks to prevent insensitive infill, whilst allowing development where a legitimate opportunity exists and can be integrated successfully into the urban fabric. It is considered that the scale and density of the proposed dwellinghouse would generally respect the character of the area, the proposed footprint and ridge height being similar to that of the original house and surrounding properties. It is, however, considered that the disposition and design of the proposal would result in an incongruous addition to the terrace of adjacent houses and the wider established residential area

### ***Character of Area***

7a.8 The application site is located in an established residential area characterised by two storey, terrace and semi-detached dwellinghouses, with linear gardens at right angles to the public road. Relatively large side gardens at corner plots, as seen at the application site, are also characteristic of the area. The architectural character of the area relates to modest, rendered buildings with flat facades.

### ***Settlement Pattern***

7a.9 The proposed development would fail to respect the settlement pattern of the area, being proposed in the side garden of the original house and at a prominent corner where Bankhead Crescent and Elmbank Crescent meet. It is noted that the rear elevation of the proposed house would be almost hard on to the mutual boundary with 1 Elmbank Crescent, except for an (approximately) 1 metre wide footpath. It is also noted that the private garden ground for the proposal would be to the side of the house (the proposal having no rear garden), fronting onto Elmbank Crescent. The proposed private garden would only be approximately 4.3 metres deep (at its widest point) by 6.9 metres, smaller than is generally found in the wider residential area.

7a.10 It is considered that the location of the proposed private garden, in what is a front garden area onto Elmbank Crescent, would be unacceptable. The applicant has not given details of proposed boundary enclosure for the private garden, however, it is assumed that a fence or wall, higher than 1 metre would be required. This would not be in keeping with the open nature of surrounding front gardens.

### ***Design***

7a.11 It is considered that the proposed design would not respect the architectural character of the area, particularly in relation to the proposed angled frontage and projecting gable feature. It is considered that the location of the dwellinghouse, sitting in front of the building line onto Bankhead Crescent and Elmbank Crescent, would result in a dominating and incongruous addition to the street scene.

### ***Residential Amenity***

- 7a.12 It is considered that the proposed development would lead to an unacceptable impact on the residential amenity of the surrounding area for the reasons discussed in this report. Further, the proposed house has been designed to minimise privacy issues in relation to the adjacent property at 1 Elmbank Crescent, a utility room and upper bathroom being the only windows on the rear gable elevation. However, the impact of the two storey gable, in such close proximity to the mutual boundary, would result in a dominating and overbearing development.
- 7a.13 In conclusion, it is considered that although the proposal would not result in the loss of any features such that the character or amenity of the area would be adversely affected, the disposition and design of the proposal would result in an incongruous addition to the established residential area. The proposal fails to accord with other Local Plan policies, namely policies EQ1 and SC2 and fails to accord with policy SC8.
- 7a.14 Accordingly the application fails to accord with the Development Plan.

### **7b Material Considerations**

- 7b.1 The material considerations to be assessed are Falkirk Council's Supplementary Planning Guidance and the Proposed Falkirk Local Development Plan.

### ***Proposed Falkirk Local Development Plan***

- 7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.3 Policies HSG03 'Windfall Housing', HSG05 'Infill Development and Subdivision of Plots' and DO2 'Sustainable Design Principles', reinforce the relevant policies of the Development Plan. Accordingly, the application fails to accord with the Proposed Falkirk Local Development Plan.

### ***Falkirk Council Supplementary Guidance***

- 7b.4 Falkirk Council's Supplementary Planning Guidance Note on 'Housing Layout and Design' advises that infill development is required to achieve a harmonious fit with existing properties, with particular reference to adjacent building line, height, scale, window and door arrangements, proportions and detailed decorations. The note also advises that the amenity and size of resulting private gardens is a concern with a minimum of 9 metre length garden ground required.
- 7b.5 It is considered that the proposed development would not achieve a harmonious fit with existing properties and would fail to achieve the minimum garden length requirements as set out in the guidance note. The application fails to accord with Falkirk Council's Supplementary Planning Guidance.

**7c Conclusion**

7c.1 The application has been assessed as being contrary to the Development Plan, Proposed Falkirk Local Development Plan and Supplementary Planning Guidance. No issues have been raised that would warrant approval of the application, contrary to the terms of the Development Plan and the application is therefore recommended for refusal of planning permission.

**8. RECOMMENDATION**

8.1 It is therefore recommended that Committee refuse planning permission for the following reasons:

- (1) The application proposes the erection of a dwellinghouse in a location where a legitimate opportunity fails to exist and would not be integrated successfully into the surrounding urban fabric. The disposition and design of the proposed development fails to accord with the townscape character or settlement pattern of the area and would result in an incongruous development, all to the detriment of the residential amenity of the area, contrary to policies EQ1 'Sustainable Design Principles', SC02 'Windfall Housing Development Within the Urban/Village Limit' and SC08 'Infill Development and Subdivision of Plots' of the Falkirk Council Local Plan and Falkirk Council's Supplementary Planning Guidance.
- (2) The disposition and design of the proposed development would fail to respect the townscape character of the area or achieve a satisfactory level of residential amenity, contrary to policies HSG03 'Windfall Housing', HSG05 'Infill Development and Subdivision of Plots' and DO2 'Sustainable Design Principles' of the Proposed Falkirk Local Development Plan.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02, 03A and 04A.

**Pp**

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Director of Development Services

Date: 14 February 2014

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan
2. Falkirk Local Development Plan (Proposed Plan)
3. Supplementary Planning Guidance Note on Housing Layout and Design

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/13/0754/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** ERECTION OF REPLACEMENT FARMHOUSE AND  
OUTBUILDING ANNEXE, INCORPORATING GARAGE AND  
ESTATE OFFICE AT LAND TO THE WEST OF NETHERVIEW  
COTTAGE, BONNYBRIDGE FOR BLACK BULL ESTATES LTD  
- P/13/0741/FUL

**Meeting:** PLANNING COMMITTEE  
**Date:** 26 March 2014  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Banknock, Hags and Longcroft

**Case Officer:** Brent Vivian (Senior Planning Officer), Ext. 4935

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered by the Planning Committee on 26 February 2014 (copy of previous report appendix), when it was agreed to continue the application for a site visit. This site visit took place on 10 March 2014.
2. At the site visit, the Development Manager summarised the planning report, the applicant's agent spoke in support of the application and the objectors to the application were heard.
3. The agent confirmed that Tomfyne Farm extends to approximately 526 hectares with the opportunity for expansion. He spoke in support of the need for the proposed development on operational grounds, and due to the existing farmhouse being unsuitable for continued use as a residence due to its proximity to a proposed new quarry. He advised that the existing farmhouse is now owned by Aggregate Industries and will be used as offices in association with the new quarry.
4. The objectors to the application reiterated the concerns raised in their representations which included a lack of need for the proposed farmhouse, the alienation of the existing farmhouse from the holding, visual impact, drainage impacts and design concerns.

5. Members of the Planning Committee and Local Members were heard and had a number of queries in relation to drainage, flooding, visual impact and the scale and design of the proposed development. The size of the proposed replacement farmhouse compared to the size of the existing farmhouse was queried. Concern was raised by a Member that the proposed new operational hub did not appear to resemble a traditional steading arrangement as no facilities were shown for the housing of livestock.
6. The agent advised that a Klargester Bio Disc Treatment Plant is proposed to deal with the foul water. It was noted that a planning condition is recommended in the report to finalise the strategy to deal with surface water drainage.
7. The agent advised that visibility of the proposed buildings from the A803 would be limited as the road enters a dip in the landscape along the site frontage. He also advised that the visual impact would be mitigated by proposed planting and the lie of the land which rises to the north.
8. The applicant advised that the livestock are currently housed on neighbouring land and there are plans for additional agricultural buildings either at the site of the proposed new operational hub or other locations on the holding.
9. The case officer advised that the design of the proposed development is considered to be acceptable, taking an overall view of the proposal against the Council's Design Guide for Buildings in Rural Areas which promotes development sympathetic to traditional Scottish architecture, whilst recognising the scope for more contemporary and innovative approaches. It is important to consider the individual merits of the case, and the bespoke nature and high quality of the proposed development are recognised.
10. It is considered that no new issues were raised at the site visit that would alter the previous recommendation to grant planning permission. The previous recommendation is therefore reiterated as follows.

## **11. RECOMMENDATION**

### **11.1 It is therefore recommended that the Committee grant planning permission subject to the following conditions: -**

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2) Before the development commences, the exact details of the colour and specification of the proposed external finishes shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**



- (3) Before the development commences, the exact details of the height, location and construction of all proposed fences, walls and other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order), no fence, wall, gate, or other means of enclosure exceeding one metre in height shall be erected without the prior express consent of this Planning Authority.
- (5) For the avoidance of doubt, the defined curtilage of the proposed dwellinghouse shall be as defined on approved plan 04A (Drawing Number RMDL/254/001 Revision E).
- (6) Before the development commences, a scheme of soft landscaping works (including the proposed plant bund) shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include (as appropriate):-
  - i. Existing and finished ground levels/profiles in relation to a fixed datum, preferably ordnance;
  - ii. An indication of existing landscape and planting features to be removed, those features to be retained and, in the case of damage, proposals for their restoration;
  - iii. The location of new trees, shrubs, hedges and grassed areas;
  - iv. A schedule of plants to comprise species, plant sizes and proposed numbers/density; and
  - v. A programme of completion and subsequent maintenance.

No existing vegetation shall be removed prior to approval of the scheme of soft landscaping works, and, following approval of the scheme, the development shall be carried out in accordance with the approved details.

- (7) Before the development commences, a contaminated land assessment shall be submitted to and approved in writing by this Planning Authority. Before the development is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
- (8) Before the development commences, a proposed strategy to deal with surface water run-off shall be submitted to and approved in writing by this Planning Authority. Thereafter, the approved strategy shall be fully implemented prior to the development being brought into use.

- (9) The dwellinghouse hereby approved shall be used and occupied in all-time coming for no other purpose than exclusively for a person employed, or last employed, in the farm business associated with the proposed development, or widow or widower of such persons, and any resident dependants of such a person.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2-4,6) To safeguard the visual amenity of the area.
- (5) In order to confirm the defined curtilage for the proposed dwellinghouse.
- (7) To ensure the ground is suitable for the proposed development.
- (8) To ensure that adequate drainage is provided.
- (9) The proposed development is at a countryside location and is considered to be inappropriate unless tied to the agricultural use of the land.

**Informative(s):-**

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04A, 05, 06, 08 and 09.
- (3) Scottish Water have advised that any planning approval granted by the local authority does not guarantee a connection to their infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.

- (4) The Coal Authority have advised that the proposed development lies with a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

Pp

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Director of Development Services

Date: 14 March 2014

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Falkirk Council Design Guidelines for Buildings in Rural Areas.
5. Letter of objection received from Mr Claud Wilson, Cedarhill, Auchencloch, Banknock, Bonnybridge FK4 1UA on 19 November 2013.
6. Letter of objection received from Mr Ross Main, Orchard Grove, Bonnybridge, FK4 1UA on 17 December 2013.
7. Letter of objection received from Ms Fiona Main, Orchard Grove, Bonnybridge, FK4 1UA on 18 December 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

**FALKIRK COUNCIL**

**Subject:** ERECTION OF REPLACEMENT FARMHOUSE AND  
OUTBUILDING ANNEXE, INCORPORATING GARAGE AND  
ESTATE OFFICE AT LAND TO THE WEST OF NETHERVIEW  
COTTAGE, BONNYBRIDGE FOR BLACK BULL ESTATES LTD  
- P/13/0741/FUL

**Meeting:** PLANNING COMMITTEE  
**Date:** 26 February 2014  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Banknock, Haggs and Longcroft

**Case Officer:** Brent Vivian (Senior Planning Officer), Ext. 4935

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The application site consists of land within an agricultural holding to the north of Kilsyth Road (A803). The site sits within an open landscape, which rises to the north. The holding is an upland livestock unit consisting of breeding ewes and a cow beef herd, which also produces silage and includes commercial forestry.
- 1.2 The application seeks planning permission for the erection of a replacement farmhouse and outbuilding annexe, incorporating garaging and an estate office. The farmhouse would replace the existing farmhouse (Tomfyne) which is to be utilised as part of a new quarry operation, and it would become the new administrative and operational hub for the holding. A solicitor's letter accompanies the application confirming that Aggregate Industries UK Limited is now the heritable proprietor of the farmhouse and steading at Tomfyne Farm.
- 1.3 The proposed new administrative and operational hub consists of a main two storey building core, flanked by lower, one and a half storey 'wings' (including an outbuilding annexe). The buildings would be finished in traditional materials (natural stonework, wet dash render and natural slate). The actual site of the proposed buildings is a flat area and presently unused. Proposals for new tree planting and a planted bund along the quarry access road are also included within the application site.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as granting it would be contrary to the Development Plan.

## **3. SITE HISTORY**

- 3.1 Planning applications P/12/0026/FUL and P/13/0013/FUL to Falkirk Council for the erection of a replacement farmhouse and outbuilding annexe were withdrawn in July 2012 and April 2013 respectively. These applications were considered to be premature pending the outcome of the planning applications described in paragraphs 3.2 and 3.3 below, for a new quarry and restoration of an existing quarry. The new quarry operation is proposed to utilise the existing Tomfyne farmhouse.
- 3.2 Planning application P/12/00729/FUL to North Lanarkshire Council for the extraction of 35,000 tonnes per annum of hard rock over a 21 year period and associated landscape, earthworks and access road upgrade was granted permission on 1 October 2013 subject to the satisfactory conclusion of a Section 75 planning obligation. This obligation has not yet been concluded.
- 3.3 Planning application P/12/0380/FUL to Falkirk Council for landscape restoration of quarry void (Cowdenhill Quarry) and earthworks restoration and upgrading of southern section of road leading to the A803 was granted permission on 30 October 2013 subject to the satisfactory conclusion of a Section 75 planning obligation. This obligation has not yet been concluded.
- 3.4 Planning application P/13/0109/FUL to Falkirk Council for the erection of two agricultural workers dwellinghouses was pending consideration at the time of writing of this report.
- 3.5 Planning application P/13/0110/FUL to Falkirk Council for the erection of an agricultural shed was granted on 26 April 2013. A vehicular access to serve the new shed has recently been formed.

## **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have no objection in principle to the application and request the submission of a proposed strategy for dealing with surface water run-off, as the watercourse downstream of the site is flood sensitive.

- 4.2 The Environmental Protection Unit are satisfied that the proposed planted bund and surfacing of the southern section of the access road would protect the proposed dwellinghouse from noise and dust nuisance. In addition, they note that vibration from blasting from the new quarry would be covered by conditions of grant of planning application P/12/00729/FUL (see paragraph 3.2 above). However, the new residential property may still experience vibration, but this would be within the accepted criteria. In addition, they have requested the submission of a contaminated land assessment due to the presence of agricultural activities, mining, quarrying and other potential sources of contaminated land within 250 metres of the application site. In addition, they have advised that the proximity of the proposed quarry to the existing farmhouse (Tomfyne) would render the farmhouse unsuitable as a residential property.
- 4.3 Scottish Water have no objection to the application and advise that the Carron Valley Water Treatment Works and the Bonnybridge Waste Water Treatment Works currently have capacity to service the proposed development.
- 4.4 The Coal Authority have advised that the specific part of the application site where new development is proposed falls outwith the defined Development High Risk Area therefore they do not consider that a Coal Mining Risk Assessment is necessary. Accordingly they do not object to the application.
- 4.5 The Council's Agricultural Consultants have reviewed the supporting information for the business and agricultural justification for the proposed development and accept the submitted operational need and labour requirement in the interests of good practice and animal welfare. They therefore have no objection to the proposed development.
- 4.6 North Lanarkshire Council have no objection to the proposed development.

## **5. COMMUNITY COUNCIL**

- 5.1 The Banknock, Hags and Longcroft Community Council have not made any representations.

## **6. PUBLIC REPRESENTATION**

- 6.1 Three objections to the application have been received. The concerns raised in these objections can be summarised as follows: -
- There are errors in the application form;
  - There is no obvious necessity for the administrative offices and an owner's private residence to be located in the proposed location. Administration could equally be undertaken in the nearby urban areas; indeed Banton would provide a hub location more central to the majority of the holding;
  - The existing farmhouse at Tomfyne has been alienated from the holding by binding it to an application for quarrying applications;
  - No valid reasons have been given for excluding Doups farmhouse from consideration as a possible alternative;

- The proposed complex of buildings will be highly visible;
- The application appears to disregard the Council's 'Design Guide for Buildings in the Rural Areas'. In particular, the proposed structure shows no attempt to integrate with the surroundings, it is set in a prominent position where concealment is impossible, the external composition follows neither a symmetrical or an asymmetrical design approach, the frontage gable protrudes to a far greater extent than reasonable, the frontage gable is composed almost entirely of glass and the single chimney is not positioned at a gable or positioned symmetrically;
- The proposed dwelling is not comparable in scale to the existing Tomfyne farmhouse. It is considerably larger by a factor of 2 to 3 times;
- Drainage from the septic tank of the new properties will be by discharge to watercourses. This suggests drainage into Auchincloch Burn;
- There are also plans for two houses for farm workers and additional land purchase to expand the enterprise further, which will represent an undesirable surge of major building works and countryside residences;
- The field was pasture and Green Belt; and
- The application is contrary to Structure and Local Plan policy.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 The proposed development does not raise any strategic issues and therefore the application has been assessed solely against the Falkirk Council Local Plan.

#### *Falkirk Council Local Plan*

7a.2 The application site lies outwith the urban limits, within the countryside, as defined within the Falkirk Council Local Plan.

7a.3 Policy SC3 - 'Housing Development In The Countryside' states:

*"Housing development in the countryside will only be permitted in the following circumstances:*

- (1) *Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
- *The operational need for the additional house in association with the business*
  - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
  - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
  - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) *Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
- *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
  - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
  - *The restored or converted building is of comparable scale and character to the original building*
  - *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8.”*



7a.4 This policy provides for housing in the countryside in certain circumstances. In this instance, part 1 of the policy is considered to be relevant, and requires certain criteria to be satisfied in order to demonstrate an essential need for a countryside location. With regard to criterion 1 of part 1 of the policy, the essential operational need for the proposed dwellinghouse can be justified if it is considered in the context of the overall labour requirement for the holding (6.56 labour units). However, it is recognised that the proposal is for a replacement farmhouse and outbuilding annexe, to form a new administrative and operational hub for the holding. The existing 'hub' is at Tomfyne farmhouse and steading, which has been sold for use as part of a new quarry operation. The existing dwellinghouse, to meet the administrative and operational need, has therefore been alienated from the holding, which is contrary to criterion 2 of part 1 of the policy. With regard to criterion 3 of part 1 of the policy, the applicant has submitted information which indicates that the majority of the former dwellinghouses are small in size and ruinous, whilst Doups Cottage is currently occupied and located remotely in the upper part of the holding and accessed from the east via Denny (7 mile round trip from Doups to Tomfyne). In light of these submissions, it is accepted that there are no existing dwellinghouses on the holding that could reasonably meet the need (for a new administrative and operational hub), or any reasonable opportunities to reuse or convert redundant buildings to meet the need. With regard to criterion 4 of part 1 of the policy, no financial information has been submitted in support of the application. However, it is noted that the business is existing, the holding is large (some 157 hectares), the operation includes around 2000 breeding ewes and a suckler cow beef herd of 75 cows, and there is a significant labour requirement (6.56 units).

7a.5 Given that the existing farmhouse has been alienated from the holding, the application is considered to be contrary to this policy.

7a.6 Policy EQ19 - 'Countryside' states:

*“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

*(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*

- the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7a.7 Policy EQ19 states that the scale, siting and design of development will be strictly controlled to ensure there is no adverse impact on the character of the countryside. The site of the proposed development is open in aspect, but the buildings would be set against the backdrop of a rising hill slope (beneath the skyline and concealed from certain views) and tree planting and sensitive curtilage treatments are proposed which, over time, would assist to integrate the development into its surroundings. In terms of scale and design, the applicant has stated that the development is based on the concept of an estate farmhouse, with a main two-storey building core and lower, subservient one and a half storey 'wings'. In that regard, it is evident that the proposal draws on traditional vernacular building styles. In addition, the proposed development is considered, overall, to comply with the Council's Design Guidance for Buildings in Rural Areas (see paragraphs 7b.4 to 7b.6 of this report). The application is therefore considered to accord with this policy.

7a.8 Policy EQ24 - 'Ecological Sites and Features' states:

- “(1) Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*
- (2) Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) Development likely to have an adverse effect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*
- (5) Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site's natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future management.*

- (6) *The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.*”

- 7a.9 This policy presumes against development likely to have an adverse effect on protected species. The locality hosts a significant population of great crested newts, but it is considered that a species licence is unlikely to be required, based on the species protection plan produced for the Cowdenhill quarry application (ref. P/12/0380/FUL). No adverse effects on great crested newts are therefore anticipated, and the application is considered to accord with this policy.
- 7a.10 The application is considered to be contrary to the Development Plan, for the reason that the existing farmhouse, which could have served the need for an administrative and operational hub for the holding, has been alienated from the holding.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed in respect of this application are the Falkirk Local Development Plan (Proposed Plan), the Council's Design Guide for Buildings in Rural Areas, the consultation responses and the representations received.

### ***Falkirk Local Development Plan (Proposed Plan)***

- 7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.3 The application site lies outwith the urban limits, within the countryside, as defined in the Proposed Plan. The Proposed Plan contains similar policies to those of the Falkirk Council Local Plan of relevance to the proposed development, whilst the specific policy criterion for housing in the countryside will be set out in supplementary guidance. It is considered that the Proposed Plan does not introduce any new matters in consideration of this application and is contrary to emerging policy in respect of housing development in the countryside (Policy CG03).

### ***Falkirk Council's Design Guide for Buildings in Rural Areas***

- 7b.4 The aim of the design guide is to reconcile the functional requirements of contemporary buildings with the principles of good layout, design and setting in the countryside. It promotes buildings of quality which respect their landscape setting, design which takes cognisance of traditional Scottish rural architecture, and buildings of character and style which are aesthetically pleasing and hold a 'sense of place'. In addition, it encourages innovative design solutions which draw on sound architectural principles. The guide recognises that technological and other advances can be incorporated with traditional design principles to give an appropriate contemporary design style. It highlights, for example, that large expanses of glazing are not incompatible with traditional principles of design where appropriately integrated.

- 7b.5 The proposed development is considered to achieve the overall aims of the guide, as it is considered to be of high quality, cognisance has been taken of traditional Scottish rural architecture in terms of such matters as layout, form, roof pitch, elevational treatment and external finishes, and the bespoke nature of the development would create a 'sense of place'. In addition, the proposed areas of larger glazing and the one and a half storey wing set at an angle to the main building core, reflect a more contemporary or innovative approach whilst integrating well with traditional design. In terms of the setting, the proposed development utilises an existing flat vacant area, which minimises disruption to the landform (through significant changes in level), and would be framed and partly concealed by landform, whilst planting is proposed which would assist to integrate the buildings into the setting.
- 7b.6 At the same time, it is recognised that the proposed development does not meet every single aspect of the guidance. For example, the main two storey building core does not strictly follow a symmetrical or balanced asymmetrical design approach (although the two storey element can be seen to be counter-balanced by the one and a half storey wings). However, it is important to take an overall view of the application against the guide and consider the individual merits of the case. Overall the proposed development is considered to comply with the Council's Design Guide for Buildings in Rural Areas.

### ***Consultation Responses***

- 7b.7 The consultation responses are summarised in section 4 of this report. No objections to the application were received in the consultation responses and the matters raised in the responses could be the subject of conditions or informatives of any grant of planning permission.

### ***Representations Received***

- 7b.8 The concerns raised in the public objections to the application are summarised in section 6 of this report. In response to those concerns, the following comments are considered to be relevant:-
- An amended application form has been submitted to address the previous errors/ omissions;
  - Justification for the proposed replacement dwellinghouse in terms of operational need, and alienation of the existing farmhouse from the holding, are considered in paragraph 7a.4 of this report;
  - The use of Doups cottage as an alternative is also considered in paragraph 7a.4. It is accepted that use of this farmhouse as the new administrative and operational hub is constrained by a number of factors, including its location and access;
  - The visual impact has been considered in paragraph 7a.4 of this report and the proposed development is considered to be acceptable in the setting and subject to suitable mitigation;
  - The Council's Design Guide for Buildings in Rural Areas is discussed in paragraphs 7b.4 to 7b.6 of this report;

- It is recognised that the proposed replacement farmhouse is larger than the existing farmhouse, but this is considered to be acceptable within the terms of Policy EQ19 of the Falkirk Council Local Plan (see paragraph 7a.7). The applicant has submitted that the residential floor area of the original farmhouse and adjacent steading measured approximately 420m<sup>2</sup> and the residential floor area of the proposed farmhouse measures 651m<sup>2</sup>, whilst the replacement farmhouse and associated outbuildings have totaling a surface ground area of approximately 1103m<sup>2</sup> (62% of the original farm);
- The foul water drainage would be considered as part of building warrant processes and would need to accord with the advice of SEPA for private waste water discharges;
- A planning application for two agricultural workers cottages at the holding is being considered separately. This application, and any future development requiring planning permission, would be considered on its individual merits;
- The application site lies within the countryside but does not form part of a designated Green Belt; and
- This report assesses the application against the relevant Development Plan policies.

## **7c Conclusion**

- 7c.1 The application does not accord with the Development Plan, as the existing dwellinghouse (Tomfyne farmhouse) that could have served the need for an administrative and operational hub has been sold and therefore alienated from the holding. However, the individual circumstances of the case are recognised, in that the existing farmhouse and steading have been sold for use in a new quarry operation and the proximity of the new quarry to the existing farmhouse would render it unsuitable as a residential property. This is considered to be a relatively unique circumstance and does not necessarily give rise to concerns of further alienation of the holding and subsequent pressure for additional farmhouses, or set an undesirable precedent for alienation of farmhouses from other holdings. In other respects, the terms of the Development Plan are considered to be satisfied and the high quality of the proposal is recognised.
- 7c.2 In conclusion, it is considered that the terms of the Development Plan can be set aside in this instance. In taking all matters into account, the application is recommended for the grant of planning permission subject to appropriate conditions.

## 8. RECOMMENDATION

8.1 It is therefore recommended that the Committee grant planning permission subject to the following conditions: -

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Before the development commences, the exact details of the colour and specification of the proposed external finishes shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (3) Before the development commences, the exact details of the height, location and construction of all proposed fences, walls and other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order), no fence, wall, gate, or other means of enclosure exceeding one metre in height shall be erected without the prior express consent of this Planning Authority.
- (5) For the avoidance of doubt, the defined curtilage of the proposed dwellinghouse shall be as defined on approved plan 04A (Drawing Number RMDL/254/001 Revision E).
- (6) Before the development commences, a scheme of soft landscaping works (including the proposed plant bund) shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include (as appropriate):-
  - i. Existing and finished ground levels/profiles in relation to a fixed datum, preferably ordnance;
  - ii. An indication of existing landscape and planting features to be removed, those features to be retained and, in the case of damage, proposals for their restoration;
  - iii. The location of new trees, shrubs, hedges and grassed areas;
  - iv. A schedule of plants to comprise species, plant sizes and proposed numbers/density; and

- v. A programme of completion and subsequent maintenance.

No existing vegetation shall be removed prior to approval of the scheme of soft landscaping works, and, following approval of the scheme, the development shall be carried out in accordance with the approved details.

- (7) Before the development commences, a contaminated land assessment shall be submitted to and approved in writing by this Planning Authority. Before the development is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
- (8) Before the development commences, a proposed strategy to deal with surface water run-off shall be submitted to and approved in writing by this Planning Authority. Thereafter, the approved strategy shall be fully implemented prior to the development being brought into use.
- (9) The dwellinghouse hereby approved shall be used and occupied in all-time coming for no other purpose than exclusively for a person employed, or last employed, in the farm business associated with the proposed development, or widow or widower of such persons, and any resident dependants of such a person.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2-4,6) To safeguard the visual amenity of the area.
- (5) In order to confirm the defined curtilage for the proposed dwellinghouse.
- (7) To ensure the ground is suitable for the proposed development.
- (8) To ensure that adequate drainage is provided.
- (9) The proposed development is at a countryside location and is considered to be inappropriate unless tied to the agricultural use of the land.

**Informative(s):-**

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04A, 05, 06, 08 and 09.

- (3) Scottish Water have advised that any planning approval granted by the local authority does not guarantee a connection to their infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.
- (4) The Coal Authority have advised that the proposed development lies with a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

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Director of Development Services

Date: 14 February 2014

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Falkirk Council Design Guidelines for Buildings in Rural Areas.
5. Letter of objection received from Mr Claud Wilson, Cedarhill, Auchencloch, Banknock, Bonnybridge FK4 1UA on 19 November 2013.
6. Letter of objection received from Mr Ross Main, Orchard Grove, Bonnybridge, FK4 1UA on 17 December 2013.
7. Letter of objection received from Ms Fiona Main, Orchard Grove, Bonnybridge, FK4 1UA on 18 December 2013.

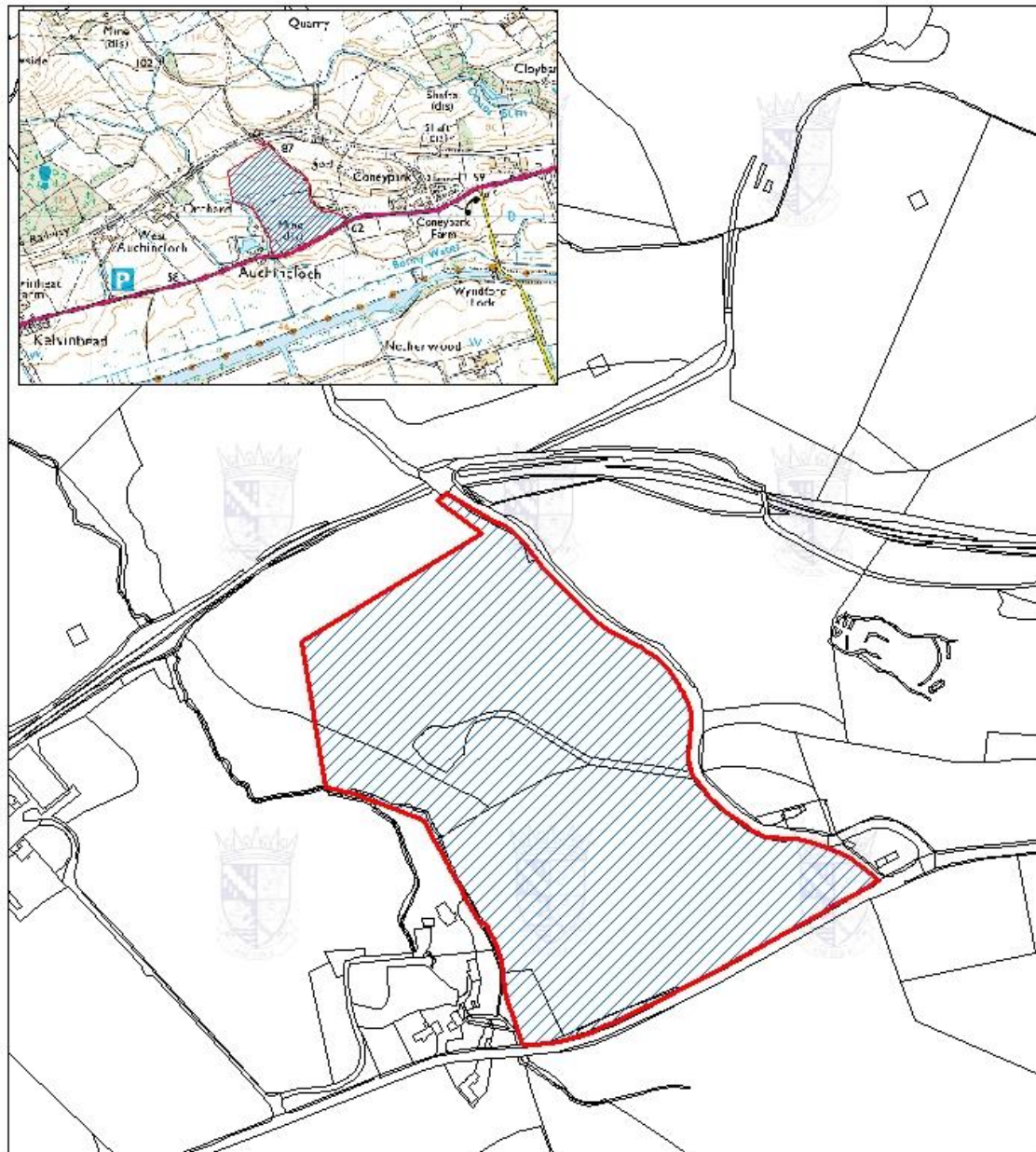
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.



# Planning Committee

## Planning Application Location Plan **P/13/0741/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 1 (SHOP) TO HOT FOOD TAKE-AWAY (SUI-GENERIS) AT 52 HIGH STATION ROAD, FALKIRK FK1 5QX FOR MR & MRS IJAZ SARDAR - P/13/0689/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer) Ext. 4702

**CONTINUED REPORT FOLLOWING PLANNING COMMITTEE**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 29 January 2014 (copy of previous report appended - appendix 2), when it was agreed to continue the application for a site visit. This visit took place on 10 February 2014. The application was then considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous update report appended- appendix 1), when it was agreed to continue the application to allow for the details of the planning history of the neighbouring property (54 High Station Road, Falkirk) to be presented to the Planning Committee.
2. The most recent site history for the neighbouring unit of 54 High Station Road is listed below:-
  - F/2005/0202 - detail – granted - 13 July 2005 - alterations and extension to shop and erection of garage;
  - 06/0714/FUL - detail – granted - 6 September 2006 - change of use from shop to flatted dwellinghouse;
  - P/07/0119/FUL - detail – granted - 6 March 2007 - change of use from shop (Class 1) to cafe (Class 3);
  - P/09/0597/FUL - detail – granted - 21 January 2010 - change of use from cafe to hot-food takeaway;

- P/10/0284/FUL - detail – granted - 18 August 2010 - erection of 1.8 metre high fence to rear (retrospective);
  - P/10/0618/ADV - advertisement consent granted - 1 November 2010 - installation of internally illuminated advertisement.
3. From this history, it will be seen that a planning application (P/09/0597/FUL) was submitted for the neighbouring commercial unit and granted permission on 21 January 2010 for a change of use from a café (Class 3) to hot food takeaway (Sui-Generis). Although not currently trading, the use was implemented and therefore the authorised use, in planning terms, for the neighbouring unit is a hot food takeaway (Sui-Generis).
  4. A copy of the relevant Report of Handling is attached (appendix 3). During the assessment of application P/09/0597/FUL the Roads Development Unit and the Environmental Protection Unit were consulted and raised no objection. In deciding not to raise an objection on road safety grounds, it was considered by the Roads Development Unit that the traffic generated by a café would not be dramatically different to that generated by a hot food takeaway. Therefore, as planning application P/09/0597/FUL was granted and the use implemented, there are now two existing hot food takeaway premises in close proximity to the current application site. By granting permission to the current proposal, this would add a further hot food takeaway that could generate further on-street parking at an already busy area of the road network. It is acknowledged that there are a limited number of on-street parking spaces at this location for the use of businesses and residents. It is considered by the Roads Development Unit that an additional hot food takeaway would exacerbate parking problems at a time of day when residents demand for the on-street parking spaces would be at its peak.
  5. No further matters have arisen with regard to the above mentioned planning history, which would amend the original recommendation to refuse planning permission.

**6. RECOMMENDATION**

**6.1 It is therefore recommended that Committee refuse planning permission for the following reason:-**

- 1. The proposed development does not accord with the terms of Policy EP9 (Food and Drink) of the Falkirk Council Local Plan and Policy TC04 (Food and Drink) of the Falkirk Local Development Plan (Proposed Plan April 2013). It is considered that the hot food takeaway would have an adverse impact on adjacent residential properties and the surrounding area generally, as parking, access and traffic generation requirements have not been satisfied, and the proposed use would therefore not be in the interests of road safety.**

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**Director of Development Services**

**Date: 14 March 2014**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.
2. Falkirk Local Development Plan (Proposed Plan April 2013).
3. Letter of objection received from Miss Louise Bell, 44 High Station Road, Falkirk, FK1 5QX on 7 November 2013.
4. Letter of objection received from Mr Gary Grugen, 6 Cauldhame Street, Falkirk FK2 7GP on 19 November 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 1 (SHOP) TO HOT FOOD TAKE-AWAY (SUI-GENERIS) AT 52 HIGH STATION ROAD, FALKIRK FK1 5QX FOR MR & MRS IJAZ SARDAR - P/13/0689/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer) Ext. 4702

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 29 January 2014 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 10 February 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant's representative spoke in support of the proposal, stating that the current use of the unit had existed for around 50 years. It was also intimated that they were not aware of any issues with the current business in relation to parking, and that the unit in its current use, could offer cold and limited hot foods. A similar example cited was Greggs the bakers operation. It was also noted that the technical issues of air extraction required for such a business could be resolved. Although the Roads Unit could not support such a proposed use, it was acknowledged that the existing retail use can operate without the need for dedicated or off street parking provision.
4. The applicant also spoke in support of the proposal, stating that new local routes such as Lionthorn Road had resulted in a reduction in traffic flow on High Station Road, and as a result had impacted adversely on sales. It was noted that the business had been in operation with the current owners for 13 years, operating from 4:30am to 9.00pm, but the current product / sales were now not sufficient to support the viability of the business. As such, they wished to diversify the business and add hot food sales in addition to the current operation to ensure that their business remains viable.

5. An owner of one of the adjacent flatted dwellings spoke in objection to the proposed hot food takeaway use. It was noted to the Planning Committee that there were already two units adjacent to the application site which were hot food takeaways. It was also highlighted that the parking was extremely limited, and the surrounding road had double yellow line restrictions. Parking was noted as an issue at the site, both for persons trying to use the commercial units and for residents of the flatted dwellings. It was also stated that the external areas were common ground, and therefore the siting of bin storage could be an issue. It was finally noted that there are also noise concerns associated with a hot food takeaway in relation to extraction fans and hours of operation. It was also raised that the installation of an extraction fan on the common wall could raise legal matters of a civil nature.
6. Members of the Planning Committee sought clarification in relation to the opening hours of the proposed food takeaway, and what would be allowed without a late hour's license. It has since been clarified that the business could operate between 05.00hrs and 23.00hrs, without the need for a late hours catering license. However, the area that the business premise is within is classed for such licenses as residential, and as such, the terminal hour of operation would generally be 12:30hrs, if a license were to be granted. Clarification was also sought at the site meeting in relation to the rubbish bins, and the current location for the commercial bins and where they would be located. The applicant confirmed that the current rubbish for the business was stored internally, and then taken directly to the refuse collection plant. The applicant indicated the location of ground at the property that could be used for external rubbish bins if required. Members of the Planning Committee also noted that the parking provision to the front of the site appeared limited, and sought clarification from the Roads Officer present in respect of parking provision and road safety. The Planning Committee also sought clarification on the issue of noise, and noted that information was outstanding in relation to the proposed extraction system, but this could be resolved by the imposition of a planning condition.
7. The site meeting was also attended by Depute Provost John Patrick as a Local Member who wished to highlight that the extraction system could create amenity related issues for neighbouring property owners, that parking was a problem on the street as a whole, both for persons using the businesses and the residents and waste provision from the business proposed was a concern.
8. No matters were raised which would amend the original recommendation to refuse planning permission.

**9. RECOMMENDATION**

**9.1 It is therefore recommended that Committee refuse planning permission for the following reason:-**

- 1. The proposed development does not accord with the terms of Policy EP9 (Food and Drink) of the Falkirk Council Local Plan and Policy TC04 (Food and Drink) of the Falkirk Local Development Plan (Proposed Plan April 2013). It is considered that the hot food takeaway would have an adverse impact on adjacent residential properties and the surrounding area generally, as parking, access and traffic generation requirements have not been satisfied, and the proposed use would therefore not be in the interests of road safety.**

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**pp Director of Development Services**

**Date: 17 February 2014**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.
2. Falkirk Local Development Plan (Proposed Plan April 2013).
3. Letter of objection received from Miss Louise Bell, 44 High Station Road, Falkirk, FK1 5QX on 7 November 2013.
4. Letter of objection received from Mr Gary Grugen, 6 Cauldhame Street, Falkirk FK2 7GP on 19 November 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.



**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 1 (SHOP) TO HOT FOOD TAKE-AWAY (SUI-GENERIS) AT 52 HIGH STATION ROAD, FALKIRK FK1 5QX FOR MR & MRS IJAZ SARDAR - P/13/0689/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 29 January 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer), Ext. 4702

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

1.1 The site consists of an existing small store which is operated as a newsagent (Class 1 shop), located adjacent to several other small retail/business units and surrounded by mainly residential properties. The shop fronts onto the B8028 High Station Road, which is a busy commuter route in and out of Falkirk Town Centre, as well as between the Town Centre and Falkirk High railway station. There are several on-street parking bays to the front of the shop, with double yellow line parking restrictions on the remainder of the road on either side of the parking area. It is being proposed within the current application to convert the property from Class 1 shop to use as a Hot Food Takeaway (Sui-Generis).

**2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application was called in by Councillor Colin Chalmers.

**3. SITE HISTORY**

3.1 P/13/0104/FUL - Application Withdrawn - 29 April 2013 - Change of Use From Class 1 (Shop) to Hot Food Take-Away (Sui-Generis)

#### **4. CONSULTATIONS**

- 4.1 The Council's Roads Development Unit does not consider a hot food shop favourably at this location. There is no off-street parking, and the current on-street parking is limited. There are two existing hot food takeaways in the immediate vicinity, and the road is double yellow lined at either side of the limited on-street parking area. The road itself is the B8028, which is a busy commuter route in and out of Falkirk Town Centre. It is the view of the Roads Development Unit that an additional hot food takeaway at the location would add to the road safety concerns for the overall location and would not be favoured.
- 4.2 The Council's Environmental Protection Unit has stated that due to the nature of the business and the close proximity of neighbouring properties, further information is required from the applicant with regard to odour and noise control in order to provide a detailed response to the proposal. The information should include a detailed specification of:
1. The cooking odour extraction system, including its proposed exit point on the external facade of the property;
  2. Measures to control odour emissions; and
  3. Measures employed to control noise emissions from any extraction or ventilation systems and noise output from fan.
- 4.3 The applicant/agent has submitted details of the proposed canopy extract ventilation system, but this is not to the detailed level required by the Environmental Protection Unit to allow full comments. It is likely that a suitable system could be put in-place, but this would have to be demonstrated prior to any works commencing on-site if the application were approved.

#### **5. COMMUNITY COUNCIL**

- 5.1 There is no Community Council active in this area

#### **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application 2 contributors submitted objection letters to the Council. The salient issues are summarised below:
- The same type of application was recently submitted and rejected for the premises.
  - Do not want the smell and waste of a hot food takeaway next door to flatted dwelling.
  - The most serious issue currently at this section of the road is parking. The unit is located at a busy point within the roadway, adjacent to a bend and near to a busy junction. There is nowhere for cars to park to use the proposed hot food takeaway, as parking is already very limited.
  - Noise - would soundproofing take place to ensure no issue with the adjacent flat?

- Smell would be a concern, and no agreement would be given to the venting being installed in the common wall.
- There is no space for bin storage, as this is currently being proposed in a common area, which has not been agreed with the relevant owners.
- No need for another hot food takeaway, as there is already one adjacent and within a mainly residential area.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 There are no relevant policies within the Falkirk Council Structure Plan

#### *Falkirk Council Local Plan*

7a.2 Policy EP9 - 'Food And Drink ' states:

*“Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in other locations where they are capable of serving a tourism function. It must also be demonstrated that:*

- (1) There will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (2) In the case of proposals within a centre, the proposal is consistent with the specific policies covering the relevant centre, particularly with regard to safeguarding the centre's retail function; and*
- (3) Parking, access and traffic generation requirements are satisfied.”*

7a.3 The proposed use is located within a small grouping of commercial properties, with flatted dwellings above and mainly residential properties surrounding the site. As there are adjacent residential properties, the Environmental Protection Unit has requested further detailed information in relation to odour and noise control, as the information currently submitted is insufficient to provide a detailed response. Therefore, it is not possible to fully assess if there would be any adverse impact on the amenity of the adjacent residential properties in relation to noise, odours and general disturbance. It has not been noted by the Environmental Protection Unit that litter would be a concern at this location.

7a.4 In relation to parking, access and traffic generation, the Roads Development Unit would not favour the proposal, as the current on-street parking provision is limited. On either side of this, double yellow line parking restrictions apply, and the road is a busy commuter route in and out of Falkirk Town Centre and to Falkirk High station. It has also been noted that there are already two existing hot food takeaways close by. The Roads Development Unit is concerned that the addition of another such business would cause additional on-street parking at an already busy area of the road network and add to overall road safety concerns at this location. There are currently no other options to provide additional on-street or off-street parking for potential customers. It is therefore considered that the proposal does not accord with Policy EP9.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are Falkirk Local Development Plan (Proposed Plan) and assessment of public representations.

### ***Falkirk Local Development Plan (Proposed Plan)***

7b.2 The Falkirk Local Development Plan (Proposed Plan April 2013) (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.3 Policy TC04 - 'Food and Drink' states:

1. *Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in locations where they are capable of fulfilling a tourism function.*
2. *Proposals must demonstrate that there will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours, and that parking and access requirements are satisfied.*
3. *Temporary consent for mobile snack bar vans may be granted where a specific need is demonstrated, and there is no adverse impact on local amenity or the visual quality of the locality*

7b.4 The relevant policy contained within the Falkirk Local Development Plan (Proposed Plan April 2013) is considered to highlight the same issues as those within the current adopted plan. There are no material considerations within the policy which would cause the proposal to be assessed in a different manner and/or justify an approval of planning permission. It is therefore considered that the proposal does not accord with Policy TC04.

7b.5 Accordingly, the proposal does not accord with the Development Plan.

### ***Assessment of Public Representations***

7b.6 A previous application for the unit for a change of use to a hot food takeaway was withdrawn and no decision was therefore made by the planning authority.

- 7b.7 The Environmental Protection Unit does not have a concern with predicted waste from the site. However, further details in relation to odour control would be required to allow a detailed assessment of the site and ensure there would be no issue in relation to neighbouring dwellings.
- 7b.8 The Roads Development Unit has highlighted that there is an issue with on-street parking at this location, and that a further hot food takeaway with associated customer parking could potentially add to road safety concerns.
- 7b.9 The Environmental Protection Unit has stated that further information would be required to fully assess the noise issue in relation to cooking equipment. The noise levels would have to be controlled and meet the relevant criteria to be allowed to be installed and operated at the premises. This would ensure no noise nuisance to existing neighbouring dwellings.
- 7b.10 As with the above, the Environmental Protection Unit would require further details in relation to the equipment to be installed, to ensure that odours are adequately controlled and do not affect the amenity of adjacent dwellings. In relation to issues with common walls, this would be a legal matter between owners and not a material planning consideration.
- 7b.11 In relation to the bin storage, it has been shown that there is adequate space and the Environmental Protection Unit has not highlighted waste rubbish as an issue. If there are issues in relation to the ownership of the ground, this would be a legal matter between owners, and not a material planning consideration.
- 7b.12 There are no restrictions as to what applications can be submitted, and within this specific area, no policies which would restrict the use of hot food takeaways. Therefore, such a use will be fully assessed on the current policies and relevant material considerations specific to the proposal.

## **7c Conclusion**

- 7c.1 It is considered that the proposal is not acceptable development, as it is not in accordance with Policy EP9 of the Falkirk Council Local Plan and Policy TC04 of the Falkirk Local Development Plan (Proposed Plan April 2013).

**8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee refuse planning permission for the following reason:-**

- 1. The proposed development does not accord with the terms of Policy EP9 (Food and Drink) of the Falkirk Council Local Plan and Policy TC04 (Food and Drink) of the Falkirk Local Development Plan (Proposed Plan April 2013). It is considered that the hot food takeaway would have an adverse impact on adjacent residential properties and the surrounding area generally, as parking, access and traffic generation requirements have not been satisfied, and the proposed use would therefore not be in the interests of road safety.**

**Pp .....**

**Director of Development Services**

**Date: 17 January 2014**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan
2. Falkirk Local Development Plan (Proposed Plan April 2013)
3. Letter of objection received from Miss Louise Bell, 44 High Station Road, Falkirk, FK1 5QX on 7 November 2013.
4. Letter of objection received from Mr Gary Grugen, 6 Cauldhame Street, Falkirk FK2 7GP on 19 November 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

**PLANNING APPLICATION DETERMINED BY DIRECTOR OF DEVELOPMENT SERVICES UNDER DELEGATED POWERS – REPORT OF HANDLING**

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**PROPOSAL** : Change of Use from Cafe to Hot-Food Takeaway  
**LOCATION** : 54 High Station Road, Falkirk, FK1 5QX  
**APPLICANT** : Mr Santok Sangray  
**APPN. NO.** : P/09/0597/FUL  
**REGISTRATION DATE** : 28 August 2009

**1. SITE LOCATION / DESCRIPTION OF PROPOSAL**

The existing property is a vacant shop unit located on High Station Road, Falkirk. The existing unit is currently vacant, but was previously used as a café. It is proposed to change the use of the property from Class 3 (Food and Drink) to a sui generis use of the property for the sale of hot food to be taken away. The property is bounded by a shop unit to the east, residential properties to the north and west and open space to the south. There is a flatted dwelling above the existing shop unit.

**2. SITE HISTORY**

Planning permission (P/07/0119/FUL) was granted for a change of use from shop (Class 1) to café (Class 3) on the 6th March 2007.

Planning permission (06/0714/FUL) was granted for a change of use from a shop to a flatted dwellinghouse on the 6th September 2006.

Planning permission (F/2005/0202) was granted for alterations and extension to existing shop and erection of garage on the 13th July 2005.

**3. CONSULTATIONS**

The following responses to consultation were received:

Roads Development Unit

The Roads Development Unit stated that the premises are located outwith the town centre. There are parking restrictions in place that allow vehicles to use the local shops. Therefore, there are no roads conditions to be attached to any consent to be granted.

Environmental Protection Unit

The issues raised will be discussed in detail later in this report.

The local Community Council did not comment.

#### **4. PUBLIC REPRESENTATION**

In the course of the application, 13 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

- would not like to live above a hot-food takeaway
- display of illuminated advertisements would act as distraction
- odour nuisance
- congregation of people during unsociable hours
- noise pollution
- abuse of parking spaces to rear of proposed takeaway
- harder to sell properties if a takeaway is located below
- inaccuracies in application form - there are no parking spaces afforded to the takeaway, the applicant would need to create his own, applicant does not own all of the neighbouring land, neighbour will not allow flue to be attached to his property and will not allow illuminated signage to be attached to any part of his property.
- detrimental to the character of the surrounding area
- properties in the surrounding area selling food also - will lead to a reduction in business
- residential amenity impacts
- parking and drainage concerns
- unsightly illuminated signage proposed.

#### **5. THE DEVELOPMENT PLAN**

The proposed development was assessed against the undernoted Development Plan(s):

##### **Falkirk Council Structure Plan**

There are no relevant policies within the Falkirk Council Structure Plan.

##### **Falkirk Local Plan**

The relevant policies against which assessment was made are:

FAL 7.8 Food and Drink Outlets

#### **5A. MATERIAL CONSIDERATIONS**

Falkirk Council Local Plan Finalised Draft (Deposit Version)



Responses to Consultation

Assessment of Public Representations

## **6. PLANNING ASSESSMENT**

### **The Development Plan**

There are no relevant policies in the Falkirk Council Structure Plan.

The relevant policy in the Falkirk Local Plan is Policy FAL 7.8 – Food and Drink Outlets.

The proposed hot food takeaway will not be introducing a new type of use in the area. High Station Road is a main access route into the town centre and contains a mixture of uses, including an existing hot food takeaway occupying a similar ground floor location. It is not considered that the current proposal would have any major adverse impact on the amenity of the area or adjacent properties. Steps have been taken to reduce any possible nuisance/odour impacts on the properties in the surrounding area. The Environmental Protection Unit has no objections to the proposal and has requested conditions to ensure that noise and odour issues will be adequately addressed. An informative has also been added to the planning permission stating that if any complaints are received by the Environmental Protection Unit, then they will be appropriately investigated under Environmental Health legislation. It is also considered that the proposal will not create significant additional disturbance, noise or litter, as the surrounding area has similar existing uses. The proposal has also been assessed to be satisfactory in relation to parking, access and traffic generation. It is therefore considered that the application accords with Policy FAL 7.8 of the Falkirk Local Plan.

### **Falkirk Council Local Plan Finalised Draft (Deposit Version)**

The policy of the emerging Falkirk Council Local Plan relevant to the proposed development is Policy EP9 (Food and Drink). Policy EP9 supports the use of hot-food takeaways where there are other neighbourhood shops, provided that it can be demonstrated that there would not be any adverse impact on the amenity of the surrounding area and parking and access requirements are satisfied.

In this instance, the proposed takeaway would be located in an existing Class 3 unit. There is a convenience shop located next door and a public house and second takeaway outlet to the north of the site. The area is comprised of a mixture of residential and retail uses. Measures have been taken by the applicant to reduce the potential impact of the hot food takeaway on neighbouring properties. A vapour barrier will be positioned below the existing ceiling to ensure that cooking odours do not permeate into the property above, and any fan shall be attached to the wall with acoustic fittings to prevent noise or vibration transmitting through the wall.

The Roads Development Unit were consulted on the application and stated that there are already parking restrictions in place that allow vehicles to use the local shops. Therefore, the Roads Department has no objections and no conditions were requested to any grant of planning permission.

Accordingly, it is considered that the proposal accord with Policy EP9 and the emerging local plan.

### **Responses to Consultation**

The Environmental Protection Unit initially raised concerns about the nature of the business and the close proximity to adjacent properties. Further information was requested from the applicant in relation to noise and odour control. This information has now been provided and after discussions with the applicant and the Environmental Protection Unit, planning conditions were agreed to control potential odour and noise nuisances.

Informatives have also been requested stating that any complaints received about noise or odours would be investigated by the Environmental Protection Unit if the claims were deemed valid. An informative has also been added in relation to hours of work.

### **Assessment of Public Representations**

The desire not to live above a hot-food takeaway is not considered to be a material planning consideration.

The display of any proposed illuminated advertisements would require a further application for advertisement consent.

The applicant has undertaken measures to ensure that potential odour problems are controlled. A condition has been added to the planning consent to prevent odours permeating to the upstairs property. If any complaints are received then they will be investigated by the Environmental Protection Unit.

The congregation of people at unsociable hours could occur within the opening hours of an existing approved use.

There is already a takeaway and public house in close proximity to the proposed takeaway. It is considered that any increase in noise pollution would not justify the refusal of planning permission in the context of approved existing uses.

The use of parking spaces to the rear of the property is a legal matter, not a material planning consideration. Acceptable parking arrangements have been demonstrated.

The fact that it may be harder to sell properties which are located below hot-food takeaways is not considered to be a material planning consideration.

The inaccuracies pointed out on the application form have been noted. However, the issues raised are legal matters and not material planning consideration. The applicants agent has confirmed that all the land involved is in the ownership of his client.

The fact that properties in the surrounding area sell food is not considered to be a material planning consideration.

Drainage arrangements are to remain unchanged from those for the existing café use.

There were no issues raised though the neighbour notification process which would warrant refusal of planning permission.

## **7. CONCLUSION**

It is considered that the proposal is acceptable development, is in accordance with Policy FAL 7.8 of the Falkirk Council Local Plan and Policy EP9 of the Falkirk Council Local Plan Finalised Draft (Deposit Version). There are no material planning considerations which would justify a refusal of planning permission.

## **8. RECOMMENDATION**

Grant Planning Permission

**Permission should be subject to the following condition(s):-**

1. The development to which this permission relates must be begun within three years of the date of this permission.
2. Prior to the approved use being open to the public, detailed specifications for an internal vapour barrier and mechanical odour extraction equipment shall be submitted to the Planning Authority. For the avoidance of doubt, the approved use shall not open to the public until written approval of these details has been given and the approved vapour barrier and odour extraction equipment has been installed.

Reason(s):

1. To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. To ensure that the occupants of adjacent premises are protected against excessive noise and odour intrusion.

Informatives:

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 - 04.
2. If complaints are received regarding noise or odour nuisances from the approved use, the Environmental Health Unit would be obliged to investigate and take action as necessary. If the complaints were found to be justified under Statutory Nuisance legislation contained in the Environmental Protection Act 1990.
3. The builder shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

4. A separate application for advertisement consent will be required. Details of any proposed advertisements shall be provided to the Planning Authority for consideration and approval before the use commences.

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**Director of Development Services**

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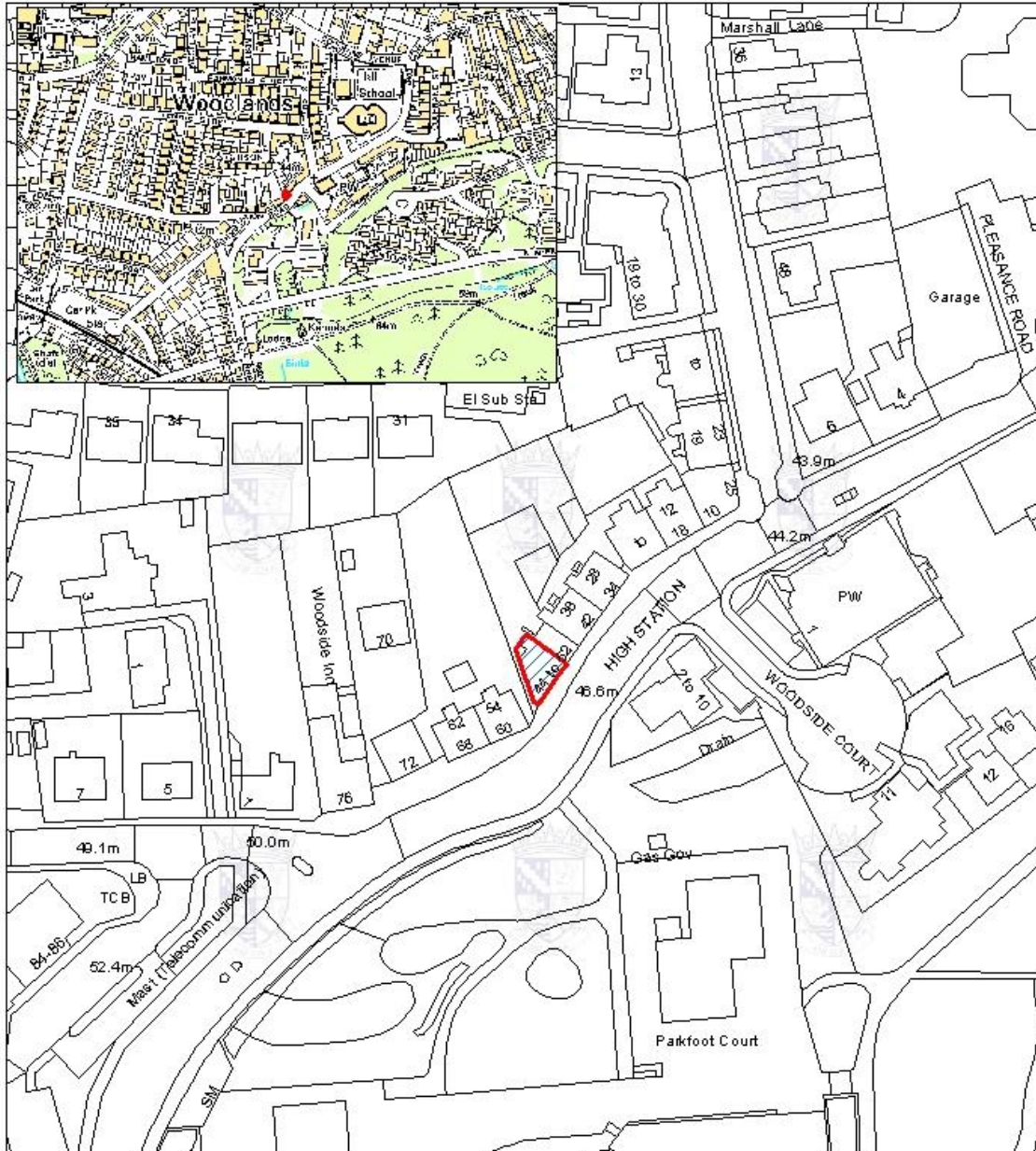
**Date**

**Contact Officer : Gavin Clark  
(Assistant Planning Officer) 01324 504704**

# Planning Committee

## Planning Application Location Plan **P/13/0689/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** ERECTION OF DWELLINGHOUSE AT LAND TO THE WEST OF AVONDALE, MOSSCASTLE ROAD, SLAMANNAN FOR MR DUNCAN BENNIE – P/13/0784/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Upper Braes

Councillor Gordon Hughes

Councillor John McLuckie

Councillor Rosie Murray

**Community Council:** No Community Council

**Case Officer:** Stephen McClure (Planning Officer), Ext. 4702

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The site consists of a small plot formed from the sub-division of the garden ground of the now adjacent property. The plot is located within the village of Slamannan, on a road containing a mix of property types and sizes, and was previously granted planning permission in principle for erection of a dwelling (P/10/0279/PPP). The current proposal is a detailed application for the erection of a single dwelling within the plot.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as it was called in by Councillor Hughes.

**3. SITE HISTORY**

- 3.1 P/07/0360/FUL - detail granted - 24 May 2007 - extension to dwellinghouse.
- 3.2 P/07/0596/OUT - outline granted - 11 September 2007 - erection of dwellinghouse.
- 3.3 P/10/0279/PPP - planning permission in principle granted - 16 August 2010 - erection of dwellinghouse (renewal of P/07/0596/OUT).
- 3.4 P/13/0416/FUL - detail refused - 16 August 2013 - erection of dwellinghouse.

#### 4. CONSULTATIONS

- 4.1 The Roads Development Unit have no objection to the proposal.
- 4.2 Scottish Water have no objection to the proposal
- 4.3 The Environmental Protection Unit have no objection to the proposal. However, due to the location, a Contaminated Land Assessment would require to be submitted and approved in writing by the Planning Authority before works commenced on-site.

#### 5. COMMUNITY COUNCIL

- 5.1 There is no Community Council for this area.

#### 6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 1 objector submitted a letter to the Council. The salient issues are summarised below.
- Concerned that the position of the proposed property would severely overshadow the existing neighbouring property of Avondale.

#### 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

##### 7a The Development Plan

- 7a.1 The proposal raises no strategic issues and was therefore assessed against the Falkirk Council Local Plan.

##### ***Falkirk Council Local Plan.***

- 7a.2 Policy SC2 - 'Windfall Housing Development Within The Urban / Village Limit' states:

*“Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:*

- (1) The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*



- (3) *The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) *Existing physical infrastructure, such as roads and drainage, and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) *In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) *There is no conflict with any other Local Plan policy or proposal.”*

7a.3 The proposed housing use is compatible with neighbouring uses, the immediate site area being surrounded by residential properties. It is considered that a satisfactory level of residential amenity can be achieved, and the site is accessible by public transport, walking and cycling to shopping, recreational and community facilities. Existing physical infrastructure, such as roads and drainage, water supply, sewage capacity and community facilities, have the capacity to accommodate the increase in use associated with the proposed dwellinghouse. The proposal is also seen to comply with Policy SC8 (below) and there is no conflict with any other Local Plan policy or proposal. It is therefore considered the proposal accords with Policy SC2.

7a.4 Policy SC8 ‘Infill Development and Subdivision of Plots’ states:

*“Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:*

- (1) *the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) *adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) *adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) *the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) *the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) *the proposal complies with other Local Plan policies.”*

7a.5 The scale, disposition and design of the proposed dwelling is considered to respect the architectural and townscape character of the area, which is mixed in dwelling type and size. The plot would provide adequate garden ground to serve the proposed dwelling, and would not be seen to have an unacceptable impact on existing neighbouring gardens. Adequate privacy would be afforded to both the proposed dwelling and neighbouring properties, and the proposal would not result in the loss of features such as trees, vegetation etc, such that the character or the amenity of the area would be adversely affected. The proposed vehicular access and other infrastructure are of an adequate standard, and the proposal complies with other relevant Local Plan policies. It is therefore considered that the proposal accords with Policy SC8.

7a.6 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration to be assessed are Falkirk Local Development Plan (Proposed Plan), Falkirk Council Supplementary Planning Guidance and the assessment of public representations.

## ***Falkirk Council Local Development Plan - Proposed Plan***

### 7b.2 Policy HSG03 – ‘Windfall Housing’ states:

*“Housing development within the Urban and Village Limits, in addition to proposals identified within the LDP, will be supported where:*

- 1. The site is brownfield, or is open space whose loss can be justified in terms of Policy INF03;*
- 2. The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- 3. The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4. Existing physical infrastructure, such as roads and drainage, sewage capacity, and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy INF02;*
- 5. The site is not at significant risk of flooding in the terms of Policy RW06;*
- 6. In the case of small gap sites and sub-divided plots, Policy HSG05 is satisfied; and*
- 7. It complies with other LDP policies.”*

### 7b.3 Policy HSG05 – ‘Infill Development and Subdivision of Plots’ states:

*“Proposals for the erection of additional houses within the curtilage of existing properties or on small gap sites will be permitted where:*

- 1. The scale, density, disposition and design of the proposed houses respect the townscape character of the area;*
- 2. Adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- 3. Adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- 4. The proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- 5. The proposed vehicular access, parking and other infrastructure is of an adequate standard for both proposed and existing houses; and*
- 6. The proposal complies with other LDP policies.”*

7b.4 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, and submitted to the Scottish Ministers for examination in February 2014. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council’s views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.5 The relevant policies contained within the Falkirk Local Development Plan (Proposed Plan April 2013) are considered to highlight the same issues as those within the current adopted plan. There are no material considerations within the policies which would require the proposal to be assessed in a different manner and/or justify a refusal of planning permission. It is therefore considered that the proposal accords with Policies HSG03 and HSG05 of the Falkirk Local Development Plan (Proposed Plan April 2013).

### ***Falkirk Council Supplementary Guidance***

7b.6 Falkirk Council Housing Layout and Design Supplementary Planning Guidance Note - The proposed plot was formed from original garden ground of the neighbouring dwelling, however it has been fenced off for an extended period of time from this host dwelling. The proposed property would be seen to have adequate garden ground and would have direct frontage onto the street. The proposed dwelling styles on the street as a whole are varied, and therefore the proposed property, although slightly larger than the neighbouring host dwelling, would be a suitable fit within the overall street. It is considered that the proposed dwelling would create suitable residential amenity and would not adversely affect the neighbouring properties. The erection on the plot of the dwelling would be seen to finalise the redevelopment of the original host dwelling site, which also included land on the opposite side of the property to the current plot, and would see an inappropriate gap finally redeveloped. It is therefore considered that the proposal accords where relevant with the Falkirk Council Housing Layout and Design Supplementary Planning Guidance Note.

### ***Assessment of Public Representations***

7b.7 The property position within the plot has been altered, being pulled forward to sit on the same street line as the neighbouring dwelling. This has resulted in the proposed property now not affecting the neighbouring dwelling to an unacceptable level in terms of overshadowing.

### **7c Conclusion**

7c.1 It is considered that the proposal is acceptable development, is in accordance with Policies SC2 and SC8 of the Falkirk Council Local Plan and Policies HSG03 and HSG05 of the Falkirk Local Development Plan (Proposed Plan April 2013). There are no material planning considerations which would justify a refusal of planning permission.

## **8. RECOMMENDATION**

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.

- ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
  - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
  - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) A new vehicular access to the site shall be formed in accordance with Falkirk Council's Design Guidelines and Construction Standards.
  - (4) The new driveway shall be constructed in a manner which will ensure that no surface water will be discharged or loose material carried out from it onto the public road.
  - (5) There shall be no obstruction to visibility over 0.6 metres in height above carriageway level within 2.5 metres of the carriageway edge along the frontage of the application site.
  - (6) Before works commence on-site, it shall be confirmed in writing that all drainage, both foul and rainwater, will enter the Scottish Water Network.
  - (7) Before works commence on-site, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
  - (8) Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
    - i. existing and finished ground levels in relation to a fixed datum, preferably ordnance
    - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
    - iii. location and design, including materials, of walls, fences and gates

iv. soft and hard landscaping works

**Reason(s):**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure the ground is suitable for the proposed development.
- (3-5) To safeguard the interests of the users of the highway.
- (6) To ensure that adequate drainage is provided.
- (7-8) To safeguard the environmental amenity of the area.

**Informative(s):**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A and 02A.
- (2) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.

**Pp**

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**Director of Development Services**

**Date: 14 March 2014**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.
2. Falkirk Council Local Development Plan - Proposed Plan
3. Falkirk Council Falkirk Council Housing Layout and Design Supplementary Planning Guidance Note
4. Letter of objection received from Mr Joe Veitch, Avondale, Mosscastle Road Slamannan FK13EL on 20 December 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

# Planning Committee

## Planning Application Location Plan P/13/0784/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** EXTENSION TO THE OPERATIONAL AREA AND FORMATION OF HARD-STANDING FOR THE PURPOSES OF MATERIAL STORAGE AT LAND TO THE EAST OF 34 BROOMHILL ROAD, BROOMHILL ROAD, HIGH BONNYBRIDGE FOR CENTRAL DEMOLITION LTD – P/13/0620/FUL

**Meeting:** PLANNING COMMITTEE  
**Date:** 26 March 2014  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bonnybridge and Larbert

Baillie Billy Buchanan  
Councillor Tom Coleman  
Councillor Linda Gow

**Community Council:** Bonnybridge Community Council

**Case Officer:** Brent Vivian (Senior Planning Officer), Ext. 4935

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The application seeks full planning permission to extend the operational area of an existing waste management facility and form a hardstanding area for the purpose of material storage. The extended area would be subdivided into separate areas for the storage of processed sands and gravels, material for crushing and skips. Access to the area would be from the existing site to the north.
- 1.2 The application site is a grass area (playing field) at Broomhill Park and is located in the High Bonnybridge area. It lies adjacent to mature trees to the west and south, and the existing waste management operation to the north and east. The line of the Antonine Wall adjoins the southern boundary of the site.
- 1.3 The applicant has submitted the following information in support of the application:-
- The company processes construction and demolition waste for re-use as aggregates and is seeking to maximise the sustainable use of a wider range of aggregate materials. This requires increased storage space both in terms of the individual stockpiles and the access required around these stockpiles for the deposition or loading of materials;
  - A need for additional storage space for the skips utilised to bring recycling material to the site has also been identified. The current availability of storage space at the site is limited;

- Overall, the proposed extension to the operational area would allow for better management and safer working practices. This would include easier movement of vehicles depositing and collecting the skips;
- The extended area would be stripped of soil and replaced with a capping layer and hardcore (total depth 500mm) to form the new storage facility. Finished levels would be similar to existing;
- The conditions of the existing Waste Management Licence would be adhered to and amended to cover the extended operational area;
- The hours of operation would be on the same basis as the existing site (0700 to 1830 hours Monday to Saturday);
- There would be no change in HGV movements on the public road. The proposal is not to bring in a wider range of waste but to split the waste down to a greater extent in the recycling process thereby producing a wider range of recycled products;
- Within the site there would be an increase in vehicle movements as processed material is transferred from the recycling area to the designated stockpile areas within the proposed extension area;
- No additional plant is required and it is not proposed to install new lighting within the extension area;
- It is envisaged that the stockpiles would be maintained at around 6 to 8 metres in height; and
- It is proposed to upgrade the existing nearby recreational facilities at Loch Park to offset the loss of the application site as recreational land. The proposals at Loch Park are to upgrade the sports pitch (drainage and re-turfing works), refurbish and extend the pavilion, and improve the car park. An outline specification indicating works in the sum of £205,346 has been submitted in support of the application.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as granting it would be contrary to the Development Plan.

## **3. SITE HISTORY**

- 3.1 Planning application ref: F/97/0676 for the erection of an office building was granted in November 1997.
- 3.2 Certificate of Lawful Use ref: F/2001/0804 for the use of land for Class 5 use was issued in April 2002.



- 3.3 Planning application ref: F/2002/0248 for the use of land for crushing, recycling and storage of timber and steel was granted in December 2002.
- 3.4 Planning application ref: P/12/0549/FUL for demolition of an existing detached skip hire office and extension to the existing main office was granted in November 2012.
- 3.5 Planning application ref: P/13/0812/FUL for the use of land to form a storage area for skips, plant and equipment (retrospective) was received on 24 December 2013 and is currently pending consideration.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have noted the information accompanying the application which explains that the additional storage area is required in order to create a wider range of recycled material and there would be no change in vehicle movements associated with the existing operation. On this basis, they advise that there would be no roads related conditions to attach to any grant of planning permission.
- 4.2 Scottish Water have no objection to the application. They advise that a totally separate drainage system would be required, with the surface water discharging to a suitable outlet.
- 4.3 The Environmental Protection Unit have advised that the site is regulated by SEPA under a Waste Management License (which covers a range of matters including hours of operation, the operation of the site in accordance with an approved Working Plan and the control of dust, mud on roads, litter and noise). They note that there is to be no increase in traffic to the site, the crushing equipment would not be moving, the new area would only be for storage, dust suppression equipment is on-site and they have had no complaints about the site. They advise that a contaminated land assessment would be required due to the presence of a former landfill at the site.
- 4.4 Corporate and Neighbourhood Services (Estates) have no objection to the application. They advise that any compensatory works at Loch Park will require suitable measures to be put in place to safeguard the users of the adjacent play facilities and existing trees. In addition, the adjacent road and car parking should be swept routinely during the works.
- 4.5 Historic Scotland have noted that the application has been amended by redrawing the boundary of the development area 20 metres from the edge of the Frontiers of the Roman Empire (Antonine Wall) World Heritage Site, with a line of trees to be planted immediately to the south of the boundary fence to provide a degree of screening. They advise that this change addresses their concern regarding the direct impact on the World Heritage Site and, whilst there will still be an adverse impact on the setting of the world heritage site and scheduled monument, given the existing industrial site, they are content that the impact is acceptable.
- 4.6 Falkirk Community Trust (Heritage) have advised that the setting of both the scheduled area of the Antonine Wall and the World Heritage Site need to be considered, in order to retain an appreciation of the original topographic setting and to avoid unsightly new development and the tunnel effect that occurs if development is set right up to the site boundary. They note the agreement reached with Historic Scotland to maintain a 20 metre buffer and boundary screen planting.

- 4.7 The Scottish Environment Protection Agency (SEPA) have no objection to the application and advise that the existing Waste Management Licence would need to be modified prior to any waste being stored in the area applied for. They are satisfied from the information accompanying the application that the water environment would be adequately protected.
- 4.8 Falkirk Community Trust (Sport and Recreation) have advised that the playing area has not been in use as a recreational space for a number of years and is not maintained in the same manner as their existing playing pitches and is not administered by them as a sports pitch. There are no changing facilities available at this location and they do not anticipate using this space as a sports area. They have been provided with detailed information of the improvements the applicant proposes to Loch Park which includes a fully refurbished changing area and upgraded parking facilities. They advise that they have consulted with the football teams in the area and this was their preference as a form of compensation for the loss of the area concerned.
- 4.9 SportsScotland consider that the proposed compensation measures in the sum of approximately £205,000 will result in a better quality facility at the chosen site, Loch Park, and that this represents a convenient location for users of the Broomhill Pitch, and that this will, at the very least, maintain the overall playing capacity in the area. They are therefore of the view that the loss of the pitch will be adequately compensated for by the proposed upgrade of Loch Park and, as such, the requirements of Scottish Planning Policy, insofar as they relate to the loss of playing fields, would have been met. They therefore have no objection to the application, provided that the Council and SportsScotland (and potentially the applicant) enter into a legal agreement (or any alternative mechanism that may be appropriate) that outlines the compensation provisions and the mechanism and timescale for their delivery, prior to the issuing of any planning permission.
- 4.10 Network Rail consider that the proposed development would not have any impact on railway infrastructure and therefore have no objection to the application.
- 4.11 The Coal Authority have advised that the application site falls within the defined Development High Risk Area. However, they do not consider that requiring a Coal Mining Risk Assessment would be proportionate to the scale and nature of the development proposal, given that the works will not require substantial foundations or earthworks, and the proposed hard-standing is to be used purely for the storage of materials. They therefore do not object to the application.
- 4.12 The Asset Management Unit, Development Services, have advised that the Executive decided on 18 June 2013 to declare land at Broomhill Park surplus to requirements for negotiated disposal to the company, Central Demolition and on the basis of Central Demolition undertaking improvement works at Loch Park in return for their acquisition of land at Broomhill Park and obtaining all necessary statutory consents required in relation to the proposed yard extension and for the works at Loch Park. Negotiation of conditions of finalised land disposal and in respect of the improvement works at Loch Park is ongoing. The improvement works to Loch Park are over and above the purchase price for the land, with the proceeds of the land sale being credited to the Council's General Fund.

4.13 The Building Design Unit, Development Services, have confirmed that the details submitted with the planning application in respect of the proposed improvement works at Loch Park are consistent with the Council's previous discussions and agreement with the company, Central Demolition, in terms of both cost and the content of the proposals.

## **5. COMMUNITY COUNCIL**

5.1 The Bonnybridge Community Council have objected to the application on the following grounds:-

- The land is used by people as a general recreational area;
- The development may be accessed through an adjoining car park which is used by parents of pupils and staff at St Josephs Primary; and
- If this happened, there would be increased traffic in Broomhill Road, which is bad enough at the moment when the schools are going in and out.

## **6. PUBLIC REPRESENTATION**

6.1 Two objections to the application have been received. The concerns raised in these objections can be summarised as follows:-

- Lost playing fields cannot be reclaimed in the future;
- The development is behind the main car park used by parents taking children to school;
- The development will result in increased noise, pollution, dust and HGV movements;
- The HGV use of Broomhill Road is already dangerous and the road is not suitable for the HGV traffic of Central Demolition;
- Any increase in heavy goods vehicles on this road within range of two primary schools is unacceptable; and
- Will the community benefit from the proceeds of the sale of the land?

## **7. DETAILED APPRAISAL**

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

## 7a The Development Plan

### *Falkirk Council Structure Plan*

7a.1 The proposed development does not raise any strategic issues and therefore the application has been assessed solely against the Falkirk Council Local Plan.

### *Falkirk Council Local Plan*

7a.2 The application site lies outwith the urban limits, within the countryside, as defined in the Falkirk Council Local Plan. In addition, it is identified as an Open Space (Playing Field) and adjoins the Antonine Wall World Heritage Site and a Business and Industry Retention Area.

7a.3 Policy EP5 – ‘Business and Industrial Development in the Countryside’ states:

*“New business and industrial development in the countryside will only be permitted in the following circumstances:*

- (1) Areas specifically identified for business and industrial development on the Proposals Map;*
- (2) Business/industrial development where the need for a countryside location is demonstrated and the proposal could not more appropriately be accommodated within the Urban or Village Limits;*
- (3) Proposals involving the reuse of vacant industrial, commercial or institutional land or premises, or the conversion of farm or other buildings for business use where the scale and nature of the activity is compatible with the location;*
- (4) Limited extensions to existing established businesses in the countryside which can be accommodated without any additional adverse impact on the rural environment;*
- (5) Proposals for the processing of secondary materials including construction and demolition wastes at existing mineral sites in addition to industrial sites; or*
- (6) Appropriate leisure and tourism development that accords with Policy EP16.*

*Proposals will be subject to rigorous assessment of their impact on the rural environment, having particular regard to Local Plan policies protecting natural heritage (EQ19-EQ30) and built heritage (EQ12-EQ18).”*

7a.4 This policy permits limited extensions to existing established Class 4, 5 and 6 uses within the countryside which can be accommodated without any additional adverse impact on the rural environment. The proposed development is an extension to an existing Class 5 waste management facility. The applicant has submitted that the proposal is to facilitate the production of a wider range of recycled products and there would be no change in heavy vehicle movements on the public road. In addition, as stated in paragraph 4.3, the Environmental Protection Unit have noted that the site is regulated by SEPA under a Waste Management Licence, the crushing equipment would not be moving, the new area would only be used for storage, dust suppression equipment is on-site and they have had no complaints about the site. In addition, as detailed in paragraph 4.7, SEPA have advised that the existing Waste Management Licence would need to be modified prior to any waste being stored in the new area and they are satisfied that the water environment would be adequately protected. In terms of visual impact, the proposed development would appear against the backdrop of the existing waste management operation and is effectively screened to the north and west by existing woodland. Subject to the height of the stockpiles being controlled, and retention and

effective management of the woodland, the visual impact is mitigated. The provision of a buffer, to protect the setting of the Antonine Wall World Heritage Site is discussed in paragraph 7a.10.

7a.5 On the basis of the information accompanying the application (see paragraph 1.3), the comments in the consultation responses and the provision of suitable mitigation measures, no additional adverse impacts on the rural environment are anticipated and the application accords with this policy.

7a.6 Policy EQ19 - 'Countryside' states:

*“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

*(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*

- the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7a.7 This policy states that the scale, siting and design of development within the countryside will be strictly controlled to ensure there is no adverse impact on the character of the countryside. At this location, the character of the countryside is influenced by the existing waste management operation and the visual containment afforded by the existing woodland. The proposed extension would therefore be in keeping with the existing character of the area and a restriction on the height of the stockpiles and retention of the woodland would mitigate the visual impact and help to integrate the development into its surroundings. The extended site would be enclosed by palisade fencing, to ensure site security, which would also be in keeping with the character of the area. Its visual impact would be mitigated by the existing woodland and proposed new planting. Overall, the application is considered to accord with this policy.

7a.8 Policy EQ17 - 'Antonine Wall' states:

*“The Council will seek to retain, protect, preserve and enhance the Antonine Wall, its associated archaeology, character and setting. Accordingly:*

- (1) *There will be a presumption against development which would have an adverse impact on the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' as defined on the Proposals Map;*
- (2) *There will be a presumption against development within the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' buffer zones, as defined on the Proposals Map, which would have an adverse impact on the Site and its setting, unless mitigating action to the satisfaction of the Council in consultation with Historic Scotland can be taken to redress the adverse impact, and there is no conflict with other Local Plan policies; and*
- (3) *The Council, in association with partner Councils and Historic Scotland, will prepare Supplementary Planning Guidance on the criteria which will be applied in determining planning applications for development along the line, or within the setting, of the Antonine Wall."*

7a.9 This policy seeks to retain, protect, preserve and enhance the Antonine Wall and its associated archaeology, character and setting. The proposed development would not have any direct impact on the Frontiers of the Roman Empire (Antonine Wall) World Heritage Site and the proposed development incorporates a 20 metre setback from the World Heritage Site and boundary planting which have been agreed with Historic Scotland. Whilst Historic Scotland advise that there would still be an adverse impact on the setting of the World Heritage Site, they are content that the impact has been reduced to an acceptable degree, having regard to the industrial character of the area (see paragraph 4.5). Taking into account the advice of Historic Scotland, the application is considered to accord with this policy.

7a.10 Policy EQ21 - 'Falkirk Greenspace' states:

*"Through the Falkirk Greenspace Initiative, the Council will work with its partners to improve the landscape, habitat quality and recreational potential of the network of urban fringe and urban open space around and within settlements. Priority will be given to:*

- (1) *Appropriate woodland creation and management, where landscape quality, access, biodiversity, and connectivity across the Greenspace can be promoted;*
- (2) *The creation of an interlinked network of paths within the Greenspace, with particular emphasis on a principal circular route, as a key part of the core path network, complemented by secondary routes where appropriate; and*
- (3) *Requiring developers in urban fringe locations to contribute to landscape and/or access improvements in association with new development."*

7a.11 This policy requires developers in urban fringe locations to contribute to landscape and/or access improvements in association with new development. The application site is located at an urban fringe location (see paragraph 7b.21 of this report). The proposed development incorporates an open space buffer adjoining the Antonine Wall and new tree planting to help screen the extended operation. In addition, the site adjoins a woodland area which provides effective screening of the proposed development along its west and south-west boundaries. On the basis of provision of the buffer, and the securing of a Management Plan for the buffer and adjoining woodland, it is considered that the developer has contributed satisfactorily to landscape improvements at this urban fringe location. The application therefore accords with this policy.

7a.12 Policy SC12 - 'Urban Open Space' states:

*“The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:*

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) In the case of recreational open space, it can be clearly demonstrated from the Council’s open space audit and strategy, that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded.”*

7a.13 This policy protects all urban open space, including playing fields, which is considered to have landscape, amenity, recreational or ecological value. Development involving the loss of urban open space will only be permitted in certain circumstances as detailed in parts 1 to 4 of the policy. The proposed development is not considered to raise any issues with regard to parts 1, 3 and 4 of the policy. Part 2 of the policy only provides for the loss of recreational open space where it can be clearly demonstrated from the Council’s open space audit and strategy that the area is surplus to recreational requirements. Under the Council’s Open Space Strategy, the application site is identified as a playing field (see paragraphs 7b.10 to 7b.13 of this report) and the strategy identifies that households should have access to a sports area within 800 metres or 10 minutes walk (see paragraph 7b.19). The playing field at Broomhill Park lies in the High Bonnybridge area and the strategy identifies that most of the houses within this area are further than 800 metres from a sports area, and its loss as a consequence of the proposed development would result in an additional 40 households being beyond the 800 metre threshold. In compensation for the loss of the playing field, the applicant has proposed improvement works to Loch Park, the acceptability of which is discussed elsewhere in this report. However, on the basis that the proposal would lead to additional households being further than 800 metres from a sports area, it cannot be clearly demonstrated from the Open Space Strategy that the area is surplus to recreational requirements. The application is therefore contrary to this policy.

7a.14 The application is considered to be contrary to the Development Plan as it has not been clearly demonstrated from the Council’s Open Space Strategy that the playing field to be lost to the development proposal is surplus to recreational requirements.

## **7b Material Considerations**

7b.1 The material consideration to be assessed in respect of this application are Scottish Planning Policy, Falkirk Council’s Open Space Strategy, Falkirk Council’s Supplementary Planning Guidance (SPG) for Public Open Space, Falkirk Greenspace and New Development, the Falkirk Local Development Plan (Proposed Plan), the consultation responses and the representations received.

## **Scottish Planning Policy**

7b.2 Scottish Planning Policy states (at paragraph 151) that planning authorities should take a strategic and long term approach to managing the open space in their area, assessing both current and future needs and protecting all spaces which can help to meet those needs. It states that authorities should undertake an audit of the open space resource in their area and detail how well it meets the needs of the community and, using the information from the audit, prepare an Open Space Strategy which sets out the vision for new and improved open space and addresses any deficiencies identified.

7b.3 Scottish Planning Policy states that open spaces which are identified in the open space audit and strategy as valued and functional should be identified and protected in the development plan and there is a presumption against development of those open spaces. Only where there is a strong justification should open space be developed either partly or fully for a purpose unrelated to use as open space. Where a planning authority grants permission for development which would result in or exacerbate a deficit, replacement open space of appropriate type, quantity, accessibility and quality should be provided.

7b.4 At paragraph 156, Scottish Planning Policy specifically refers to playing fields and sports pitches and states that they should not be redeveloped except where:-

*“the playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users or by the upgrading of an existing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improve the overall quality of provision”.*

7b.5 Sportscotland have reviewed the application against paragraph 156 of Scottish Planning Policy and consider that the loss of Broomhill Park would be adequately compensated for by the proposed upgrade works at Loch Park, which they consider to be at a convenient location for users of Broomhill Park. They have concluded that the requirements of Scottish Planning Policy, insofar as these relate to the loss of playing fields, have been met (see paragraph 4.9)

7b.6 Scottish Planning Policy also states that, where a playing field is no longer required for formal sports use, planning authorities should consider whether the site has other recreational, amenity, landscape or biodiversity value which would warrant its retention as open space. It is accepted that the playing field at Broomhill Park may provide for a wider recreational use, but whether this would warrant its retention as open space has to be weighed against other considerations.

7b.7 Scottish Planning Policy states at paragraph 212 that:-

*“The Scottish Government has adopted zero waste as a goal. The means eliminating the unnecessary use of raw materials, sustainable design, resource efficiency and waste prevention, reusing products wherever possible and recovering value from products when they reach the end of their lives either through recycling, composting or energy recovery in accordance with the waste hierarchy”.*



7b.8 Scottish Planning Policy states further, in paragraph 212, that:-

*"The planning system has a crucial role in ensuring that installations are delivered in time to allow waste management targets to be met. A significant commitment to enabling the development of new waste management infrastructure through the planning system is required"*

7b.9 The proposed development is supported by this aspect of Scottish Planning Policy as it would enhance an existing waste management facility and its contribution toward achieving the Scottish Government's goal of zero waste.

### ***Falkirk Council Open Space Strategy***

7b.10 In line with Scottish Planning Policy, the Council undertook an open space audit which informed the preparation of the Council's Open Space Strategy (April 2010). Under this Strategy, Broomhill Park is identified as a sports area.

7b.11 The main benefits of the open space at Broomhill Park were described in the Strategy as:-

*"Recreational space with maintained sports pitch. Good car parking, Antonine Wall runs through the southern part of the site"*

7b.12 The main detractions of the open space were described as:-

*"Lots of litter. Industrial character of the adjacent site"*

7b.13 The recommendations were:-

*"Enhance as a recreational ground with improved facilities and enhance boundary planting. Addition of bins/improve maintenance to tackle litter"*

7b.14 As detailed in paragraph 1.3, the applicant proposes improvement works to Loch Park, in order to compensate for the loss of the playing field at Broomhill Park. Under the Open Space Strategy, Loch Park is identified as an open semi-natural area, within which there is a sports area and a play space.

7b.15 The main benefits of the open space at Loch Park were described in the Strategy as:-

*"Wildlife benefits of St Helen's Loch and adjacent waterside. Cultural Heritage of Antonine Wall to north of site and outlying features e.g. Elf Hill. Play space with playground and pitch next to residential area. Accessibility - path along Military Road to wider countryside"*

7b.16 The main detractions of the open space were described as:-

*"Shelterbelt littered with alcohol containers. Connections between playing field area and the wider site"*

7b.17 The recommendations were:-

*"Maintain space for recreation near to residential area while encouraging 'wilder', less maintained space around Loch to the east. Implement clear access strategy with area/facilities near Loch and Antonine Wall, with other areas with limited access maintained for wildlife and conservation"*

- 7b.18 Whilst the recommendations in the Strategy for Loch Park do not specifically refer to the proposed compensation works to improve the pitch, refurbish and extend the pavilion and improve the car park, there is a clear aspiration in the Strategy to maintain the recreation facilities at Loch Park and the proposals would be consistent with that aspiration.
- 7b.19 The Strategy sets out accessibility standards and states that householders should have access to a sports area within 800 metres or 10 minutes walk. The Strategy acknowledges that no nationally accepted standards are available for distance thresholds to various types of public open space. The accessibility standards in the Strategy are based in combination on existing UK, national and Falkirk access standards, other open space strategies, past experience and common sense. As detailed in paragraph 7a.13, the loss of the playing field at Broomhill Park for the proposed development would result in an additional 40 households within the High Bonnybridge area being further than 800 metres from a sports area. However, this matter needs to be weighed against other considerations such as the impact of the proposals on the overall residential amenity of the area and the advice of SportsScotland.

### ***Supplementary Planning Guidance***

- 7b.20 Falkirk Council's Supplementary Planning Guidance (SPG) for Public Open Space, Falkirk Greenspace and New Development replicates the accessibility standards of the Council's Open Space Strategy (see paragraph 7b.19).
- 7b.21 The SPG for Public Open Space, Falkirk Greenspace and New Development states that all forms of development in urban fringe locations will be required to incorporate or contribute financially towards landscape and/or access improvement projects in the Falkirk Greenspace Initiative area. Sites within urban fringe locations are defined as those which are within 400 metres walking distance of the urban/village limits and the Falkirk Greenspace Initiative area. This matter is considered in relation to Policy SC21 of the Falkirk Council Local Plan (see paragraph 7a.11 of this report).

### ***Falkirk Local Development Plan (Proposed Plan)***

- 7b.22 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, and submitted to the Scottish Ministers for examination in February 2014. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.23 The application site lies outwith the urban limits, within the countryside, under the Proposed Plan. In addition, it is identified as an Open Space (Playing Field) and adjoins the Antonine Wall World Heritage Site and a Core Business Area (Waste Management Facility).
- 7b.24 The policies of the Proposed Plan are generally similar to those of the Falkirk Council Local Plan of relevance to this application, with the notable exception being Policy INF03 which includes the introduction of a specific policy for development involving the loss of playing fields or sports areas.

7b.25 Policy INF03 - 'Protection of Open Space' states:

*"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value. Accordingly:*

1. *Development involving the loss of urban open space will only be permitted where:*
  - *There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
  - *There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
  - *The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
  - *Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*
2. *Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*
  - *The proposed development is ancillary to the principal use of the site as a playing field; or*
  - *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*
  - *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*
  - *The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7b.26 Part 1 of the policy provides for development involving the loss of urban open space in certain circumstances. The circumstances detailed in the first, third and fourth bullet points of part 1 of this policy are similar to those considered in parts 1, 3 and 4 of Policy SC12 of the Falkirk Council Local Plan where no issues of concern were identified (see paragraph 7a.13). The second bullet point of part 1 of this policy is different from Policy SC12 of the Falkirk Council Local Plan in that it requires a consideration of the significance of impact on the overall recreational amenity of the area, whereas Policy SC12 is less flexible in that it requires the area in question to be surplus to recreational requirements, as determined by the open space audit and strategy. In this instance it is considered that the loss of Broomhill Park would not have a significant adverse effect on the overall recreational amenity of the area given that it is not maintained in the same manner as other playing fields (see the comments of the Falkirk Community Trust in paragraph 4.8), the proposed compensatory works to Loch Park and the relatively small impact of the loss of Broomhill Park on the accessibility of the local community to a sports area (given that Loch Park is conveniently accessible to users of Broomhill Park and appears to serve broadly the same population).

7b.27 Part 2 of the policy sets out additional considerations where development would also involve the loss of playing fields or sports pitches. In this instance, the proposal would result in the loss of a playing field and therefore bullet point 3 of part 2 of the policy is relevant. The wording of this bullet point replicates the wording of paragraph 156 of Scottish Planning Policy as set out in paragraph 7b.4 of this report. As detailed in paragraph 4.9 of this report, SportsScotland are satisfied that the proposed upgrade of Loch Park provides adequate compensation for the loss of the playing field at Broomhill Park and therefore consider that the relevant requirements of Scottish Planning Policy, insofar as they relate to the loss of playing fields, are met. On the basis of the advice of SportsScotland, it is considered that part 2 of the policy is met. Bullet point 4 of part 2 of the policy refers to the Council's pitch strategy but the loss of the playing field has not been considered against this document as the Council does not yet have an approved pitch strategy.

7b.28 In light of the above comments, the application is considered to accord with Policy INF03 of the Proposed Plan.

### ***Consultation Responses***

7b.29 The consultation responses are summarised in section 4 of this report. No objections to the application were received in the consultation responses and the matters raised in the responses could be generally the subject of conditions or informatives of any grant of planning permission.

7b.30 The comments of SportsScotland are summarised in paragraph 4.9 of this report. They have no objection to the application, provided that a legal agreement (or any alternative mechanism that may be appropriate) is entered into which outlines the compensation measures at Loch Park and the mechanism and timescale for their delivery. The appropriate means by which to deal with this matter is currently under consideration in consultation with the Council's Legal Services and which will require ongoing discussions with the applicant and SportsScotland to bring the matter to a conclusion.

### ***Representations Received***

7b.31 The concerns raised in the objections to the application are summarised in sections 5 and 6 of this report. In response to those concerns, the following comments are considered to be relevant:-

- It is accepted the Broomhill Park may have a wider recreational value but this must be balanced against other considerations such as the proximity of this park to Loch Park, the overall best outcome for the local community, given the proposed improvement works to Loch Park, and the existing amenity at Broomhill Park (which is impacted on by the adjoining waste management facility in terms of visual impact, setting and noise);
- The proposed extension to the waste management facility would be accessed from the existing site and access to the site from the existing car park would be prevented by the erection of a security fence;
- The applicant has advised that the proposal would not result in an increase in HGV movements on the public road; and

- In compensation for the loss of the playing field, improvement works are proposed to Loch Park as detailed in this report, and the proceeds of the land sale would accrue to the Council for use, for example, to augment general capital programme resources.

## **7c Conclusion**

7c.1 The application is considered to be contrary to the Development Plan, as it has not been clearly demonstrated from the Council's Open Space Strategy that the playing field at Broomhill Park to be lost to the development proposal is surplus to recreational requirements. However, weighed against this are a number of considerations which are considered to lend support to the proposed development. These are:-

- The enhancement of the overall recreational amenity of the local area, given that Broomhill Park is not maintained in the same manner as other playing fields in the Falkirk Council area, the proposed compensatory works to Loch Park and the relatively small impact of the loss of the playing field at Broomhill Park on the accessibility of the local community to a sports area, given that Loch Park is conveniently accessible to users of Broomhill Park and appears to serve broadly the same population;
- The acceptability of the proposed development to Sportscotland who have advised that the proposed compensatory measures at Loch Park meet the requirements of Scottish Planning Policy insofar as they relate to playing fields;
- The advantages of Loch Park over Broomhill Park in terms of amenity as the amenity of Broomhill Park is affected by its location adjoining a waste management facility;
- The support afforded to the proposal under Policy INFO3 (Protection of Open Space) of the Falkirk Local Development Plan (Proposed Plan); and
- The opportunity the proposed development presents to enhance an existing waste management facility and its contribution towards achieving the Scottish Government's goal of zero waste.

7c.2 In conclusion, it is considered that the terms of the Development Plan can be set aside in this instance. In taking all matters into account, it is recommended that the Committee indicate that it is minded to grant the application subject to an appropriate mechanism being put in place and agreed with Sportscotland to secure the delivery of the proposed compensation measures to Loch Park. Upon the satisfactory conclusion of this matter, it is recommended that planning permission be granted subject to appropriate conditions.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that the Planning Committee indicate that it is Minded to Grant planning permission subject to:-**

- (a) The satisfactory conclusion of a Legal Agreement with Sportscotland (or any alternative mechanism that may be appropriate) that outlines the compensation proposals for Loch Park and the mechanism and timescale for their delivery;**
- (b) And thereafter subject to the satisfactory conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission subject to the following conditions:-**
  - (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
  - (2) Before the development commences, a scheme of soft and hard landscaping works shall be submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):-**
    - (i) Existing and finished ground levels in relation to a fixed datum, preferably ordinance;**
    - (ii) An indication of existing trees, shrubs, hedges and grass areas to be removed, those to be retained and in the case of damage, proposals for their restoration;**
    - (iii) The location, height and specification of all proposed fences, walls and gates;**
    - (iv) The location of all new trees, hedges and grass areas;**
    - (v) A schedule of plants to comprise species, plant sizes and proposed numbers/density; and**
    - (vi) A programme for completion and subsequent maintenance.**

**Thereafter the development shall be carried out and maintained in accordance with the approved details.**

- (3) No development shall commence until a Woodland Management Plan to secure the retention and ongoing maintenance of the existing woodland adjoining the application site has been submitted to and approved in writing by this Planning Authority. Thereafter, the woodland shall be maintained in accordance with the approved details.**
- (4) For the avoidance of doubt, the 20 metre buffer zone as shown on the approved site layout plan (Figure 3 : Rev 7.3.14) shall be maintained as such for the lifetime of the development hereby approved, in accordance with the details approved within the terms of condition 2 of this permission.**

- (5) For the avoidance of doubt, the application site excluding the 20 metre buffer zone shall be used solely for the purposes of storage and access, as shown on the approved site layout plan (Figure 3 : Rev 7.3.14).
- (6) The height of the materials stored within the 'processed material storage' areas and the 'material for crushing' area as shown on the approved site layout plan (Figure 3 : Rev 7.3.14) shall not at any time exceed 8 metres.
- (7) Unless otherwise agreed in writing by this Planning Authority, the height of the skips stored within the 'skips storage area' as shown on the approved site layout plan (Figure 3 : Rev 7.3.14) shall not at any time exceed 2 metres.
- (8) For the avoidance of doubt, the proposed boundary fencing shall be located so that it accords with the approved boundary fencing plan (Figure : BF 17.01.14) and no other fencing shall be erected without the prior written approval of this Planning Authority.
- (9) Unless otherwise agreed in writing by this Planning Authority, no development shall commence until a Contaminated Land Assessment has been submitted to and approved in writing by this Planning Authority. Before the development is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
- (10) For the avoidance of doubt, the proposed boundary fencing as shown on the approved boundary fencing plan (Figure: BF 17.01.14) shall not include any means by which to provide access to the site.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2-4, 6-8) To safeguard the visual amenity of the area and/or the setting of the Antonine Wall World Heritage Site.
- (5,10) For the avoidance of doubt.
- (9) To ensure that the ground is suitable for the proposed development.

**Informative(s):-**

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 , 02 , 03C and 04B.

- (3) SEPA have advised that the existing Waste Management License will require to be modified prior to any waste being stored in the area being applied for.
- (4) SEPA have advised that the existing waste treatment area will require to be appropriately sized to accommodate the increase in site area.
- (5) SEPA have advised that details of their regulatory requirements and good practice advice can be found on their website at [www.sepa.org.uk/planning.aspx](http://www.sepa.org.uk/planning.aspx). Alternatively the operations team at the local SEPA office can be contacted at:-

Bremner House, The Castle Business Park, Stirling FK9 4TF  
Tel: 01786 452595

- (6) The Coal Authority have advised that the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from the Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0845 762 6848. Further information is available on the Coal Authority website [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk).



- (7) Corporate and Neighbourhood Services have advised that the proposed compensation works at Loch Park will require suitable measures to be put in place to safeguard the existing users of the adjacent play facilities, and to protect the individual trees on the site from compaction around their bases from machinery and stored/excavated materials. In addition the adjacent road and car parking area will require to be swept routinely during the works.

Pp

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Director of Development Services

Date: 14 March 2014

### **LIST OF BACKGROUND PAPERS**

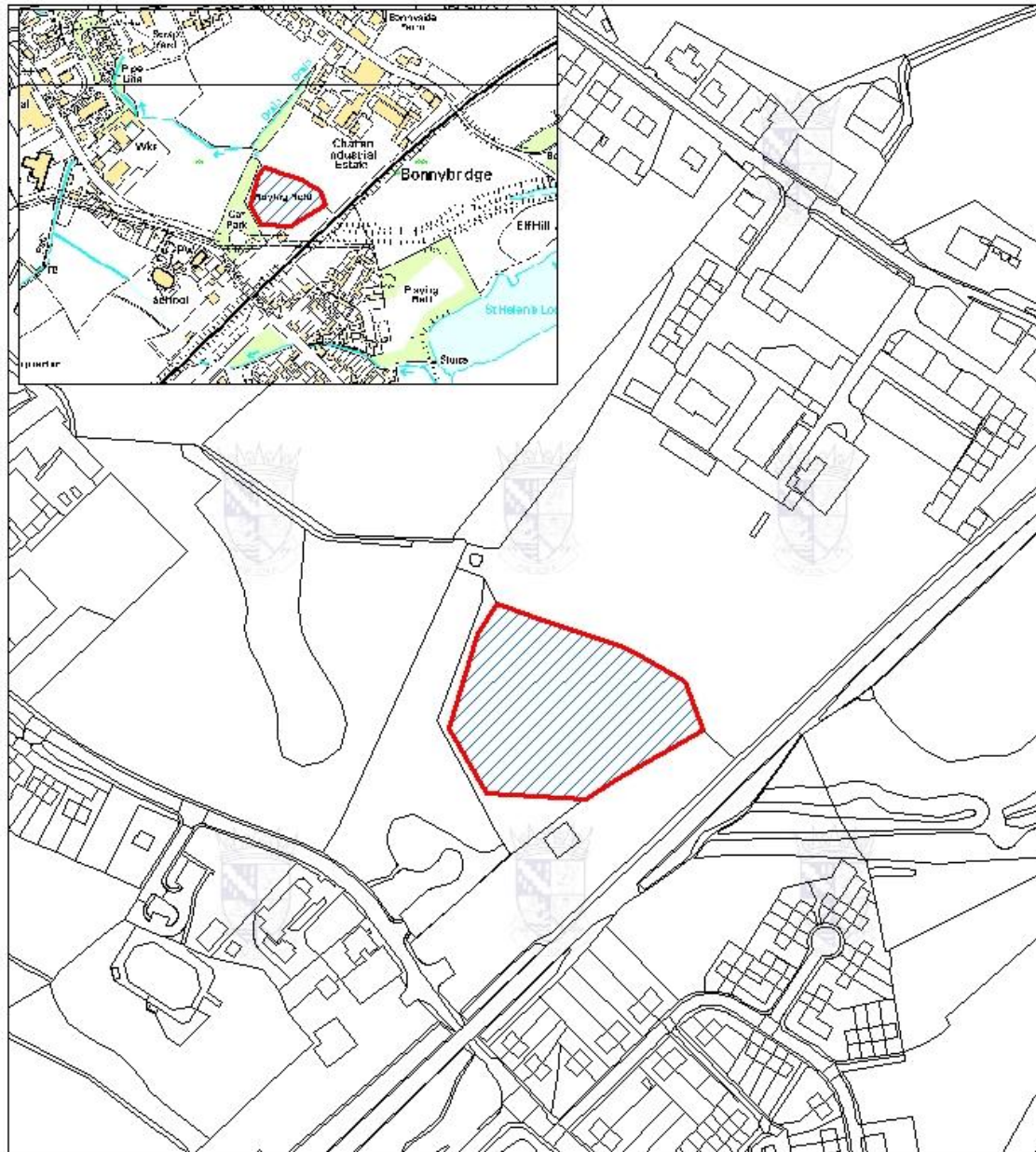
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Scottish Planning Policy.
4. Falkirk Council Open Space Strategy.
5. Falkirk Council Supplementary Planning Guidance for Public Open Space, Falkirk Greenspace and New Development.
6. Falkirk Local Development Plan (Proposed Plan).
7. Letter of Objection from Mrs Clare Finlay, 7 Reilly Gardens, Bonnybridge Fk4 2BB on 2 October 2013.
8. Letter of Objection from Bonnybridge Community Council, FAO Graham Rae (Secretary) on 23 October 2013.
9. Letter of Objection from Mr Gordon McIntosh, St Josephs Parent Council, Broomhill Road, Bonnybridge FK4 2AN on 9 October 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning officer.

# Planning Committee

## Planning Application Location Plan **P/13/0620/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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**FALKIRK COUNCIL**

**Subject:** ERECTION OF CLASS 1 SHOP UNIT WITH ASSOCIATED ACCESS, CAR PARKING, SERVICE YARD AND EXTERNAL WORK AT LAND TO THE NORTH OF ALDI FOODSTORE LTD, REDBRAE ROAD, FALKIRK FOR TJ MORRIS LIMITED/ BRUCE WEIR HOLDINGS LTD - P/13/0766/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

**Case Officer:** John Milne (Senior Planning Officer), Ext. 4815

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The proposal consists of a freestanding retail store on the northern part of the cleared site of the former Riley Dunn and Wilson factory - a bookbinding business - at the eastern end of the Glasgow Road Industrial Area. The new Aldi foodstore now occupies the southern part of the former factory site. The bowling centre lies to the east and the new Tesco Camelon store to the west. A railway line bounds the site to the north, beyond which there are residential properties.
- 1.2 The proposed building would be rectangular in shape, of contemporary design and orientated perpendicular to the Aldi store. The site would incorporate hard and soft landscaping, delivery provision and car parking.
- 1.3 Vehicular access would be taken from the established road network (Redbrae Road) and no additional works are proposed on Glasgow Road.
- 1.4 The proposed occupant is Home Bargains, a national discount store selling a mix of food and non-food items. The gross floorspace is 1,939 sq.m, of which 1,580sq.m is sales floorspace. The goods to be sold would be 70% non-food and 30% food.

## **2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application is considered contrary to the policies contained within the Development Plan.

## **3. SITE HISTORY**

3.1 There are no previous planning applications pertaining to the development of the site post 1990. There are, however, planning approvals for retail developments in close proximity to the application site (Tesco and Aldi).

## **4. CONSULTATIONS**

4.1 The Roads Development Unit advise that further details should be submitted to address the following:-

- Street lighting may be required to be upgraded on Redbrae Road along the frontage of the store;
- A 2.0 metre wide adoptable footway should be formed along the full frontage of the site on Redbrae Road;
- 110 car parking spaces are required. While 88 spaces are provided, this is not acceptable;
- All car parking spaces must be a minimum of 5 metres long and 2.5 metres wide, with a maximum of 6m manoeuvring area behind each space;
- The vehicular exit/entrance nearest to the Aldi store should be closed;
- Each vehicular exit/entrance should have clear visibility splays of 2.4 metres x 30 metres;
- No surface water run-off from the site onto the public road will be permitted;
- Acceptable service vehicle manoeuvring will require to be demonstrated.

4.2 Falkirk Community Trust's Keeper of Archaeology and Local History requests a suspensive planning condition to be imposed regarding a programme of archaeological works.

4.3 Scottish Water has no objections.

4.4 Falkirk Council's Environmental Protection Unit requests suspensive planning conditions to be imposed regarding air quality, contaminated land and potential for noisy working.

4.5 The Coal Authority does not object to the application.

4.6 Network Rail does not object to the application.

## 5. COMMUNITY COUNCIL

- 5.1 No Community Council covers the area in which the site is located.

## 6. PUBLIC REPRESENTATION

- 6.1 One comment has been received, that the proposed boundary fence seems inadequate. The proposal is very near residential property and a fence similar, if not exactly alike, to the Tesco boundary fence would be more suited. This would hopefully prevent any issues of noise from delivery vehicles. The height of the fence should also prevent visual impact.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

- 7a.1 Policy ECON. 5 - 'Location of New Retail and Commercial Leisure Development' states:

*“The scale of new retail development will be commensurate with maintaining the hierarchy of shopping centres shown in Schedule ECON 5 and enhancing them. Proposals for significant new retail and commercial leisure development should accord with the following principles:*

1. *non food retailing will be directed to Falkirk Town Centre and the District Centres. In addition, provision will be made for bulky household goods retailing at Middlefield/Westfield Strategic Development Opportunity (up to 25,000 sq m gross), and for limited specialist retailing at the Falkirk Canal Interchange Strategic Development Opportunity, as set out in Schedule ECON.1 and subject to the criteria in Policy ECON.2;*
2. *priority will be given to the provision of new food retail floorspace in Grangemouth, Larbert/Stenhousemuir, the Polmont area, Denny and Bonnybridge/Bankenock, of a scale commensurate with the local catchment. New food retail floorspace will be directed to the District Centres and other established local centres, and only to new local centres where they meet the criteria set out in Policy ECON.6;*
3. *new food retail floorspace in Falkirk will be restricted to existing commitments, neighbourhood stores of less than 1,000 sq. m. gross floorspace, and limited extensions to existing stores; and*
4. *commercial leisure developments will be directed to Falkirk Town Centre, the District Centres and those other Strategic Development Opportunities for which such uses are specified in Schedule ECON.1.”*

7a.2 This policy sets the locational framework for new food retailing, highlighting settlements where new food floorspace is a priority and indicating that such floorspace should be directed to centres in the hierarchy. The policy states explicitly that new food retail floorspace in Falkirk will be restricted to existing commitments, neighbourhood stores of less than 1,000sqm gross floorspace and limited extensions to existing stores. In terms of retail policy, the site is off centre and, being 1,939 sq.m in size, considered contrary to policy ECON 5.

7a.3 Policy ECON.6 - 'Out-of-Centre Retail and Leisure Development' states:

*"Proposals for significant retail or commercial leisure development not within or adjacent to Falkirk Town Centre, or the District Centres or not provided for within a Strategic Development Opportunity as specified in Schedule ECON 1, will be assessed in relation to the following:*

- (1) the impact on the vitality and viability of Falkirk Town Centre, the District Centres, and any other Strategic Development Opportunity;*
- (2) the need for the development;*
- (3) the proposal's ability to meet the sequential approach;*
- (4) the accessibility of the proposal by a choice of means of transport;*
- (5) the impact on the number and length of car trips; and*
- (6) whether the proposal lies within the existing or proposed urban area as defined in the Local Plan.*

*A Retail/Leisure Impact Assessment addressing these factors will be required for all retail developments of 2,500 sq. m. gross floorspace or more, and for major commercial leisure developments. Assessment of smaller retail developments (between 1,000 and 2,500 sq.m. gross) may also be required in certain circumstances."*

7a.4 A Planning and Retail Statement has been submitted by the applicant which seeks to address the terms of the above policy. In assessment, the following comments are relevant:

### **Retail Impact**

- The proposal is for a store with an estimated turnover of £7.6 million, with a local catchment. Impact on large stores in Falkirk Town Centre is likely to be limited, as with the district centres of Denny and Stenhousemuir. However, there is a possibility of some trade diversion from Newcarron village, where there is already a discount store, but the magnitude is not likely to be significant and the adjacent Tesco and Aldi may be the stores that suffer most trade diversion. Overall, therefore, it is considered that there will be no significant impact on the vitality and viability of existing centres as a consequence of the proposals.

### **Need**

- With the presence of existing Tesco and Aldi stores, there is no quantitative need for additional retail foodstores in Camelon, although a discount store of this nature would add a degree of choice for consumers.

## Sequential Approach

- The applicant's Planning and Retail Statement carries out a sequential approach - including an assessment of potential sites in both Falkirk Town Centre and Camelon Local Centre - and concludes that there are no realistic opportunities for a store of this size in, or adjacent to, either centre.

## Accessibility/Car Trips

- The site offers a high level of accessibility by various modes of transport and, given its localised catchment, may be concluded to have a positive impact on the number and length of car trips.

## Urban Limit

- The site is within the urban limit as defined in the Development Plan.

## ***Falkirk Council Local Plan***

7a.5 Policy EP2 - 'Land for Business and Industrial Use' states:

*"In order to maintain the business and industrial land supply and the employment role of existing business and industrial areas:*

- (1) The sites for new business and industrial development identified on the Proposals Map will be safeguarded for the employment use specified for each site; and*
- (2) The areas for retention in business and industrial use identified on the Proposals Map will be retained and reserved for Class 4, 5 or 6 uses, except for the established business parks of Callendar Park and Gateway Business Park, Grangemouth which will be reserved for Class 4 uses only and the Glasgow Road Camelon Industrial Area which may include a food retail element to meet local needs as part of the mix.*

*Other ancillary employment uses may be permitted within these areas where they are compatible with the principal business/industrial use of the site, will not result in a significant reduction in the availability of business land or property, and are consistent with other Local Plan policies."*

7a.6 While there is provision within the Glasgow Road Camelon Industrial area for a food retail element to meet local needs, this provision would be considered to be fulfilled through the recently approved Tesco and Aldi retail stores. The application site is reserved for Class 4, 5 and 6 uses. Consequently, any additional foodstores would be considered to offend the above policy.

7a.7 Policy EP7 - 'New Retail Development' states:

- (1) New retail development in excess of 500 m<sup>2</sup> gross will be permitted where it is consistent with Policies ECON.5 and ECON.6 of the Structure Plan, and specific policies for individual centres in the Settlement Statements.*
- (2) Retail developments smaller than 500 m<sup>2</sup> serving neighbourhood needs will be permitted within the urban area, subject to other Local Plan policies.*

- (3) *Retail development must demonstrate a high level of design quality, compatibility with adjacent land uses and an ability to integrate functionally and visually with any centre of which it is to form part.*

7a.8 The policy reflects that all retail proposals of over 500sqm should be assessed against Structure Plan policies ECON.5 and ECON.6 as above. The policy also refers to compatibility with adjacent land uses and the ability to integrate functionally and visually to any centre which it is to form part.

7a.9 Policy EQ8 - 'Vacant, Derelict And Contaminated Land' states:

*"The Council will seek to reduce the incidence of vacant, derelict and contaminated land, particularly within the priority areas for enhancement set out in Policy EQ7. Subject to compliance with other local plan policies, development involving the rehabilitation and re-use of derelict land will be encouraged."*

7a.10 The site has been vacant since 2008 and the site's capacity for re-development is unlikely to be hindered by the presence of any land contamination.

7a.11 Policy EQ9 - 'Public Art' states:

*"The Council will encourage the incorporation of public art in the design of buildings and the public realm. Developers will be required to adopt 'Percent for Art' schemes in respect of major commercial development schemes."*

7a.12 While not a 'major' planning application in terms of hierarchy of development, the applicant is aware of the accumulating fund to erect a bust of Thomas Clement Douglas. However, the group leading the project considers that sufficient funds have been raised, and no additional contribution is required.

7a.13 Policy EQ16 - 'Sites of Archaeological Interest' states:

- (1) *Scheduled ancient monuments and other identified nationally important archaeological resources shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances;*
- (2) *all Other archaeological resources shall be preserved in situ wherever feasible. The Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications; and*
- (3) *Developers may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development."*

7a.14 The site has been assessed and a planning condition imposed to address archaeological concerns.



7a.15 Policy ST10 - 'Parking' states:

*"The Council will manage parking provision as an integral part of wider transport planning policy to ensure that road traffic reduction, public transport, walking, cycling and safety objectives are met.*

- (1) *There will be a presumption against significant additional public parking in Falkirk Town Centre.*
- (2) *There will be a presumption against the removal of existing parking provision in Falkirk Town Centre where this would adversely affect the vitality and viability of the centre.*
- (3) *Park and ride facilities will be promoted at Westfield, Falkirk. The feasibility of providing facilities on the B902 Stenhousemuir-Falkirk corridor will be investigated.*
- (4) *Parking in District and Local Centres will be managed to promote sustainable travel and the role of the centres.*
- (5) *The maximum parking standards set out in SPP 17 will be applied where relevant, in tandem with the Council's minimum standards. Where the minimum standards cannot be met, then enhanced travel plan resources may be required in compensation."*

7a.16 The proposed level of car parking provision is not considered acceptable. This matter is expanded in para 7b.11.

7a.17 Policy ST11 - 'Sustainable Urban Drainage' states:

*"Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation. A drainage strategy, as set out in PAN 61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment."*

7a.18 Policy ST12 - 'Flooding' states:

*"In areas where there is significant risk of flooding, there will be a presumption against new development which would be likely to be at risk, would increase the level of risk for existing development or would be likely to require high levels of public expenditure on flood protection works. Applicants will be required to provide information demonstrating that any flood risks can be adequately managed both within and outwith the site."*

7a.19 The applicant will be required to submit additional information addressing drainage and flood provision. Ratification of these matters may be achieved through the imposition of suitable planning conditions.

7a.20 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration to be assessed are the policies contained within the Falkirk Local Development Plan, the site history, consultation responses received during consideration of the application, comments received and the Council's Action Plan for the Economic Downturn.

### ***Falkirk Local Development Plan***

- 7b.2 The Proposed Falkirk Local Development Plan (LDP) was published in April 2013, and is a material consideration in the assessment of the application.
- 7b.3 The policy status of the site has changed in the Proposed LDP. The boundary of Camelon Local Centre has been extended westwards to encompass the site, Tesco, Aldi, the leisure/community uses around the Mariner Centre, and the rest of the Glasgow Road industrial area stretching out as far as the Three Bridges. This is reflective of the building of the large Tesco store and the recognition that the leisure/community uses are a legitimate part of the local centre.
- 7b.4 The site itself is part of Proposal ED11 (Redbrae Road, Camelon), which is identified for retail/business/leisure use.
- 7b.5 The relevant policies in the Proposed LDP are Policy TC01 - 'Network of Centres', Policy TC02 - 'Development and Changes of Use in Centres' and Policy TC03 - 'Retail and Commercial Leisure Development'.
- 7b.6 Policy TC01 defines the network of centres and their roles, including Camelon Local Centre. Policy TC02 promotes a mix of retail, business, leisure, community and residential uses within centres, consistent with maintaining their vitality and viability and their role. Policy TC03 states that retail development in excess of 1,000sq.m should be located in the network of centres, and should be of a scale and type consistent with the role of the centre in the network, and commensurate with the local catchment.

### ***Site History***

- 7b.7 Members will be aware that the application site is part of a larger area, the front area being developed by Aldi as a foodstore. The site previously housed an industrial building with offices, which fronted Redbrae Road, used by Johnston Falkirk Ltd for newspaper production.
- 7b.8 Historically, the area to the north of Glasgow Road has experienced significant long term vacancies of buildings and sites, with owners unable to attract new occupiers. Of particular note is the adjoining Tesco site, which was unable to attract a use other than retail, despite it having been vacant and available for 10 years.
- 7b.9 The former owners of the application site, Johnston Press, participated in the early stages of an initiative in 2007 to market the site, but the initiative was later abandoned. Further marketing in 2008 secured Aldi as a preferred bidder, but Aldi withdrew interest in 2009. A revised marketing exercise showed interest expressed solely from retailers and developers with a retail focus, with Aldi as the preferred bidder for the site.
- 7b.10 Since that time, Tesco and Aldi have secured planning permission for the adjacent sites and the sites are now developed as retail foodstores.

## ***Consultation Responses***

7b.11 The Roads Development Unit notes the lack of parking provision on the site, with 88 car parking spaces falling short of the required 110 spaces. However, it should be noted that the adjoining Aldi site has an over-provision of 18 car parking spaces. This over-provision was expected to contribute to the development of the current proposal. In consideration, the application could be considered to have a shortfall of 4 parking spaces. Given the availability of car parking at Aldi, the adjacent Mariner Centre and Railway Station, along with the low probability of both the Aldi car park and the proposed car park reaching capacity, it is considered that the parking shortfall is acceptable. All other Roads concerns can be addressed through planning conditions. The applicant has also amended the layout of the site to address Roads concerns regarding exit provision and visibility splays.

## ***Comments Received***

7b.12 The comment regarding boundary fencing is noted, and a fence detail has been agreed with the applicant.

## ***Falkirk Council's Action Plan for the Economic Downturn***

7b.13 In December 2008 the Council adopted an Action Plan for the Economic Downturn, which highlighted the potential for the Council to be flexible in its application of planning policies to help secure development. The proposal would completely regenerate the site as well as bring some economic activity in the form of new jobs and investment.

## **7c Conclusion**

7c.1 The proposal is contrary to the current Development Plan, but consistent with the Proposed LDP. In terms of the weight to be given to the Proposed LDP as a material consideration, it should be noted that there have been no representations specifically challenging the extension of the Camelon Local Centre to include the site, or to Proposal ED11. There is reasonable confidence that this aspect of the Proposed LDP will be carried forward into the adopted Plan.

7c.2 Clearly, the development of the Tesco and Aldi stores has created a cluster of retail use in this location, a situation which has been recognised in the Proposed LDP. The proposed store can be seen as a logical additional to this cluster.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-**

- (1) The development to which this permission relates must be begun within three years of the date of this permission.**
- (2) Before the building is occupied, the car parking shown on the approved plan shall be completed.**

- (3) Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
- i. existing and finished ground levels in relation to a fixed datum, preferably ordnance
  - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
  - iii. location and design, including materials, of walls, fences and gates
  - iv. soft and hard landscaping works
  - v. existing and proposed services such as cables, pipelines, sub-stations.
- (4) Prior to any works on site, further information shall be submitted to and approved in writing by the Planning Authority as to the minimisation of light pollution from the premises.
- (5) Before the development commences, details of the phasing of the proposed development and the location(s) of the works compound and construction vehicle parking and access arrangements shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (6) Before the development commences, full details of the colour and specification of all proposed external finishes for all buildings, structures and hardsurfaces shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (7) Before the development commences, full details of the colour and specification of all proposed walls, fences, gates and any other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (8) Notwithstanding the approved plans, before the development commences, a scheme of landscaping shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include:
- (i) an indication of any existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their retention;
  - (ii) the location of all new trees, shrubs, hedges and grass areas;
  - (iii) a schedule of plants to comprise species, plant sizes and proposed numbers/species;
  - (iv) a programme for the completion and subsequent management and maintenance for all proposed landscaping and boundary treatments.

The landscaping plan shall be implemented in accordance with an approved phasing plan.

- (9) Before occupation of the retail unit, exact details of any proposed ventilation system and measures to be employed to control noise emission from all proposed plant/equipment and HGV deliveries shall be submitted to and approved in writing by this Planning Authority. Thereafter, all plant/equipment shall be installed, operated and maintained, and all HGV deliveries carried out, in accordance with the approved details.
- (10) All proposed roads, cycleways, traffic signals, roadmarkings, street lighting, footways/footpaths and road crossings to be adopted by Falkirk Council shall be constructed in accordance with the Falkirk Council Design Guidance and Construction Standards.
- (11) Cycle parking shall be provided on the site at location(s) and in accordance with details, including the number and design, submitted to and approved in writing by this Planning Authority.
- (12) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.
- (13) For the avoidance of doubt, the proposed footway along the western side of Redbrae Road to the site access shall be constructed to adoptable standards and be at least 2 metres in width.
- (14) Prior to any works on site, further details shall be submitted to and approved in writing by the Planning Authority as to the Travel Plan Framework.
- (15) Prior to the commencement of any works, full details of the finalised SUDS scheme shall be submitted for the written approval of the Planning Authority, in consultation with SEPA, and all works shall be carried out in accordance with the approved scheme.
- (16) Prior to any works on site, further details shall be submitted to and approved in writing by the Planning Authority as to the finalised street lighting system to be employed.
- (17) No development shall take place within the development site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. This should take the form of mitigation measures in the report by Tom Davis and Thomas Rees produced for James Barr as part of the site assessment.

**Reason(s):-**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2,14) To ensure that adequate car parking is provided.
- (3,4,9) To safeguard the environmental amenity of the area.
- (7,22) To ensure that adequate traffic management provision is secured.
- (5-8) To safeguard the visual amenity of the area.
- (6) In the interests of residential amenity.
- (10-11, 13) To safeguard the users of the public highway.
- (12) To ensure the ground is suitable for the proposed development.
- (15) To ensure adequate protection of the water environment from surface water run-off.
- (16) The development would not be acceptable without these additional works.
- (17) To enable the Planning Authority to consider this/these aspect(s) in detail.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04, 05, 06, 07, 08 AND 09A.
- (2) The applicant should consult with Development Services Roads Unit to obtain Roads Construction Consent before any potentially adoptable road or addition to an existing road is constructed.
- (3) Your attention is drawn to the provisions of the Disability Discrimination Act 1995. This permission does not imply that your proposals satisfy the requirements of that legislation.
- (4) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (5) It is recommended that the applicant should consult with the Development Services' Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.
- (6) The applicant shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:

<b>Monday to Friday</b>	<b>08:00 - 18:00 Hours</b>
<b>Saturday</b>	<b>09:00 - 17:00 Hours</b>
<b>Sunday / Bank Holidays</b>	<b>10:00 - 16:00 Hours</b>

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

- (7) The applicant is advised to contact Network Rail's Asset Protection Engineer for approval prior to any works on site.

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 Director of Development Services

Date: 14 March 2014

**LIST OF BACKGROUND PAPERS**

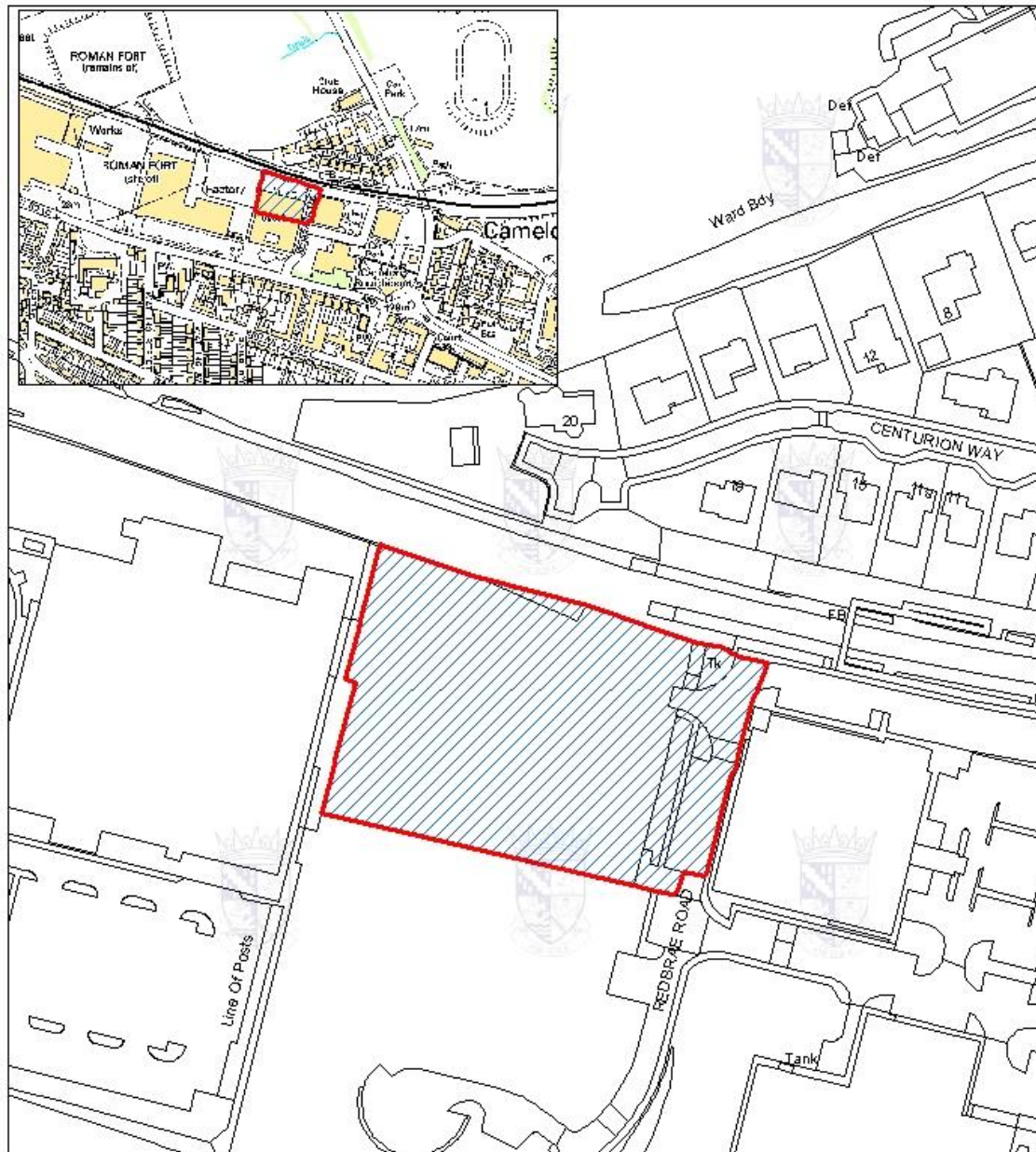
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Economic Downturn Action Plan.
4. Falkirk Local Development Plan.
5. Letter of Representation from Ms Donna McFadden, Ochilview, 20 Centurion Way, Falkirk, FK2 7YH on 17 December 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/13/0766/FUL**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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