

FALKIRK COUNCIL

Subject: FORMATION OF A MULTI USE GAMES AREA COURT (MUGA COURT) AT LAND TO EAST OF ARCHIBALD RUSSELL CENTRE, HAYPARK ROAD, HEAD OF MUIR, FOR FALKIRK COUNCIL - P/13/0303/FUL

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 25 June 2013 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 5 August 2013.
2. At the site visit, the case officer summarised his report, the applicant spoke in support of the application, members of the public spoke both in support of and against the application, and Members of the Planning Committee and Local Members were heard.
3. The applicant advised that the proposed court would provide a facility for a range of games and very little problems had been experienced with 9 MUGA courts that have been built recently. He advised that the initial proposal was to locate the MUGA at Head of Muir Primary School, but concerns were raised in the consultation process and the current site was considered, on balance, to be the best option of 4 alternative sites considered in the area.
4. Members of the public reiterated and expanded on the matters raised in public representations summarised in the officer's report. Those who spoke in support of the application considered that the proposed MUGA would be a great asset to the community and provide a much needed facility for the local area that would be well utilised by a wide range of groups. They thought that users of the MUGA would walk to the facility, therefore there would be no additional traffic, and that there would be fewer balls going onto the road than at present, due to the MUGA having a contained play space. They highlighted that the facility would be a welcome addition when the grass area is too wet to use.

5. Objectors to the application acknowledged the community benefits that the MUGA would provide but were against the currently proposed location. They considered that the proposed site was too close to housing and were particularly concerned about safety if children using the MUGA were retrieving balls straying onto the adjacent roads. In particular, the very busy Denny Road lies in close proximity to the site of the proposed MUGA. They were also concerned about the consultation process in selecting the site and thought that the primary school offered a more suitable location. They also raised other concerns, including overlooking, visual impact and flooding.
6. The Environmental Protection Officer advised that, as with any sporting facility of this nature, noise can be anticipated, but noise associated with the use of the proposed MUGA for its intended purpose would be considered reasonable noise and not potentially a statutory noise nuisance.
7. Members of the Planning Committee sought further information on why the primary school was not selected for the facility. In addition, they queried whether the MUGA could be located further from the main road, and raised safety concerns if balls were to stray onto the road.
8. Some Local Members were supportive of the proposal and its benefits to the local community. They clarified that the primary school was not selected due to concerns by neighbours and the Parent Council, who were concerned at the potential for anti-social issues if the facility had 24 hour access. They suggested that a secondary fence, higher than the existing post and wire fence, should be capable of addressing safety concerns.
9. The applicant advised that they proposed to address existing flooding issues by connecting to the drainage system. They would be content to accept any conditions attached to any grant of permission.
10. In response to concerns raised at the site visit, the applicant has submitted amended proposals to move the proposed MUGA 5 metres to the west (further away from Denny Road) and increase the height of the eastern, northern and southern fencing panels of the MUGA from 0.99 metres to 2 metres. In addition to repairing the existing post and wire boundary fence, they also propose to extend the fence to the corner of Denny Road and Haypark Road. These proposed changes are considered to suitably address the concerns raised, and this is also the view of the Roads Development Unit.
11. The previous recommendation to grant planning permission is reiterated in paragraph 12 below. The wording of condition 2 is amended to reflect the new proposal to extend the existing fence line.

12. RECOMMENDATION

12.1 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) Before the development is brought into use, the existing post and wire fence along Denny Road shall be repaired and re-tensioned and extended to the north, in accordance with the precise details submitted to and approved in writing by this Planning Authority.**
- (3) Before the development commences, the proposed arrangements for surface water drainage 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.**

Reason(s):-

- (1) As these drawings and details constitute the approved development.**
- (2) To help prevent stray balls from leaving the area.**
- (3) To ensure that adequate drainage is provided.**

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, 04, 05, 06, 07, 08, 09 and 10.**

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan Proposed Plan (April 2013).
4. Letter of Support from Mrs Anne Montgomery, Director of Archibald Russell Centre, 86 Bankhead Crescent, Dennyloanhead on 10 May 2013
5. Letter of Objection received from Mr William Murray, 3 Hayfield Terrace, Head of Muir, Denny, FK6 5LA on 20 May 2013.
6. Letter of Objection received from R Cumming, 5 Hayfield Terrace, Head of Muir, Denny, FK6 5LA on 20 May 2013.
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16. Petition in Support received from Dennyloanhead Youth Club and Archibald Russell Centre, c/o Loraine Ferguson and Marie Bishop, Archibald Russell Centre, Haypark Road, Head Of Muir, Denny, FK6 5JZ on 11 June 2013.
17. Letter of Objection received from Mr David Nolan, 1 Hayfield Terrace, Head Of Muir, Denny, FK6 5LA on 11 June 2013.

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

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Meeting: PLANNING COMMITTEE

Date: 25 June 2013

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: Brent Vivian, Senior Planning Officer, Ext. 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks detailed planning permission to form a multi use games area (MUGA) court. The dimensions of the court would be 30 metres in length and 18 metres in width and would be enclosed by 0.9 metre high fencing, increasing in height to 2.7 metres at either end where there would be a goal and a basketball hoop. The proposal includes a new path access.
- 1.2 The application site forms part of a grassed public open space area. The site lies adjacent to Haypark Road and housing to the north, Denny Road to the east, housing to the south and the Archibald Russell Community Centre to the west. There is a grassed slope along the northern and part of the east site boundaries which rise to the level of the adjacent roads.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as Falkirk Council is the applicant and the application site is within the ownership of the Council.

3. SITE HISTORY

- 3.1 There is no relevant planning history for the application site.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have advised that the proposed orientation of the court, in addition to the level difference to Denny Road and Haypark Road, should help to prevent any stray balls from leaving the area. However, as an additional measure, they request that the existing post and wire fence adjacent to the site on Denny Road should be repaired and re-tensioned. They advise that there could be an opportunity to improve the drainage of the open space area, but that further investigation would be required to determine if a connection to existing surface water infrastructure could be achieved.
- 4.2 Scottish Water have no objection to the application.
- 4.3 The Environmental Protection Unit have noted that the proposed MUGA would be some 30 metres from the nearest noise sensitive premises. They do not consider that the proposal would be problematic from the point of view of statutory noise nuisance, but note that noise from patrons utilising the facility may give rise to complaints, although existing MUGA's in the Falkirk Council area have generated very few complaints. They advise that a contaminated land assessment would be required in the event that any made ground, suspect substances or odour are encountered during any site works/operations following commencement of the development.

5. COMMUNITY COUNCIL

- 5.1 The Denny and District Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 Fourteen public representations have been received in relation to the application. Twelve of these are objections, one is a letter of support and one is a petition in support. The petition has 88 signatories (and includes a Kids Petition with 20 signatories).
- 6.2 The concerns raised in the objections can be summarised as follows:-
- An official complaint regarding the manner this application has taken is presently being compiled;
 - The MUGA was previously proposed for another site but the proposal was removed after complaints were received. Residents surrounding the site of the current proposal should be similarly listened to and treated, otherwise the Council are open to allegations that they are not being fair in how they handle these proposals;
 - The planning application form has inaccuracies, mistakes or deliberate attempts to mislead the planning department, e.g. the form does not mention any new paths yet the drawings submitted show a new path, the new path does not appear to lead to an entrance to the MUGA, the colour of the MUGA is to be canary yellow whilst the sample MUGA forms show soft colours, the site is known to flood but the form indicates no flooding and a mature acer tree is indicated on the drawing but this is an oak tree;
 - The application form has not been dated, and as such the form is invalid and not a legal document;

- Exception is taken at being labeled a 'bad neighbour';
- Residents overlooking this proposal have not received letters advising them of the application;
- The development may lead to a significant impact upon road safety, as it is to be situated beside the main Denny/Glasgow Road;
- Statistics confirm that there have been 7 major injury road accidents in the past within 50 yards of this location. The location is dangerous for the proposed MUGA;
- Access to properties at Park Avenue is via a single track which is problematic at times due to proximity to the shop and the Archibald Russell Centre;
- This problem will be worsened by the proposal due to obstruction caused by traffic parking, with potentially fatal consequences if emergency vehicles require access;
- Properties will look onto the proposed MUGA giving rise to impacts on outlook (from lounge/living room windows);
- Detrimental impact on quality of life and unacceptable intrusion due to noise, privacy impacts and general disturbance;
- The area is a hotspot for youth disorder and the facility is likely to be vandalised, rendering it unsuitable;
- The design of the development, its scale and use, is such that it is out of character with its surroundings and overbearing;
- The site is unsuitable as it regularly floods due to submerged streams and other drainage problems; and
- The village offers a range of facilities for local children at present.

6.3 The reasons in support of the application are:-

- The proposed MUGA will enhance the public park which is lacking in play equipment compared with neighbouring areas;
- The MUGA would lie within a dip and not immediately within eye view of the few houses on either side of it;
- The park is used daily for football but the grassy area can be waterlogged and dog owners do not always clean up their pets' mess;
- The MUGA would meet a need in the Dennyloanhead/Head of Muir area for unrestricted outdoor play provision;

- The MUGA would be safe for younger children as it would be fenced;
- Lighting from the road means it could be used on darker evenings;
- It would be unlikely to be used by those wanting to gather to drink because of its position close to roads and housing where it can be observed e.g. by police on patrol;
- The MUGA would encourage outdoor participation at a time of concern over the health of children and young adults caused by a lack of exercise;
- Concerns about parking alongside the MUGA seem irrelevant as it is in walking distance of the houses where most of the users will come;
- The MUGA would allow the Dennyloanhead Youth Club to have outdoor activities in a controlled environment;
- POMP (out of school care) would also use the facility; and
- The Archibald Russell Centre Committee are fully supportive of the initiative.

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 within the urban limits and an open space area as defined within the Falkirk Council Local Plan.

- 7a.3 *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.4 This policy requires new development to achieve a high standard of design and compliance with principles of sustainable development. The proposed MUGA is considered to respond positively to the park environment and its use as a recreational open space area. The MUGA would be readily accessible and the existing car park at the Archibald Russell Centre could be utilised if necessary. The provision of surface water drainage, including the opportunity to connect to existing surface water infrastructure, would be subject to further consideration. The new facility would be maintained by Falkirk Council. In light of these comments, the application is considered to accord with this policy.

7a.5 Policy EQ5 'Design and Community Safety' states:

“Development proposals should create a safe and secure environment for all users through the application of the following principles:

- (1) *Buildings, public spaces, access routes and parking areas should benefit from a high level of natural surveillance;*
- (2) *Boundaries between public and private space should be clearly defined;*
- (3) *Access routes should be direct, clearly defined and well lit, with recognised points of entry; and*
- (4) *Contributions to the provision of CCTV may be sought, where appropriate.”*

7a.6 This policy states that the development proposals should create a safe and secure environment for all users. The proposed MUGA would sit within an open, highly visible area adjacent to public roads and footpaths with street lighting, and would be overlooked to a degree by nearby housing. The site is also adjacent to a community centre which is a hub of activity. It is therefore considered that a safe and secure environment would be created and that the application accords with this policy.

7a.7 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.8 This policy generally presumes against the introduction of uses within established residential areas that would be incompatible with the residential character and amenity of the area. The introduction of recreational facilities such as MUGA's within residential areas can be anticipated in order to provide an accessible facility and meet the needs of the local community. It is accepted however that such facilities can give rise to increased noise and activity. Balanced against this, the proposed MUGA would be located within a park with existing recreational use, the facility would not be lit (and therefore would not be expected to be in use after dark), and the Environmental Protection Unit have advised that existing MUGA's in the Falkirk Council area have generated very few complaints. The comments of the Environmental Protection Unit are recorded in paragraph 4.3 of this report. Any issues with anti-social behaviour could be investigated and the facility monitored by the relevant authorities. The applicant has advised that the Archibald Russell Community Centre Committee monitor and report on any anti-social behaviour issues in the area, and that Falkirk Council's Community Safety Team could report and follow-up on any anti-social issues if the need arises. Overall, and with these safeguards, this application is considered to accord with this policy.

7a.9 *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.10 This policy protects all urban open space areas which are considered to have landscape, amenity, recreational or ecological value. The open space area in question would appear to function mainly as a park for informal recreation uses and includes a small play area and a large kick about area. The proposed development would not result in the loss of recreational open space and instead would reinforce and enhance the recreational value and use of the park. The area is not of significant ecological value and the proposal would not threaten connections within the overall open space network. The application is therefore considered to accord with this policy.

7b Material Considerations

7b.1 The material considerations in respect of this application are the Falkirk Local Development Plan (FLDP), the consultation responses and the representations received.

Falkirk Local Development Plan

- 7b.2 The FLDP was approved by the Council for consultation in March 2013, with the period of 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 determining of planning applications.
- 7b.3 The application site lies within the urban limits and an open space area as defined within the FLDP. The FLDP contains similar policies to those of the Development Plan of relevance to the proposal development which the application has been assessed as complying with in this report.

Consultation Responses

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

Representations Received

- 7b.5 The representations are summarised in Section 6 of this report. The following comments are considered to be relevant in relation to the matters raised in these representations:
- It is understood that the applicant undertook community consultation in relation to the provision of a new MUGA in the wider Denny area. Any concerns in relation to that process would be investigated by the appropriate Council Service(s) and are not material to consideration of this planning application;
 - The application does not propose any changes to existing paths and a new path would provide a connection to the new facility;
 - The applicant has advised that the new path would access the MUGA via an 'escape route' at the goal (used also to retrieve balls);
 - The predominant colour of the MUGA enclosure would be blue, whilst the fence posts would be yellow;
 - The applicant has confirmed that the existing tree is an acer;
 - The applicant was advised that the application form was not dated and the applicant subsequently dated the form;
 - It is the proposed MUGA that has been classified as a potential 'bad neighbour development' within the terms of Schedule 2 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Therefore this term does not refer in any way to residences in the local area;
 - Neighbour notification of the application was undertaken by Falkirk Council in accordance with the statutory notification procedures;

- The Roads Development Unit have not raised any concerns in relation to road safety. They have advised that the accident records do not indicate a road accident issue on the A872 along the frontage of the proposed MUGA;
- The applicant has advised that MUGA courts are utilised primarily by young and older children who are non-car users and access the MUGA sites by walking. Of nine recently constructed MUGA installations within the Falkirk Council area, there have been no reported issues related to car-parking;
- The MUGA is proposed to be sited centrally within an existing open space area. The properties with the most direct outlook onto the proposed MUGA are at the eastern end of Haypark Terrace, but the separation distance between these houses and the proposed MUGA (being at least 30 metres, within which there are a main road and open space), and the lower level of the MUGA site compared to the houses, mitigates the visual impact;
- It is not considered that the proposed development would give rise to any material privacy impacts;
- Concerns in relation to noise, anti-social behavior and flooding have been considered elsewhere in this report;
- As detailed in this report, the proposed MUGA is considered to respond positively to the park environment and its use as a recreational open space area; and
- The comments in support of the application are noted.

7c Conclusion

7c.1 This application is considered to accord with the Development Plan, for the reasons detailed in this report. The application is therefore recommended for approval subject to appropriate conditions. There are not considered to be any material considerations to set aside the terms of the Development Plan in this instance.

8. RECOMMENDATION

8.1 It is therefore 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) Before the development is brought into use, the existing post and wire fence along Denny Road shall be repaired and re-tensioned.**
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Reason(s):-

- (1) As these drawings and details constitute the approved development.**
- (2) To help prevent stray balls from leaving the area.**
- (3) To ensure that adequate drainage is provided.**

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.**
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Director of Development Services
Date: 18 June 2013

LIST OF BACKGROUND PAPERS

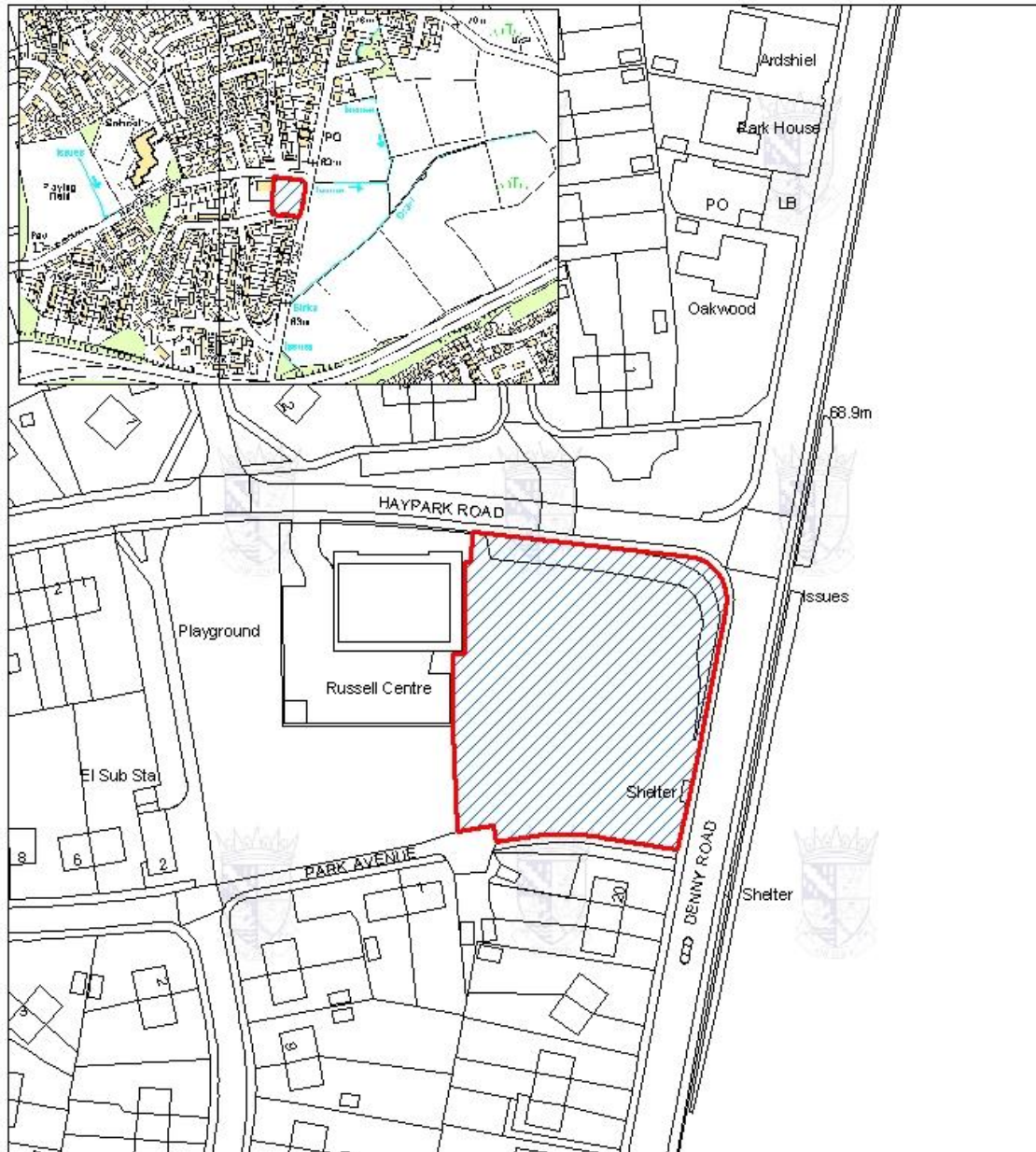
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Planning Committee

Planning Application Location Plan **P/13/0303/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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