

List of Hearing Statements – Agenda Item 6

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Ms. A Sobieraj
Committee Services Officer
Chief Executive Office, Governance
Municipal Buildings
FALKIRK
FK1 5RS



2nd October 2014

Dear Ms. Sobieraj

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION 7 LOCAL REVIEW
PRODEDURES)(SCOTLAND) REGULATIONS 2008
LAND TO THE EAST OF 44 RODEL DRIVE, POLMONT
PLANNING APPLICATION REFERENCE P/14/0274/FUL**

I refer to the above and to your letter and enclosures of 23rd September 2014 concerning the same, and in respect of the various matters raised therein, I write to advise first of all that, on behalf of my client, I intend to appear at the Hearing Session which has been convened to consider this ongoing Review.

No person other than myself will be appearing at this Hearing Session.

In line with the terms set out within your letter, and in accordance with the relevant Regulations, I attach for your attention, a copy of my Hearing Statement, which addresses the list of Specified Matters, and a list of those Documents to which reference may be made during the course of the Hearing Session.

I also attach a full copy of additional Document 19, to which reference is made in relation to Specified Matter No.2.

Further to the matters set out above, I would advise that due to long standing holiday commitments, I am unavailable during week commencing 13th October 2014 and I trust that this does not cause any difficulties in terms of the arrangements for the Hearing Session.

I trust that you find this to be in order and I look forward to hearing from you further in due course.

Yours Sincerely



ANDREW BENNIE

Director

Enc.

**PLANNING APPLICATION REFERENCE P/14/0274/FUL
HEARING SESSION SCHEDULE OF DOCUMENTS**

- 1: Application Form and Associated Land Ownership Certificate
- 2: Site Location Plan
- 3: Planning Statement in Support of Planning Application
- 4: Transportation Statement in Support of Planning Application
- 5: Proposed Site Layout & Landscape Proposals (Both Superseded)

- 6: Proposed Drainage Layout, Proposed Levels Layout, Proposed Site Sections (all Superseded), Topographical Survey
- 7: Proposed House Types
- 8: Proposed Fencing/Boundary Treatment Details
- 9: Proposed Site Layout
- 10: Proposed Levels Layout
- 11: Proposed Drainage Layout
- 12: Proposed Site Sections
- 13: Landscape Proposals
- 14: Site Plan Open Space
- 15: Letter to Falkirk Council, Development Services, dated 3rd July 2014
- 16: Letter to Falkirk Council, Development Services, dated 9th July 2014
- 17: Affordable Housing Statement
- 18: Photographic Visual Impact Survey, dated 30th June 2014
- 19: Protected Species Walkover Assessment & Phase 1 Habitat Survey

HEARING STATEMENT IN SUPPORT OF
LOCAL REVIEW
RELATIVE TO THE NON-DETERMINATION OF
PLANNING APPLICATION REFERENCE
P/14/0274/FUL

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September 2014

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2.0 Responses to Specified Matters

Appendix 1: Documents List and copy of Additional Documents 19: Protected Species Walkover
Survey & Phase 1 Habitat Survey

1.0 INTRODUCTION

This Hearing Statement has been prepared by Andrew Bennie Planning Limited on behalf of Persimmon Homes East Scotland Limited in further support of their request that the Planning Authority, under the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 review the failure of the Appointed Person to determine planning application reference P/14/0274/FUL within the prescribed time limits set down under regulation 26(2)(b) of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008.

This Hearing Statement provides responses to each of the Specified Matters set out within the letter from Falkirk Council dated 23rd September 2014.

Andrew Bennie, BA (Hons) MRTPI, a Director of Andrew Bennie Planning Limited will appear at the Hearing Session on behalf of the applicant.

2.0 RESPONSES TO SPECIFIED MATTERS

1: The Impact of the Proposed Development on the Existing Surrounding Area

Whilst the proposed development will result in a change in the nature and character of the application site, I would submitted that this change will not result in any adverse effects upon the established amenity of the surrounding area.

In both physical and visual terms, the application site relates most strongly to the existing residential properties, which bound the site on all sides. Accordingly, I consider that the proposed residential development of the site, which is proposed at a development density that matches that of the existing residential developments, which bound the site, would be wholly in keeping with the well-established residential character of the surrounding area.

It is not considered that the proposed development would give rise to any detrimental impacts upon the level of amenity that is presently enjoyed by those properties, which bound directly onto the site.

I would further note that the application site does not comprise an area of planned open space provided as a consequence of the development of any of the residential units, which surround the site, rather, it is simply an area of ground left over as a result of these earlier developments.

I would further advise that ground clearance and site preparation works have already taken place in relation to the implementation of planning permission reference P/12/0718/FUL and that as a consequence of the same, the previous use of the site as an area of open space has already been extinguished.

2: The Ecological value of the Development Site and the Impact of the Development on that.

The application site has been the subject of three separate habitat surveys over the last twelve years or so, including the ecological appraisal of the site which was submitted in support of planning permission reference P/12/0718/FUL (reference in this regard should be had to additional Document 19), all of which highlight the simple fact that the application site is of low

ecological value and that its development would not adversely impact upon the integrity of the wider SINC designation.

This view of the ecological value of the site has previously been accepted by Scottish Natural Heritage who, in relation to an earlier application relating to the site advised that they:

"... certainly couldn't object to the proposals on nature conservation grounds alone."

As I have noted already, ground clearance and site preparation works have already taken place in relation to the implementation of planning permission reference P/12/0718/FUL.

Given the variety of different sources which all point to the fact first of all that the application site is of low ecological value and secondly that its development would not affect the wider SINC designation, I would submit that first of all, the site itself, due to the part implementation of planning permission reference P/12/0718/FUL no longer has any ecological value in its own right and secondly, that the development of the site will have no adverse impact upon the integrity of the remainder of the wider SINC designation.

3: The Roads, access and Parking Issues relative to the Proposed Development.

It is my understanding that the outstanding issues of concern that have been raised by roads officials of the Council cover the following matters:

- 1) The proposed development would increase the number of residential units which are served by Lewis Drive, which is the only access point from the application site to Gilston Crescent, to a level which is above the recommended maximum of 200 residential units that can be served off a general access road with a single point of access;
- 2) The emergency access route shown within the amended road layout drawing is shown to be set, at a gradient, which exceeds the maximum permissible gradient of 8%;
- 3) The revised road layout shows a discontinuous footpath along the north side of Rodel Drive, adjacent to the site access; and,
- 4) The level of visitor parking provision within the site falls short of the required level, with the spaces, which are being provided being poorly distributed across the site.

I would comment on each of these matters as follows:

On the matter of the number of residential units, which can be accessed off a general access road with a single point of access, I would wish to make clear that rather than constituting an absolute maximum figure, that cannot be exceeded under any circumstance, the stated figure of 200 units represents a recommended/preferred requirement.

This being the case, I would submit that whilst the Council's Design Guidelines & Construction Standards for Roads may state a preference that no more than 200 units should be served off a general access road with a single point of access, this falls far short of stating that under no circumstances should developments which would lead to the 200 unit level being breached be granted planning permission.

Consequently, it is submitted that, in itself, this matter cannot reasonably be held up as a basis to withhold planning permission in respect of the application proposals and I would note further that the development of the application site represents the absolute maximum extent of the potentially developable land that could be accessed off Rodel Drive, and that as such, once the site is fully built out, there is no prospect that any further development could take place at this locale.

Having been advised of this issue, my client sought further clarification from the planning case officer as to whether anything could be done as means of addressing this concern and my client was advised that the Roads Development Unit had stated that:

"The guideline figure has been used throughout the UK and abroad for many years and is based on vehicular access concerns regarding the maximum size of a cul-de-sac and maximum number of homes which could have no fire appliance/emergency vehicle access should there be an immovable road obstruction at the beginning of the cul-de-sac. In some circumstances where slightly more than 200 is proposed there are future proposals to ultimately have two access points or construct a footway access which could be brought into use if necessary at limited cost and complexity e.g. a wide 3.5m strengthened footway with bollards which could be removed if required. There does not seem to be scope for this in this particular development and hence we cannot support greater than 200."

Having assessed this issue in detail, my client, acting in good faith and on the clear advice of the Council's Roads Development Units, was able to amend the details of the proposed development layout to provide for the creation of this form of emergency access, leading eastwards from the site onto Portree Crescent.

The drawing detailing this amendment to the site layout is provided at Document 9 of my original Statement in Support of this Review.

It is clear that the principle driver for the recommended maximum figure of 200 residential units off a general access road with a single point of access relates to public safety concerns arising from the potentially inability of emergency vehicles to gain access to an area, if a blockage occurs at the start of an single access general access road.

Whilst the Council is within its rights to take a view on this matter, it would seem wholly reasonable to suggest that it would be the emergency services themselves who are best placed to advise whether, in their professional opinion, any given development where likely to give rise to a situation that would adversely impact upon their operational activities.

The Scottish Fire and Rescue Service have advised that they have no objection to the proposed development.

In light of the position that the Scottish Fire and Rescue Service have taken relative to the proposed development, the manner in which my client was led to bring forward the amendment to the layout of the proposed development to provide for the emergency footpath/access link and given the fact that the Council's roads guidelines do not present an absolute prohibition against any development which would result in more than 200 units being served off a general access road with a single point of access, I would submit that the marginal encroachment beyond the recommended 200 unit level (the proposed development resulting in a total of 225 units being served off a single access), when considered within the context of the provision of the emergency footpath/access, provides insufficient reason to withhold planning permission in respect of the application which forms the basis of this Review.

Issue 2

Having assessed this issue further, I would advise that it has proved possible to achieve an 8% gradient for this footpath through some additional ground re-profiling works across the site, which result in a reduction in the finished ground levels across the site as a whole.

Given that the existing footpath connection which presently links the site to Portree Crescent significantly exceeds the 5% adoptable gradient and is un-surfaced, albeit that it is not adopted, it is considered that the gradient of 8% which can now be achieved is acceptable under the "exceptional circumstances" noted by the Council, this being in light of the clear benefits in terms

of the safety of use of this footpath connection that can be secured as a consequence of the proposed development.

Various drawing detailing the amended finished ground levels across the site and the details of the construction make up of the roads within the site, which confirm that an 8% gradient is achieved relative the this footpath link, have already been provided as part of this Review process.

Issue 3

Whilst I would acknowledge that it is not possible to provide a continuous footpath along the north side of the access into the site from Rodel Drive, I consider that the benefits, to the existing residents of Rodel Drive, of the additional parking spaces which can be created within this area significantly outweigh any safety concerns associated with pedestrians either having the walk in front of the parking area along the carriageway, which is the situation that occurs in most Council car parks across the Council area without giving rise to any problems, or cross the road to gain access to the footpath on the south side of the road.

Car parking within the body of the application site itself is fully compliant with the relevant Council standards and I would advise that the car parking spaces at the Rodel Drive entrance into the site are additional to and do not form part of the onsite visitor parking requirement that relates to the proposed development.

Issue 4

The Council have highlighted that there is a shortfall of two in the number of visitor car parking spaces that are being provided within the site and that the spaces, which are provided, are poorly distributed across the site.

This matter has been reassessed and though a further revision to the proposed site layout, it has been possible to accommodate an additional two visitor car parking spaces within the site, which allows for the eleven spaces that the Council have requested to be provided.

These eleven visitor car parking spaces are distributed evenly across the site, in line with the Council's requirements.

4: The Visual Impact of the Proposed Development including issues of Height, Skyline and Landscape Sensitivity.

Whilst accepting that all development, irrespective of its scale or nature, will have some degree of either landscape and/or visual impact, I do not consider that the proposed development of the application site will give rise to any significant or adverse landscape or visual impacts, furthermore, I do not consider that the site exhibits any degree of high landscape sensitivity.

In all views of the site, the site is seen only within the context of existing housing and due to the sites elevated position its cannot be seen from any vantage points to the north. All views of the site from either the south or the east clearly place the site, in visual terms, within the context of the existing surrounding built form.

I consider that the proposed development will sit comfortably within the context of the surrounding built form and that in visual terms, it will be immediately assimilated into the established urban area.

In terms of the height of the proposed units within the site, the proposed finished levels will ensure that the ridge heights of the units sit below the level of those existing residential units on Skye Drive and only marginally above those of the existing residential units on Portree Crescent and Culduie Circle.

In terms of the impact of the proposed development upon the skyline, I would submit that whilst from certain vantage points, the proposed development may marginally breach the skyline, it does so only within the context of existing residential development which similarly breaches the skyline and that as such, the proposed development will not give rise to any demonstrably adverse impacts upon any area of pristine skyline.

5: The Scale of the Proposed Development.

The application site extends to some 1.69ha (4.17acres) and as such, the proposed development represents a development density of circa 25 units per hectare (11 units per acre). This development density is, I would submit, wholly in keeping with the established development densities, which are to be found within the existing residential areas, which surround the site and that as such, the scale of the proposed development is acceptable within the context of the established urban area within this part of Polmont.

6. Any Impact on Privacy of the Proposed Development.

The layout of the proposed development has been designed in such a way as to minimise any potential impacts upon the level of privacy, which is presently enjoyed by those existing residential units, which bound the site.

To this end, I would wish to highlight that that none of the existing properties on either Skye Drive or Portree Crescent directly overlook the site and that as such, the existing views from these properties will be unaffected by the proposed development.

The proposed units which run along the southern boundary of the application site have been orientated so as to sit gable end onto the housing on Culduie Circle, which lies to the south side of the application site, this being done in order to ensure that no direct over looking of existing and proposed properties occurs, thus protecting the privacy of the existing residential properties to the south.

The proposed development will have no privacy impact upon any existing properties to the north of the application site due to the significant difference in levels that exist between the site itself and the existing housing to the north.

7. Impact of the Proposed Development on Open Space and any requirement for an Open Space Condition or Financial Contribution (including the amount concerned).

By virtue of the granting on planning permission for the development of the site under the terms of planning permission reference P/12/0718/FUL, the former open space use of the site has already been lost, and it is important to note that planning permission reference P/12/0718/FUL carried with it no requirement to make any compensatory payment in lieu of the loss of this open space.

This being the case, I do not consider that it would be justifiable or reasonable to seek any form of compensatory payment for the loss of the open space on the application site.

The proposed development layout makes provision for the creation of areas of both passive and active open space, the extent of which exceeds the standards, which are set out within the Council's SPG on Public Open Space, Falkirk Greenspace and New Development.

This being the case, I consider that no reasonable or justifiable case can be made for any contributory payments and/or conditions relating to the provision of improvements to any existing areas of off site open space.

8. Any requirements for an Educational Financial Contribution including the amount concerned.

The terms of the Council's position on the educational implications of the proposed development are set out within the consultation response from Educational Services dated 19th June 2014.

The terms of this consultation response, on any reasonable reading thereof, makes clear that sufficient capacity exists within St Andrews RC Primary School, Greame High School and St Mungo's RC High School to accommodate the anticipated number of school pupils which will be generated by the proposed development.

This being the case, it is my submission that no educational contributions can be justified in relation to these three schools.

With regards to St Margaret's Primary School, whilst the Council have indicated that this school is projected to reach and exceed its capacity with proposed housing development (including these current proposals), the Council have failed to demonstrate that the school will not have sufficient capacity to accommodate the anticipated number of pupils who would enrol at this school during the period leading up to the full occupation of the proposed development, which is expected to be within approximately two years of a start being made on the development. In short, no evidence has been provided by the Council to satisfactorily demonstrate that the 11 pupils that would be expected from this site would place the role of the school beyond its capacity.

The terms of the Scottish Governments Circular 3/2012 make clear that planning obligations should not be used to extract benefits from developers, which are not directly related to the proposed development. In this case, as no evidence has been provided to demonstrate that the school would exceed its capacity as a direct result of this proposed development, any such request would fail to meet the "Relationship to Proposed Development Test" which is set down within the Circular and as such cannot be reasonably justified.

Further to this, I would consider that in line with the terms of the Council's SPG on "Education and New Housing", the Council have failed to demonstrate that insufficient capacity exists within St Margaret's Primary School to accommodate the anticipated pupil output from the proposed development.

This being the case, I do not consider that any educational contributions can reasonably or justifiably be sought in respect of St Margaret's Primary School.

Finally, with regards to nursery provision, it is accepted that a payment towards the same in the sum of £15,050 is justifiable in relation to the proposed development.

Taking into account all of those matters set out above, I would respectfully request that the Local Review Body uphold this Review and in so doing, grant planning permission pursuant to planning application reference P/14/0274/FUL.

Protected Species Walkover Assessment

Planning Application Reference
P/14/0274/FUL

&

Review Document 19

Phase I Habitat Survey

For Proposed Development Site

On land adjacent to Rodel Drive

South Polmont

Falkirk

September 2012

Executive Summary

As part of the planning process for the proposed development of an area of open ground adjacent to Rodel Drive, South Polmont, (grid reference NS 93958 78450), a suite of baseline ecological surveys were commissioned and undertaken in September 2012. The survey area included former farmland now long-disused and proposed access (Figure 1.).

Field surveys for protected species covered the site and a 30m buffer zone and considered the potential presence of relevant European Protected Species (bats), Badgers, and potential breeding birds, with particular reference to those species with enhanced statutory protection. An extended Phase I habitat survey was also completed.

No features of potential value to roosting bats were found within the survey area.

~~No evidence of Badgers was found within the survey area or a 30m buffer zone.~~

A total of four species were present (Blackbird, Willow Warbler, Greenfinch, and Goldfinch. No species with enhanced statutory protection were detected. One species present was of interest as a UK Amber-listed species of conservation concern (Willow Warbler).

A total of 33 species of plant in four terrestrial habitat types were recorded within the survey area during the walkover Phase I survey. No nationally rare plant species were found.

The proposed development while within part of a larger area designated as a SINC site is not considered to be a significantly damaging proposal to the key habitats that the SINC was designated for; the grasslands were of low value at designation, and now are of negligible value both in species diversity and extent, and so their intrinsic value has been lost. It may be considered that the designation as SINC was originally in error as it was advised against by the habitat surveyor in 1997 and part of the field was in fact developed. The proposed development site may have been better classed as neglected land or open space rather than as part of the adjacent South Polmont SINC, which clearly has somewhat greater value but still only at a local level. With the mitigation discussed above, it is considered that there can be a long-term positive ecological gain for this site through a sensitive development with specifications for biodiversity enhancement developed and agreed with the local authority.

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1. Introduction

As part of the planning process for the proposed development of an area of open ground adjacent to Rodel Drive, South Polmont, (grid reference NS 93958 78450), a suite of baseline ecological surveys were commissioned and undertaken in September 2012. The survey area included former farmland now long-disused and proposed access (Figure 1.).

2. Scope of Assessment and Survey

Field surveys for protected species covered the site and a 30m buffer zone and considered the potential presence of relevant European Protected Species (bats), Badgers, and potential breeding birds, with particular reference to those species with enhanced statutory protection. An extended Phase I habitat survey was also completed.

3. Relevant Policy and Guidance

This ecological assessment has been undertaken with regard to the legislative requirements given in the following:

- The Conservation (Natural Habitats &C) Regulations 1994 (The Habitats Regulations);
- The Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2007 & 2008;
- Nature Conservation (Scotland) Act, 2004;
- Wildlife and Countryside Act 1981 (and subsequent amendment through The Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2007 & 2009);
- Protection of Badgers Act, 1992 (and subsequent amendment through The Nature Conservation (Scotland) Act 2004);
- Wild Mammals (Protection) Act, 1996;
- The Convention on the Conservation of European Wildlife and Natural Habitats (The Berne Convention), 1979;
- Scottish Executive (now Scottish Government) document: European Protected Species, Development Sites and the Planning System, 2001. Interim guidance for Local Authorities on Licensing Arrangements (October 2001);
- The Land Reform (Scotland) Act, 2003;
- Scottish Planning Policy (Feb 2010) replaces NPPG14;
- The Falkirk LBAP 2011-14;
- The UK Biodiversity Action Plan (BAP), revised priority list 2007; and the
- Scottish Biodiversity List 2007

3.1. Biodiversity Status

The UK Biodiversity Action Plan (BAP) is the UK Government's commitment to the Convention on Biological Diversity signed in 1992. It is comprised of two types of Action Plans developed to set priorities for nationally and locally important habitats and wildlife:

Species Action Plans

- Produced for UK BAP Priority Species: information on the threats facing 382 species and action plan targets to achieve a positive conservation status;
- Grouped Species Action Plans - common policies, actions and targets for similar species, for example for Eyebrights, or Commercial Marine Fish. There are nine grouped action plans;
- Species Statements - overview of the status of species and broad policies developed to conserve them for two groups of species.

Several bat species are UK BAP priority species with action plans. Soprano Pipistrelles are a UK Biodiversity Action Plan priority species but Common Pipistrelle bats have now been removed from the list (2007).

Habitat Action Plans

- ~~Broad Habitat Statements – summary descriptions of 28 natural, semi-natural and urban habitats and the current issues affecting the habitat and broad policies to address them; and,~~
- UK BAP Priority Habitat Action Plans - detailed descriptions for 45 habitats falling within the Broad Habitat classification and detailed actions and targets for conserving these habitats.

Local Biodiversity Action Plans

- Each Local Biodiversity Action Plan (LBAP) partnership, usually but not always at the local authority level identifies and establishes actions to conserve local priorities and also link this action to the delivery of national Species and Habitat Action Plan targets wherever possible. Grouped action plans at this level include bats, and Waders, for example.

Pipistrelle bats, Song Thrush, and Bullfinch are priority species for conservation in the Falkirk LBAP. Brown Long-eared, Daubenton's, and Natterer's bats, Badger, Willow Warbler, Goldcrest, Coal Tit, Great Tit, Blue Tit, Treecreeper, Greenfinch, and Goldfinch are all species of conservation concern in the Falkirk LBAP.

Scrub habitats and neutral grassland habitats are identified local and broad habitats respectively in the Falkirk LBAP.

3.2. The Conservation (Natural Habitats &C) Regulations 1994 (The Habitats Regulations)

Full consideration of European Protected Species (EPS) must be given as part of the planning application process, not as an issue to be dealt with at a later stage. The European Protected Species of potential relevance to this survey area were bats.

European Protected Species are protected in Annex IVa in the EC Habitats and Species Directive, which is transposed into UK legislation by the Conservation (Natural Habitats &C) Regulations 1994 (Schedule II of The Habitats Regulations). The full details of this legislation can be viewed at:

http://www.opsi.gov.uk/SI/si1994/Uksi_19942716_en_4.htm

This legislation was amended on the 14th February 2007 (The Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2007.), and explanatory guidance on this was published by the Scottish Government in April 2007. The amendment removed all EPS from Schedule 5 of the Wildlife & Countryside Act 1981. There are therefore now no defences in the WCA 1981 whatsoever for any actions impacting on EPS, and protection is afforded by the following legislation only:

Under Regulation 39 of the Conservation (Natural Habitats &C) Regulations 1994 (The Habitats Regulations) it is now a criminal offence (subject to specific exceptions) to:

(a) deliberately or recklessly to capture, injure or kill a wild animal of a European protected species; (only defences are mercy killing, capture for tending a disabled animal or circumstances where the animal is captive bred and lawfully held).

(b) deliberately or recklessly—

(i) to harass a wild animal or group of wild animals of a European protected species;

(ii) to disturb such an animal while it is occupying a structure or place which it uses for shelter or

protection;

(iii) to disturb such an animal while it is rearing or otherwise caring for its young;

(iv) to obstruct access to a breeding site or resting place of such an animal, or otherwise to deny the animal use of the breeding site or resting place;

(v) to disturb such an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs; or

(vi) to disturb such an animal in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young;

(c) deliberately or recklessly to take or destroy the eggs of such an animal; or

(d) to damage or destroy a breeding site or resting place of such an animal.

It should be noted that only the offence of damaging or destroying a breeding site or resting place of an EPS is a strict liability offence. The remaining offences are offences only where they are carried out “deliberately” or “recklessly”.

In Scotland licenses may be granted by Scottish Natural Heritage (SNH) to permit certain activities that would otherwise be illegal due to their potential impact on EPS or their places of shelter/breeding, whether or not they are present in these refuges. This includes for developmental work. Under Regulation 44 of The Habitats Regulations, the provisions in Regulation 39 (protection of animals) do not apply to anything done for any of the purposes defined in Regulation 44 provided that any action is carried out “under and in accordance with the terms of a licence granted by the appropriate authority”.

Three tests must be satisfied before a development licence for disturbance of an EPS or damage to a site/destruction of a site used by EPS will be granted. Note: A license application will fail unless all three tests are satisfied.

- Test 1 - the licence application must demonstrably relate to one of the purposes specified in Regulation 44(2). This regulation states that licences may be granted by SNH where the activities to be carried out under any proposed licence are for the purpose of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”;
- Test 2 - Regulation 44(3)(a) states that a licence may not be granted unless Scottish Natural Heritage is satisfied “that there is no satisfactory alternative”; and
- Test 3 - Regulation 44(3) (b) states that a licence cannot be granted unless Scottish Natural Heritage is satisfied “that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

Note: Breach of Licensing Conditions

A new regulation 46A came into force on 15th May 2007. This now makes it an offence to breach any conditions attached to a licence. Licence conditions should therefore be adhered to at all times.

3.3. Additional Legal Protection

Bats:

- Additional protection is afforded through the Bern Convention (1979), enacted in Scotland through the Nature Conservation Act (Scotland) 2004;
- Appendix III, the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1980), Appendix 2; and
- The Bonn Convention’s Agreement on the Conservation of Bats in Europe (London, 1991).

It is also a legal obligation in Scotland to consult with SNH before you do anything that might affect bats or their roosts such as:

- Removal of hollow, old, or decaying trees;
- Blocking, filling, or installing grilles over old mines or caves; and
- Building, alteration, maintenance, or re-roofing

In all cases where bats are found to occupy trees or buildings and there is a developmental issue, SNH must be informed before any development takes place. A licence to permit development may then be obtained from SNH if appropriate.

3.4. Badger

In the UK, Badgers are protected under the Protection of Badgers Act 1992 (c.51), which repeals the previous Badgers Acts of 1973 and 1991, and certain sections of other relevant acts such as The Wildlife and Countryside Act 1981, The Environmental Protection Act 1990, The Animals (Scientific Procedures) Act 1986, The Natural Heritage (Scotland) Act 1991, and The Criminal Justice Act 1991. The Protection of Badgers Act 1992 was further amended and strengthened through the Nature Conservation Act (Scotland) 2004.

The 1992 Act makes it an offence to:

- Wilfully kill, injure, catch, or take a Badger from the wild (or attempt to);
- Cruelly ill-treat a Badger, digging for Badgers, using Badger tongs, using a firearm other than permitted (under the exceptions regarding humane dispatch of an injured animal) within the Act;
- Damage, destroy or obstruct access to any part of a Badger sett (whether occupied or unoccupied);
- Disturb a Badger while it is occupying a sett, either by intent or by negligence;
- Dig a Badger sett;
- Cause a dog to enter a Badger sett;
- Sell or offer for sale a live Badger, have possession or control of a live Badger. Be in possession of a live or dead Badger or any part of one; and
- Mark a Badger or attach any ring, tag, or other marking device to a Badger.

Note: A Badger sett is defined within the Act as “any structure or place which displays signs indicating current use by a Badger” where current use means “any sett within an occupied Badger territory regardless of when it may have last been used”.

It is also a legal obligation to obtain a licence from Scottish Natural Heritage before you do anything that might affect Badgers or their setts, for example for:

- Development purposes [as defined under the Town & Country Planning (Scotland) Act 1997].
- Alteration or maintenance of existing buildings where Badgers are found.

Note: Despite the above legislative protection, Badgers are not a UK Biodiversity priority species for conservation and are only considered of UK conservation concern.

3.5. Legal Protection for Breeding Birds

All breeding birds have basic statutory protection under the Wildlife & Countryside Act 1981. In addition, a number of species that are rare or uncommon are afforded enhanced statutory protection during the breeding season by inclusion on Schedule One of the Wildlife & Countryside Act 1981, which protects adults in places of rest, their eggs and young.

- All breeding birds in the UK are protected through Sections 1-8 (referring to Schedules 1 to 4) of the Wildlife & Countryside Act [WCA] (enacting the Bern Convention and the Birds Directive), and subsequent amendments through the Nature Conservation (Scotland) Act 2004. With certain exceptions, all wild birds, their eggs and dependent young are protected from intentional killing, injuring and taking; they cannot be in anyone’s possession, whether live or dead, and nests (whilst being built or in use) cannot intentionally be taken, damaged or destroyed. A general licence permits control of some species with landowner consent.
- Schedule 1 of the WCA is a list of nationally rare breeding birds for which all offences carry special (higher) penalties. The legislation also makes it an additional offence to intentionally or recklessly disturb adults or the dependent young of these species, at any stage of their breeding.

- Schedule 2 is a list of traditionally hunted birds for which protection does not apply outside a “close season”.
- European legislation provides additional legal protection as European Protected Species for a number of species of high conservation concern.

‘The Population Status of Birds in the UK’ was produced in 2002 and lists the UK status of 247 species of bird. Of these 40 are “red-listed” and 121 “Amber-listed” as species of Conservation Concern. This does not provide additional legal protection for these species but highlights those of concern for nature conservation purposes.

3.6. Notable Plants

Several plant species are classed as European Protected Species and are listed in Annex IV of the EC Habitats Directive, and in the UK on Schedule IV of the Conservation (Natural Habitats &C) Regulations 1994 (The Habitats Regulations).

In addition, there are a number of species protected by the Wildlife & Countryside Act 1981, which makes it an offence (subject to exceptions) to pick, uproot, trade in, or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants. It also contains measures for preventing the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

The most problematic invasive, non-native plants are listed on Schedule 9 of the Wildlife & Countryside Act 1981 (Appendix 1.). Under section 14(2) of the Act it is an offence to plant or otherwise cause to grow any species of plant listed on Schedule 9. Failure to appropriately dispose of any material containing Japanese Knotweed or several other invasive species may lead to prosecution under Sections 33 and 34 of the Environmental Protection Act 1990 and Section 14 of the WCA 1981. The Nature Conservation (Scotland) Act 2004 increased the penalties applicable to someone committing a Section 14 offence. Penalties on summary conviction were increased to include imprisonment for up to six months and/or a fine not exceeding £40,000. On conviction on indictment, the penalties are an unlimited fine (i.e. whatever the court feels to be commensurate with the offence) and/or a 2 year prison sentence.

4. Desk Study

4.1. Sites with Statutory Designation

Interrogation of the Scottish Natural Heritage (SNH) SiteLink database determined that the survey area does not include any site with a statutory nature conservation designation.

4.2. Sites with Non-statutory Designation

Falkirk Council has designated the entire proposed development area and a much larger area adjacent to it as a Site of Importance for Nature Conservation (SINC). This designation is non-statutory and confers no lawful constraints on agricultural use of the land but does highlight to the planning authority that the site has a perceived intrinsic value to wildlife, and that the status of SINC should be noted to prevent any adverse development on the site that may impact the wildlife value of it. Note: SINC sites in many local authority areas are usually designated without discussion or agreement with the landowner, and without opportunity for their input. It is not known if that is the case here or not.

4.3. Notable Species

Bats: One record of bats was found in the 1km grid square NS 93 78 where the site is situated but the data was confidential (SNH Bat records for Scotland 1970-2007). It is not known if this was a presence record or a roost record (NBN Gateway).

The nearest known Badger setts to the site are at least 500m away (Central Scotland Wildlife Information Centre 2010).

There were no other protected species records.

5. Survey Methods

5.1. Bats

There are 6 different types of roost identified (A.M. Hutson 1993). These are:

- Spring gatherings (transitional);
- Maternity (summer) roosts;
- Mating roosts;
- Non-breeding night and feeding roosts (includes “bachelor”/non-breeding roosts of males);
- Pre-hibernal roosts (transitional); and
- Hibernation roosts.

Maternity roosts found between May and August are the most obvious. These consist almost exclusively of females (sometimes also small numbers of males), most of which give birth and raise a single young. These colonies usually disperse by the autumn. Some species remain in one roost all year.

Some roosts may be transitional, when small numbers are present for a limited period, usually during the spring and autumn. Night roosts are often indicated by large accumulations of insect remains and some droppings.

Most species conceal themselves in crevices and are not easy to find. The presence of droppings is a key sign to their presence but numbers of droppings vary widely and even some large roosts have little evidence of droppings to indicate their presence. Hibernating bats however leave little or no trace of their presence. Other possible signs are a characteristic odour like ammonia. Also a clean or polished area at a place through which light can enter may suggest an entrance/exit hole.

Trees may provide safe dry places for bats to roost, although some bats prefer to roost in buildings when suitable buildings are present. Some bats remain roost faithful for prolonged periods, while others may have several alternate roost sites, and others may range much further using roosts several kilometres apart as weather conditions, food availability and seasons change. Potential roost sites in trees may include:

- Crevices in bark;
- Gaps under loose bark on dead branches or trunks;
- Rotted knot holes;
- Hollow trunks
- Storm-damaged branches twisted off leaving split timber;
- Rotted-out branches;
- Growth deformities;
- Dense ivy coverage; and
- Crow, Magpie, and Buzzard nests.

During the walkover surveys any tree within the survey area was surveyed for features of potential value to roosting bats such as crevices, holes, splits and tears, and ivy that could be used by bats to enter roosting sites such as those listed above, along with field signs of bat occupancy such as urine streaking, grease marks, smooth or worn surfaces, or droppings caught on bark or on webs. Where appropriate, inspections were made using binoculars.

Trees were graded according to the Categories listed in the BCT Guidelines (Hundt 2012):

- Category 1: Confirmed roost;
- Category 2a: High potential to support a roost;
- Category 2b: Moderate/low potential to support bat roosts; and
- Category 3: negligible potential to support bat roosts.

Trees of Category 3 were not recorded individually.

5.2. Badgers

Field survey methodology followed Harris et al. (1989). Badgers leave many different signs of their occurrence, so are relatively easy to detect, these include:

- Badger setts may be large networks of connected tunnels and chambers with several entrances that are usually shaped like a flattened arch and 20-30cm high and 25-35cm across, or have a single entrance to

either a small burrow or large network of tunnels. Bones in and around the entrance, usually indicate Fox activity (rank fox smell may be noticeable). Fox earths have smaller entrances, but foxes may occupy Badger setts even when Badgers are in residence;

- Scraps of fresh bedding that have been dragged in (often grassy material) may be found around the sett entrance. There may also be scraps of old bedding that has been dragged out;
- Day nests are piles of bedding above ground that are used by Badgers occasionally;
- Badgers are clean animals and create spoil heaps outside the main sett, which may contain old bedding, bits of fur, and perhaps small bones. They also use latrines, and will have one or more that are used until the hole is full, and then they start another;
- Badger droppings are very varied depending on the diet (black and slimy means a diet rich in worms, but cereal grains, seeds, and hard parts of insects may be seen. The smell and texture are very distinctive; as is the usual deposition in small oblong latrines either by the sett or at strategic locations on the territory boundary (different individuals have different home ranges within the clan territory). Occasionally droppings are not deposited in latrines but left lying on the ground;
- Clear footprints will show a prominent central pad, either four or five toes and claw marks, and may be found leading to and from the sett, as well as on Badger trails. The front foot usually has longer claws than the back foot, and the prints may overlap, with the back print partially obscuring the front;
- Badger Hairs may be found caught on fences, on brambles or other thorny plants as well as in old bedding outside setts. The guard hairs are 7.5-10cm long, distinctly wiry to the touch, and are mainly white/off-white with a distinctive black band near the white tip. Shorter belly hairs may also be found but are finer and less wiry so are harder to confirm as Badger unless guard hairs or another field sign is found;
- Scratch marks on trees and rocks, fence-posts, wooden greenhouses, barns, or even garden furniture. Scratch marks often show a series of four or five parallel deep gouges, but sometimes lighter parallel lines of scratches are left where Badger claws have clipped something they have scrambled over (such as logs obstructing a Badger trail);
- Badgers have their own traditional networks of regularly used trails both through woodland and across fields that may have been used for many years, and may be worn to a clearly visible rut in the soil, with any new plant growth flattened. Prints may be evident on these trails and where boundary features or obstacles cross the route, Badger hairs may be found caught (for example, on barbed wire, low thorny branches, wooden fences, etc. Closer to the sett, these trails may be muddy through constant use;
- Ground disturbance from foraging Badgers may include round/oval snuffle holes a few cm deep when they forage for worms (50% of lowland Badger diet (especially on lawns and golf-courses). Signs of digging for roots, bulbs such as pignut, and tubers. Beetles and grubs may also be eaten, and the remains of wasp nests torn out of the ground are a sign of Badgers in an area. Badgers usually dig down through the top to avoid getting stung. Bark ripped from rotting logs or tree trunks may also be signs of foraging and grub extraction; and
- On cold, still, winter days, steam may rise from active Badger sett entrances.

5.3. Breeding Birds

The survey area was walked to detect species of bird present and so provide an indication of the species that may use the site for breeding.

5.4. Phase I Habitat Survey

An extended Phase I Habitat walkover survey following the standard methodology and definitions used to map and describe habitats as per the Joint Nature Conservancy Committee guidelines (JNCC, 2005/2007) was completed for the 300m survey area. Key locations of botanical interest were identified and target notes recorded where appropriate.

The objectives of this Phase I survey were to:

- i. Provide a baseline assessment of habitat distribution and extent within the boundaries of the area;
- ii. Provide an evaluation of the ecological value of the habitats;
- iii. Record any notable species; and

- iv. Record any non-native plants listed on Section 14(2) of Schedule 9 of the Wildlife & Countryside Act 1981.
- v. Provide a field-based assessment of potential impact of the proposed development on any habitats of significant value within the developmental footprint.

5.5. Limitations

Weather conditions were acceptable for all surveys so there were no significant limitations, other than for the assessment of birds, where the survey was outwith the breeding season.

6. Results

6.1. Bats

No features of potential value to roosting bats were found within the survey area, with all trees of Category 3 status.

6.2. Badgers

No evidence of Badgers was found within the survey area or a 30m buffer zone.

6.3. Breeding Birds

A total of four species were present (Blackbird, Willow Warbler, Greenfinch, and Goldfinch. No species with enhanced statutory protection were detected. One species present was of interest as a UK Amber-listed species of conservation concern (Willow Warbler).

In the South Polmont SINC within 100m of the proposed development site the following 12 species were detected by calls: Woodpigeon, Dunnock, Wren, Blackbird, Willow Warbler, Carrion Crow, Coal Tit, Great Tit, Blue Tit, Greenfinch, Bullfinch, and Goldfinch. Species underlined are noted within the LBAP as species of concern

6.4. Phase I Habitat Survey

A total of 33 species of plant in four terrestrial habitat types were recorded within the survey area during the walkover Phase I survey (Appendix 1.). No nationally rare plant species were found. Three target notes were taken to represent the main terrestrial habitats and species present across the survey area (Appendix 2.).

Phase I habitats present were:

- A2.1/A2.2 Scrub (continuous and also scattered (24 species present) - young scrub with ash saplings 4-8m tall and elms 6-8m tall. Dense at west end of site but scattered at east and southern side of site, where more broom and rowan present, and gorse right at the southeastern corner. Ground flora poor;
- B2.2 Semi-improved neutral grassland (12 species) – species-poor grassland, rank and unmanaged for many years. Being choked by tall ruderals;
- C3.1 Tall ruderals (5 species) dominated by rosebay willowherb that is choking the grassland area. Large stands present with associate species such as bramble, nettle, and some ragwort; and
- J1.2 Amenity grassland (6+ species) – land in council ownership between the end of the road at Rodel Drive and the site boundary – typical short mown amenity turf with few species;

In addition, another habitat was present at the edge of the site but is not classed as within it:

- J1.4 Introduced shrubs (3+ species) – along boundary of site (probably outwith site) poplars, Mexican pine, and willow – appears to be established boundary planting by neighbours.

7. Conclusions

7.1. Protected Species

No evidence of any protected species was found so these species are therefore not considered ecological constraints for the proposed works.

7.2. Breeding Birds

It is clear that the site is used by a low diversity of species (few nesting site opportunities) and that the adjacent scrub and wood-covered slopes and mature gardens of adjacent housing offer better habitat for birds. To minimise impact on any breeding birds it is advised that site clearance and preparation should be outwith the breeding season (i.e. not between late April to late July). This would remove the potential presence of any breeding birds as an ecological constraint. With this timing in place it is considered that there are no residual predicted significant impacts on any species of birds potentially breeding in the site. If such timing is not possible then the works area should be first checked for the presence of any birds that may potentially be breeding and the works programme then modified to take a high due regard of the breeding birds.

7.3. Phase I habitats

The Phase I habitats present can be considered as the following LBAP Categories according to the Falkirk Biodiversity Audit 2000:

Phase I Habitat Category	LBAP Category	Habitat Type
A2.1 Dense/continuous scrub	Scrub	Broad
A2.2 Scattered scrub	Scattered vegetation	-
B2.2 Semi-improved neutral grassland	Neutral grassland (modified)	Broad
C3.1 Tall ruderals	Built up areas and gardens	Broad
J1.2 Amenity grassland	Improved grassland	Broad
J1.4 Introduced shrubs	Built up areas and gardens	Broad

From the level of importance ascribed in the Falkirk LBAP to the Phase I habitat categories identified on site it can be clearly seen that the proposed development site contains no key LBAP habitats. Furthermore, two of the Phase I habitats are classed as built up areas and gardens in the Falkirk LBAP further diminishing their importance, rightly so as both are not habitats of great conservation value.

The proposed development site was first assessed in 1997 when a Phase I habitat survey was completed (Keith Watson, 1997). At that time the proposed development site was noted to be long-abandoned pasture, dominated by false oat-grass, common bent, and creeping thistle, with locally invading scrub. Of key importance to the proposed development is the statement made in it that “the field to the north of the ridge is of low diversity and cannot be justified as being retained within a larger site boundary on ecological grounds although there is interest on the north-facing slope beyond.” The assessment therefore clearly concluded that the former field where the proposed development area is situated should not be part of the SINC site. This would be also supported by the fact that the southern half of the former field has now been developed into housing (Culduie Circle and Ardmore Drive).

The question therefore remains on whether the proposed development site has been designated as part of the South Polmont SINC in error.

The assessment in 1995 stated that the entire site now a SINC may be of local conservation interest and did not have exceptional species diversity. It also stated that the grasslands were becoming coarser and with a lower species diversity due to their rank nature. Fifteen years later in 2012, it is evident that the grasslands have continued to deteriorate within the proposed development area, with most areas becoming so rank that species diversity is extremely low, with larger areas now choked by tall ruderals, specifically rosebay willowherb and bramble. As further encroachment occurs so the grassland will be completely lost.

The impact of the proposed development will be to lose 0.5ha of young scrub, and 0.15ha of rank species-poor grassland. The rest of the site being ruderals. It is viewed that this is not a significant loss to either SINC site or to the local biodiversity as the development is proposing a number of positive biodiversity enhancements for the proposed development area. These will result in not only an ecological gain but also a positive end use for the local public also considered to be a biodiversity benefit. At present these items remain for discussion but may include:

- Establishment of a 3m wide species-rich habitat corridor around the proposed development: extended hedgerow with hazel, gorse, hawthorn, blackthorn, honeysuckle, rowan, dog rose, field rose, and elder;
- An extended habitat corridor as above will provide rich foraging resources for birds as well as some nesting opportunities;
- Use of a short-turf species-rich grassland seed mix (Scotia Seeds) to establish an amenity grassland along public access that is of practical use, has amenity value and also biodiversity value with at least 19 species present in the mix. This also has the added benefit of requiring less frequent mowing as it is maintained at 10-12cm in length;
- Short turf will provide foraging opportunities for LBAP and UK BAP species such as Song Thrush, House Sparrow, Dunnock, and Starling;
- Landscaped gardens will provide nesting and foraging opportunities for a range of bird species including Dunnock, Robin, Chaffinch, Greenfinch, House Sparrow, Song Thrush, Starling, Bullfinch, and titmice; and
- Any bats present in the wider area will benefit from the foraging corridor created by the habitat corridor around the site, and associated lighting will attract invertebrates that are food resources for bats (ensuring lighting for the proposed development follows Bat Conservation Trust guidelines for lighting around developments).

Note: the proposed development will also formalise public access around the site, which is currently a very muddy track and stretches of rank grass mown without permission by one or more users of the site. Public access will link Rodel Drive with Portree Crescent.

Note 2: it is of interest that the local authority close currently mows an area of marshy grassland at Rodel Drive to the west of the proposed development site. It is considered that a relaxed mowing regime for that area of grassland would allow the species present including rushes and sedges such as oval and common sedges to proliferate along with associated flower species. This area could be managed appropriately as species-rich grassland, providing an additional biodiversity gain for the area.

Note 3: if the development does not take place, the diversity of plant life on site will continue to diminish for some time to come as the grassland is replaced by a large stand of tall ruderals. There may be management implications if tall ruderals start to spread to adjacent ground. Ultimately, the site would become scrub covered and then young woodland (depauperate ground flora under the scrub canopy) in the long-term, however, that would clearly not be desirable in the owners' interests and at some point intervention management would be necessary to prevent their field becoming climax woodland.

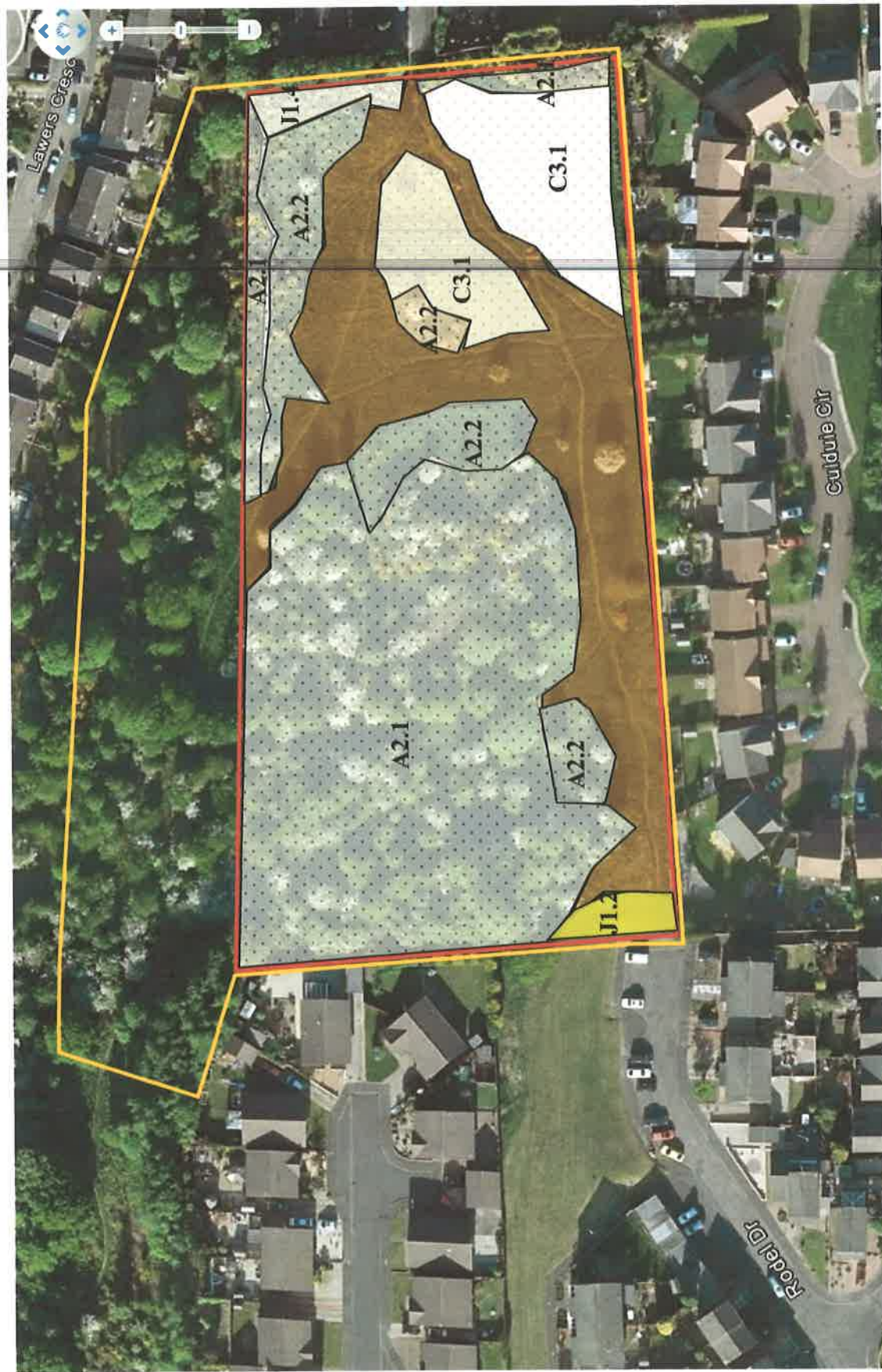
In final summary:

The proposed development while within part of a larger area designated as a SINC site is not considered to be a significantly damaging proposal to the key habitats that the SINC was designated for; the grasslands were of low value at designation, and now are of negligible value both in species diversity and extent, and so their intrinsic value has been lost. It may be considered that the designation as SINC was originally in error as it was advised against by the habitat surveyor in 1997 and part of the field was in fact developed. The proposed development site may have been better classed as neglected land or open space rather than as part of the adjacent South Polmont SINC, which clearly has somewhat greater value but still only at a local level. With the mitigation discussed above, it is considered that there can be a long-term positive ecological gain for this site through a sensitive development with specifications for biodiversity enhancement developed and agreed with the local authority.

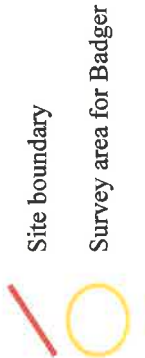
8. References/relevant reading

- Bang, P. & Dahlstrøm, P. (2001). *Animal Tracks and Signs*. Oxford University Press, Oxford
- Fitter, R., Fitter, A., & Farrer, A. 1987. *Collins guide to the grasses, sedges, rushes and ferns of Britain and Northern Europe*. Collins. (publ.).
- Gregory, R.D., Wilkinson, N.I., Noble, D.G., Robinson, J.A., Brown, A.F., Hughes, J., Procter, D.A., Gibbons, D.W., Galbraith, C.A. (2002) The population status of birds in the United Kingdom, Channel Islands and Isle of Man. *British Birds* 95: 410-450
- Harris, S., Cresswell, P. and Jefferies, D. 1989. *Surveying Badgers*. The Mammal Society, Occasional Publication No.9. Published by the Mammal Society.
-
- Hundt, L. 2012. *Bat Surveys – Good Practice Guidelines*, 2nd Ed. Bat Conservation Trust, London. ISBN-13: 9781872745985
- JNCC, (2005), *Field manual for Phase 1 habitat survey - a technique for environmental audit*., Revised reprint 2003, reprinted 2005, 62 pages A5 softback, ISBN 0 86139 637 5
- JNCC, (2007), *Handbook for Phase 1 habitat survey - a technique for environmental audit*, Revised reprint 2003, reprinted 2007, 78 pages A4 softback, ISBN 0 86139 636 7
- Rose, F. 1981. *The wild flower key*. Warne, London.
- Scottish Natural Heritage. (2004). *Badgers and Development*. Environment & Heritage Service Publishing Unit
- Stace, C. 1997. *New flora of the British Isles*. 2nd ed. Cambridge University Press, Cambridge.

Figure 1. Survey area boundary, location of proposed development and Phase I habitats present within the survey area



Key to Figure 1.



- A2.1 Dense Scrub
- A2.2 Scattered scrub
- B2.2 Semi-improved neutral grassland
- C3.1 Tall ruderals
- J1.2 Amenity grass
- J1.4 Introduced shrubs

Appendix. 1 Phase I habitat survey species list

Common Name	Scientific Name
Annual Meadow-grass	<i>Poa annua</i>
Ash	<i>Fraxinus excelsior</i>
Bramble	<i>Rubus fruticosus</i> agg.
Broad-leaved Dock	<i>Rumex obtusifolius</i>
Broad-leaved Willowherb	<i>Epilobium montanum</i>
Broom	<i>Cytisus scoparius</i>
Cleavers	<i>Galium aparine</i>
Cock's-foot	<i>Dactylis glomerata</i>
Common Bent	<i>Agrostis capillaris</i>
Common Nettle	<i>Urtica dioica</i>
Common Ragwort	<i>Senecio jacobaea</i>
Creeping Buttercup	<i>Ranunculus repens</i>
Creeping Thistle	<i>Cirsium arvense</i>
Elder	<i>Sambucus nigra</i>
Elm	<i>Ulmus</i> sp.
False Oat-grass	<i>Arrhenatherum elatius</i>
Gorse	<i>Ulex europaeus</i>
Ground-ivy	<i>Glechoma hederacea</i>
Hawthorn	<i>Crataegus monogyna</i>
Hogweed	<i>Heracleum sphondylium</i>
Honeysuckle	<i>Lonicera periclymenum</i>
Large Bird's-foot-trefoil	<i>Lotus pedunculatus</i>
Male Fern	<i>Dryopteris filix-mas</i> agg.
Oak Sp,	<i>Quercus</i> sp.
Perennial Rye-grass	<i>Lolium perenne</i>
Raspberry	<i>Rubus idaeus</i>
Ribwort Plantain	<i>Plantago lanceolata</i>
Rosebay Willowherb	<i>Chamerion angustifolium</i>
Rowan	<i>Sorbus aucuparia</i>
Small-leaved Cotoneaster	<i>Cotoneaster integrifolius</i>
Tufted Vetch	<i>Vicia cracca</i>
White Clover	<i>Trifolium repens</i>
Yorkshire-fog	<i>Holcus lanatus</i>

Appendix. 2 Phase I habitat survey target notes by habitat type**A2.1/A2.2 Scrub**

Common Name	Scientific Name
Ash	<i>Fraxinus excelsior</i>
Bramble	<i>Rubus fruticosus</i> agg.
Broad-leaved Willowherb	<i>Epilobium montanum</i>
Broom	<i>Cytisus scoparius</i>
Cleavers	<i>Galium aparine</i>
Cock's-foot	<i>Dactylis glomerata</i>
Common Bent	<i>Agrostis capillaris</i>
Common Nettle	<i>Urtica dioica</i>
Creeping Buttercup	<i>Ranunculus repens</i>
Elder	<i>Sambucus nigra</i>
Elm	<i>Ulmus</i> sp.
False Oat-grass	<i>Arrhenatherum elatius</i>
Gorse	<i>Ulex europaeus</i>
Ground-ivy	<i>Glechoma hederacea</i>
Hawthorn	<i>Crataegus monogyna</i>
Hogweed	<i>Heracleum sphondylium</i>
Honeysuckle	<i>Lonicera periclymenum</i>
Male Fern	<i>Dryopteris filix-mas</i>
Oak Sp,	<i>Quercus</i> sp.
Raspberry	<i>Rubus idaeus</i>
Rosebay Willowherb	<i>Chamerion angustifolium</i>
Rowan	<i>Sorbus aucuparia</i>
Small-leaved Cotoneaster	<i>Cotoneaster integrifolius</i>
Yorkshire-fog	<i>Holcus lanatus</i>

B2.2 Semi-improved neutral grassland

Common Name	Scientific Name
Broad-leaved Dock	<i>Rumex obtusifolius</i>
Cock's-foot	<i>Dactylis glomerata</i>
Common Bent	<i>Agrostis capillaris</i>
Creeping Buttercup	<i>Ranunculus repens</i>
Creeping Thistle	<i>Cirsium arvense</i>
False Oat-grass	<i>Arrhenatherum elatius</i>
Hogweed	<i>Heracleum sphondylium</i>
Large Bird's-foot-trefoil	<i>Lotus pedunculatus</i>
Ribwort Plantain	<i>Plantago lanceolata</i>
Rosebay Willowherb	<i>Chamerion angustifolium</i>
Tufted Vetch	<i>Vicia cracca</i>
Yorkshire-fog	<i>Holcus lanatus</i>

C3.1 Tall ruderals

Common Name	Scientific Name
Bramble	<i>Rubus fruticosus</i> agg.
Cleavers	<i>Galium aparine</i>
Common Nettle	<i>Urtica dioica</i>
Common Ragwort	<i>Senecio jacobaea</i>
Rosebay Willowherb	<i>Chamerion angustifolium</i>

17 Culduie Circle,
Polmont,
FALKIRK.
FK2 0JZ

2nd October 2014

Dear Sirs,

Re: Planning Application P/14/0274

Further to your correspondence of the 23rd of September regarding the proposed development of land to the east of Rodel Drive, Polmont, Planning Application P/14/0274.

I wish to formally notify the Council that it is my intention to attend the proposed Hearing Session with date to be determined. As per my original objections to this proposed development all specified matters from your correspondence are of specific concern to myself.

Yours faithfully



**3 Portree Crescent
Polmont
Falkirk
FK2 0PA**


6 October 2014.

**Antonia Sobieraj
Chief Governance Office
Falkirk Council
Municipal Buildings
Falkirk
FK1 5RS**

Dear Antonia,

Subject: Local Planning Review Committee Hearing Statement
Application Number P/14/0274/FUL
Location: Land to the East of 44 Rodel Drive Polmont
Applicant: Persimmon Homes (East Scotland)

In response to your letter dated 23 September 2014, please find enclosed a "Hearing Statement" relevant to the above.

It is my intention to appear at the Hearing Session at which this matter will be discussed, and to present my objections which are set out in the attached statement.

Yours Sincerely


Trevor G Colebrook



Hearing Statement.

P/14/0274/FUL

43 Dwellings East of Rodel Drive, Polmont

1. Impact on existing surrounding area.

- a. Increased pressure on local services such as water & sewage, rainwater runoff, medical facilities at Meadowbank, and other local utilities including telephone and broadband.
- b. Increased demand for transport services including train station parking for rail commuters.
- c. No provision made in plan for recreational areas for resident children, so increased demand on the existent (poor) local facilities.
- d. The plans indicate that both surface water and foul sewer flows would be directed into existing sewers in Portree Crescent. I have concern that these existing sewers have the necessary capacity to cope with the additional flows.
- e. The site is surrounded by existing housing, the occupants of which will be subjected to months of disruption, noise and mess during any construction work.

2. Ecological value of development site.

- a. Although somewhat diminished by action of previous development applicant, who removed trees and bushes, the site is still regularly frequented by foxes, squirrels, rabbits, hedgehogs, bats and native birds as well as local dog walkers.

3. Access Roads and Parking.

- a. Access to site via Rodel Drive is usually congested; extra traffic generated by development will increase traffic volumes on Gilston Crescent and the exits onto Station Road and Main Street, particularly at peak traffic flow times.
- b. I have concern that due to poor access via Lewis Road & Rodel Drive construction traffic will attempt to access the site using Taymouth Road & Portree Crescent, to the detriment of residents in those streets. Access via this route would be hazardous due to traffic calming features, resident parking and severe variation in ground levels between the development site and Portree Crescent.
- c. Location of the site at the top of Gilston will ensure that residents in the development will inevitably use their private cars to commute to work and even to conduct local shopping. This will increase local traffic flows, congestion and pollution.
- d. The provision of an "evacuation route" from the site onto Portree Crescent could result in this access being abused and a "rat run" being created between Portree Crescent and Rodel Drive. The gradient of this route would be unsafe due to the variance of levels involved.

Hearing Statement.

P/14/0274/FUL 43 Dwellings East of Rodel Drive, Polmont

4. Visual Impact.

- a. The development will have a considerable impact on the skyline as seen along Portree Crescent. At present only the roofs of some of the bungalows in Skye Drive are visible from Portree Crescent east of Taymouth Road, the planned development would replace this generally open skyline with one dominated by an unbroken expanse of the backs of the planned housing and associated fencing.

5. Scale.

- a. Whilst the scale and density of the proposed development is similar to the recent development of Culduie Crescent, it is out of keeping with the other existant surrounding housing. Any development on this site should recognise the sites elevation and surroundings and be restricted to lower density, low rise housing such as is found in Skye Drive. Whilst a previous applicant was (unfortunately) granted approval to develop the site, this application is for seven times as many houses in a radically different format & scale of development. The previous decision should not therefore be taken as a precedent encouraging unrestricted development of this site.

6. Privacy.

- a. The development will impact on the privacy of existing houses in Culduie Crescent, Skye Drive, Portree Crescent, Taymouth Road and Lawers Crescent as they could be overlooked from the proposed new dwellings. If the development was restricted to single story dwellings this impact would be considerably reduced or eliminated.

7. Impact on Open Space.

- a. This site is regularly used as a recreation and exercise area for local dog owners, and is the last open space in the Gilston area not dominated by roads, electricity pylons or other services. Any development on this site should be required to include a minimum of 50% open, flat area for recreational use by residents and their children.
- b. This recreational area proportion should be in addition to the areas around the margins of the site already designated as wildlife conservation areas, as some of these areas are unsuitable for public access due to severe gradients.
- c. This site is one of very few readily accessible areas in Polmont where members of the public can enjoy the open vistas across and along the Forth Valley. This development would restrict access to these views.

Hearing Statement from Education Services

Local Planning Review Committee – Planning application P/14/0274/FUL. Erection of 43 Dwellinghouses etc. at Land to the East of Rodel Drive, Rodel Drive, Polmont

Statement by Richard Teed, Senior Forward Planning Officer, on behalf of the Director of Education

1) Introduction

- a) This hearing statement relates to “any requirement for an education financial contribution including the amount concerned”

2) Determination of Contributions Towards Schools Affected By Proposal

a) St Margaret's Primary School

- i) St Margaret's Primary School is a 2-stream school with a maximum capacity of 434 pupils.
- ii) The school roll is currently 402 pupils which puts occupancy at 93% (2014/15). The roll over the last 10 years has been as follows:

	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15
P1	60	50	57	49	58	58	50	50	54	63	60
P2	60	58	48	57	50	58	57	51	48	56	62
P3	58	60	56	46	58	49	59	56	54	49	61
P4	75	55	63	57	47	59	50	58	56	53	49
P5	58	75	53	62	54	48	57	50	56	61	54
P6	73	58	71	50	62	54	47	57	50	57	59
P7	62	75	55	74	49	61	53	47	61	53	57
Total	446	431	403	395	378	387	373	369	379	392	402

- iii) The roll projection for the next 5 years is shown below. It is anticipated that projected occupancies above 95% beyond 2017 will require further investment in school capacity.

	2015/16	2016/17	2017/18	2018/19	2019/20
P1	61	67	56	52	59
P2	56	61	68	58	54
P3	63	56	61	70	59
P4	58	63	56	62	71
P5	50	58	63	57	63
P6	53	50	58	64	58
P7	60	53	50	59	65
Total	401	408	412	422	429

Capacity	434	434	434	434	434
Occupancy	92%	94%	95%	97%	99%

- iv) This application (P/14/0274/FUL) is for a housing development of 43 houses. Based on the current pupil yield ratio of 0.25 pupils per house, this would add an estimated 11 pupils to the roll during the course of the development.
- v) There is clearly a risk to school capacity from this application (together with other developer interest and Development Plan allocations in this area). Consequently a pro-rata contribution of £2,600 per house has been requested in accordance with the Falkirk Council Education and New Housing Supplementary Planning Guidance.

The total contribution required for St Margaret's Primary School will be £111,800.

b) Graeme High School

- i) Graeme High School is the catchment non-denominational secondary school for this development
- ii) The school roll (2014/15) is currently 1018 and the school's capacity is 1462, which puts occupancy at 70% this year.
- iii) The projections, however, show the school reaching its capacity within the next 6 years. This is due to the volume of new housing development planned for the Graeme High School catchment area, particularly in the Whitecross and Redding areas.

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
S1	199	232	239	241	269	308
S2	192	205	238	247	248	276
S3	189	198	210	245	254	254
S4	182	195	203	217	252	260
S5	171	172	185	192	206	239
S6	134	128	128	137	143	153
Total	1067	1130	1203	1280	1371	1489

Capacity	1462	1462	1462	1462	1462	1462
Occupancy	73%	77%	82%	88%	94%	102%

- iv) This application for 43 houses will generate 6 additional pupils (based on the pupil yield ratio of 0.14) and contribute to the pressure on the school during this period.
- v) Consequently a pro-rata contribution of £2,100 per house has been requested in accordance with the Falkirk Council Education and New Housing Supplementary Planning Guidance.

The total contribution required for Graeme High School will be £90,300.

c) St Mungo's High School

- i) St Mungo's RC High School in Falkirk is the catchment denominational secondary school for most of the Falkirk Council area, including Polmont..
- ii) From August 2017, demand for places at the school will exceed available places. Falkirk Council have agreed to cap intake at 240 to protect capacity, but it is unclear at this stage whether this can be sustained indefinitely and there is a high risk that an increase in capacity will be required longer term.
- iii) Since this risk was identified in 2006, contributions are required (and have been collected) for all new housing developments that are expected to generate 1 or more St Mungo's pupils (currently based on a pupil yield of 0.06 pupils per dwelling). This application can be expected to generate 3 pupils.
- iv) For this application the pro-rata contribution required is £900 per dwelling in line with the supplementary planning guidance "Education and New Housing".

The total contribution required for St Mungo's High School will be £38,700.

d) Nursery Provision

- i) Pre-school provision for 3 and 4 year olds is a statutory duty and there has been considerable investment in recent years to ensure that the required number of hours nursery provision can be provided. New housing developments can put particular pressure on local nursery provision and for all medium and large scale new housing applications (over 20 houses or 50 flats), a contribution is required towards increasing nursery provision in the local area. This is applied to all such developments in the Falkirk Council area and has been required since the agreement of the most recent Education and New Housing SPG in 2011.
- ii) The contribution required per house is £350

The total contribution required for nursery provision will be £15,050.

3) Conclusion

The total education contribution required for this proposal is as follows:

St Margaret's Primary School	£2,600/house * 43 houses	= £111,800
Graeme High School	£2,100/house * 43 houses	= £90,300
St Mungo's High School	£900/house * 43 houses	= £38,700
Nursery Provision	£350/house * 43 houses	= £15,050
Total Education Contribution	£5,950/house * 43 houses	= £255,850

This was detailed in the original consultation response attached as **Appendix 1**.

Richard Teed: Senior Forward Planning Officer

Sealock House, 2 Inchyra Road,
Grangemouth, FK3 9XB.

Phone: 01324 506621 Fax: 01324 506601 Email: richard.teed@falkirk.gov.uk



Falkirk Council
Education Services

MEMO

To: Kevin Brown
From: Richard Teed Ext: 6621
Our Ref: Your Ref: P/14/0274/FUL
Date: 19th June 2014

Subject: Erection of 43 Dwellinghouses - Land To The East Of 44 Rodel Drive, Rodel Drive, Polmont

School Catchments

This application falls within the catchments for St Margaret's Primary School, St. Andrews RC Primary School, Graeme High School and St Mungo's RC High School. The impact that this development would have is outlined below.

Impact of Development*St Margaret's Primary School*

Based on the current ratio of 0.25 pupils per house, we would expect 11 children from this development to enrol at St Margaret's Primary School. The school is projected to reach and exceed its current capacity with proposed housing development (including this one).

St Andrews RC Primary School

Based on the current ratio of 0.09 pupils per house, we would expect 4 children from this development to enrol at St Andrew's Primary School. The school is expected to have enough capacity to sustain currently proposed new housing development in its catchment area, including this site.

Graeme High School

Based on the current ratio of 0.14 pupils per house, we would expect 6 children from this development to enrol at Graeme High School. The school is projected to reach and exceed its current capacity in 7-10 years' time with proposed housing development (including this one).

St Mungo's RC High School

Based on the current ratio of 0.06 pupils per house, we would expect 2-3 children from this development to enrol at St Mungo's High School. The school is currently projected to reach and exceed its current capacity in 5 years' time.

Nursery Provision

Larger developments (over 20 houses or 50 flats) are also required to contribute towards increasing nursery provision in the local area (see Education & New Housing SPG)

Continued over...

Acting Directors : Nigel Fletcher and Gary Greenhorn

Sealock House, 2 Inchyra Road
Grangemouth, FK3 9XB.
Telephone : 01324 506600
Fax : 01324 506601

Conclusion

Education Services request that if this is approved, then it is on the basis that a pro-rata contribution towards anticipated school capacity risks is agreed, in accordance with the "Education and New Housing" SPG as follows:

St Margaret's Primary School	£2,600 per house	£111,800 for 43 houses
Graeme High School	£2,100 per house	£90,300 for 43 houses
St Mungo's High School	£900 per house	£38,700 for 43 houses
Nursery Provision	£350 per house	£15,050 for 43 houses
Total Pro-rata contribution	£5,950 per house	£255,850 for 43 houses

Hearing Statement from Development Management Unit, Development Services

Erection of 43 Dwellinghouses, Formation of Access and Associated Landscaping and Infrastructure at Land To The East Of 44 Rodel Drive, Rodel Drive, Polmont for Persimmon Homes (East Scotland) - P/14/0274/FUL

1. Introduction

1.1 This hearing statement relates to matters of scale, visual impact, privacy, ecological value and open space requirements, and includes the following:-

- Falkirk Council's case in relation to the above matters to be considered at the hearing session;
- the list of documents to which Falkirk Council refers to in their case; and
- the nominated person representing Falkirk Council at the hearing session in relation to these matters.

2. Matters to be Considered at Hearing Session

- (a) The impact of the development on the existing surrounding area.
- (b) The visual impact of the proposed development, including issues of height, skyline and landscape sensitivity.
- (c) The scale of the proposed development.

2.1 During consideration of this application by Development Management, concerns were put to the applicants in relation to the lack of information provided in relation to landscape visual impact and the potential negative impacts of such a proposal. The applicants responded by providing additional information in the form of a photographic visual impact survey and by reducing the site level across the north-eastern position of the site. The photographic survey and site levels amendments were submitted just prior to the request for a local review being made, and as such no detailed assessment of these submissions was concluded by the case officer at the time.

- (d) Any impact on privacy of the proposed development.

2.2 Following feedback from the Development Management case officer, the applicants made a number of alterations to the proposed layout in order to improve the relationship between the proposed development and its immediate neighbours. It is confirmed that all direct window to window distances exceed the well established 18m minimum guideline distance. Direct overlooking of garden ground is also minimised, due to the orientation of the proposed dwellinghouses, existing and proposed tree cover around the site edges and the topography of the site. Whilst it is accepted that development of this site will involve a distinct change in the character of this site, as well as significantly altering the outlook of a number of properties immediately bounding the site, it is not considered that there will be any privacy impacts significant enough so as to harm the established residential amenity levels of surrounding properties.

- (e) The ecological value of the development site and the impact of the development on that.

- 2.3 The application site falls within the South Polmont Site of Importance for Nature Conservation (SINC) and was historically covered with a mixture of rough grassland and dense shrubbery. The site was, however, extensively cleared and stripped back following the grant of planning permission P/12/0718/FUL for six dwellinghouses on the site. Any limited ecological value or habitat provision that the site previously had was essentially destroyed following this decision. The site, whilst still technically being part of the wider SINC, currently has little, if any, ecological value. Development of the site has been established through the granting of permission P/12/0718/FUL, and development of the site in the form currently proposed is not considered to significantly impact on ecology or wildlife in or around the site.
- (f) Impact of the proposed development on open space and any requirement for an open space condition or financial contribution (including the amount concerned).
- 2.4 Prior to the clearing of the site of all vegetation, the site was characterised as semi-natural, passive open space, which was of significant amenity value and is part of the Green Network. The site is identified as site number 207 in the Falkirk Council Open Space Strategy as part of the wider Whyteside area of open space. Whilst the strategy does not identify a shortfall in open space in the Polmont locality, the strategy maintains that the site should be managed primarily for nature conservation and informal access/recreation, and to improve key facilities on the site. In order to meet the terms of local plan policy SC12 - 'Urban Open Space', the site must be surplus to requirements AND compensated for by quantitative improvements elsewhere. The site being deemed surplus to requirements does not negate the need for compensation.
- 2.5 In terms of compensation for the lost open space, the Public Open Space, Falkirk Greenspace and New Development SPG quantifies the price per m² of passive open space as 20m². The site size is 1.67 hectares (16,700m²) in size. Therefore, the compensatory payment required is £334,000 in this instance.
- 2.6 In addition, there is the standard £1,820 per dwellinghouse requirement towards active and passive open space provision required to serve the proposed development. For 43 dwellinghouses, this requirement totals £78,260.
- 2.7 In respect of the above calculations, it is acknowledged that the LRB notice relating to the previous application (P/12/0718/FUL) for 6 dwellinghouses did not request a compensatory payment in addition to the standard contribution for open space relating to 6 dwellinghouses. This matter is a material consideration when considering the total amount payable in respect of the current application and it is considered that had the current application negotiations progressed, the eventual agreed sum may not have reflected the full amount as set out above.
- 2.8 It is noted that the applicants responded to the case officer's request for the above contributions by disputing requirement for any open space contributions. Unfortunately, the applicants chose to submit their request for the current review immediately following submission of their rebuttal statement, as such Development Management were not afforded an opportunity to assess this rebuttal in any detail, or indeed to continue negotiations.

3. Documents for Consideration at the Hearing Session

3.1 The following documents should be considered:-

- e-mail from Development Management case officer, Kevin Brown, to David Jinks (Persimmon Homes) dated 18 June 2014 (Appendix 1 attached).

4. Hearing Session Attendance

4.1 Falkirk Council Development Services will be represented at the Hearing Session by Kevin Brown (Planning Officer, Development Management).

5. Conclusion

5.1 It is considered that matters relating to ecology, biodiversity and privacy are not significant enough to justify a refusal of planning permission in this instance. Unfortunately, however, due to the submission of the current review, a detailed assessment of matters relating to scale, visual impact and landscape sensitivity could not be completed in full by this service. Similarly, negotiations in relation to commuted sum proposals were unable to continue towards an agreed solution.

From: brown, kevin
Sent: 18 June 2014 15:47
To: 'Jinks, David'
Cc: 'McGarvey, Gary'; Lewis, Alexandra
Subject: Rodel Drive - P/14/0274/FUL

Attachments: FW: P-14-0274-FUL Rodel Drive, Polmont
 David,

Sorry for the delay in coming back to you with detailed comments in respect of the above application. I have now managed to bring together consultation responses, a number of which I have attached or summarised for your information and I have also had an opportunity to discuss the application in detail with consultees and my management team. With this in mind I would comment as follows:

Roads and transportation issues

Please see attached consultation response and sketch relating to the proposed access from Rodel Drive.

You will note that this consultation response raises a number of general roads matters which can be addressed by way of small amendments to the proposed layout. The response does however raise a couple of more fundamental issues namely, the provision of visitor parking spaces at the site entrance and more significantly the total number of houses now proposed to be accessed from a single point of access. Roddy has provided a sketch to address the visitor parking and access arrangement at the entrance to the site, this proposed amendment would necessitate the removal of at least one of the to the north of the site access. Whilst I appreciate that this may not be desirable from your perspective, I would reiterate the strenght of public feeling in respect of this application and particularly in respect of parking issues along Rodel Drive, with this in mind I would urge you to amend the drawings to provide the parking in the form suggested by Roddy.

The issue relating to the number of houses proposed to be accessed from a single junction is a significant one which has the potential to act as a reason for refusal of the application. The current unit numbers and layout would result in 225 houses being accessed from the junction to Gilston Crescent, this is above our roads guideline figure of 200 and as such both our Trasport Planning Unit and our Roads Development Unit are raising this as a concern. I have pushed for further consideration of this matter and discussed the issue with my management team. At this point in time there is seen to be no reaseon to allow a relaxation in this instance and as such there remains a fundamental issue to be resolved. On pushing for further clarification of this issue I received the following text from our Roads Development Unit - *The guideline figure has been used throughout the UK and abroad for many years and is based on vehicular access concerns regarding the max size of a cul-de-sac and max number of homes which could have no fire appliance/emergency vehicle access should there be an immovable road obstruction at the beginning of the cul de sac. In some developments where slightly more than 200 is proposed there are future proposals to ultimately have two access points or construct a footway access which could be brought into use if necessary at limited cost and complexity. eg a wide 3.5m strengthened footway with bollards which could be removed if required. There does not seem to be scope for this in this particular development and hence we cannot support greater than 200.*

With the above comments in mind I would suggest that significant amendements are required to the site layout or alternatively a significant reduction in unit numbers to bring the application back in line with our design guidelines. As such, it is my view that the current application should be withdrawn and resubmitted at a later date addressing these matters.

Drainage scheme

Formal consultation response still awaited. This will be forwarded on in due course.

Landscape Visual Impact

Concern has been expressed by my landscape colleagues in respect of the potential the proposal to result in a significant visual impact. This is seen as being worsened by the density of development proposed on what is a sensitive hilltop setting. Whilst it is accepted that the principle of development has been established by the previous permission for 6 houses on the site, the proposal for 43 units is viewed as being materially different in terms of its potential impact on the surrounding landscape. As such I request that additional information be provided in the form of a Landscape Visual Impact Assessment for the site. The following extract from our landscape officers comments should assist in the production of an LVIA for the site.

1. *This site is identified as part of the Polmont Open Space Corridor and as Open Space in the Proposed LDP, as well as being part of a larger Site of Importance for Nature Conservation (SINC). It links to an area of wider open space to the north and west, which in turn links to other open space to the south west along the Polmont Burn Corridor. Although the application site has now been cleared of vegetation for the previous approved application, the site has a high landscape sensitivity due to its position relative to the setting of surrounding housing on all sides and due to the well used path that passes through the site linking areas of open space and the remainder of the SINC. The site also has a very high visual sensitivity, due to the fact that it is clearly visible from dwellings in the area of Dochart Crescent / Kenmore Avenue / Lawers Crescent and the High Street area in Polmont to the north, from Polmont Woods, from open countryside and parts of the A801 to the east and from dwellings /high ground / open countryside to the south (area to the south of the railway line and canal). The existing application site, together with the wooded slope down to Lawers Crescent (forming the northern boundary of the site) form a very important visual backdrop to Polmont as seen from the this village looking south and the area provides a natural upper visual boundary to development of the settlement, with the suggestion that rural land lies beyond. This site, together with the tree cover on the slope to the north, makes a major contribution to the setting of the existing housing and enables the landscape to absorb the current density of existing built development. There is also a high level of visual sensitivity due to views from the existing dwellings that are immediately adjacent to the proposed development on all sides. Overall there remains a very high level of landscape and visual sensitivity to any development on this site, even though the vegetation has been removed.*
2. *Although the principle of development on this site has been established following approval of the previous application, the submitted proposal does not contain any detailed landscape and visual assessment in support of the 43 houses proposed (the two paragraphs in the supporting statement are noted). Given the high landscape and visual sensitivity of the site and the scale of the development proposed, a fully detailed LVIA with visualisations to illustrate this development would have been expected as an extremely important supporting document.*
3. *From a further detailed site visit, I would assess that the two storey dwellings (of 8m high on the proposed ground levels) would have a high level of visual effect as seen from the Dochart Crescent / Kenmore Avenue / Lawers Crescent / High Street area of Polmont and from Polmont Woods to the north, from open countryside / A801 to the east, and from dwellings / high ground /open countryside to the south. The proposed layout would appear as an area of dense built development with very limited greenspace / tree screening visible directly on the skyline from these surrounding viewpoints. At a very local level there would also be a high level of adverse landscape effect due to the high density of development causing a loss of visible elevated open space, a high reduction in the overall area of the Polmont open space corridor, and a change in the local landscape character from open space to built form.*
4. *The submitted plans shows an inaccuracy in the north east corner of the layout; there is already a strip of dense vegetation on the slope between the nearest house in Lawers Crescent but the area is shown on the submitted plans as proposed for a 'hedgerow mix'.*
5. *Overall, I would advise that the density of development proposed on this site would be unacceptable on landscape and visual grounds.*
6. *I would strongly advise that the appropriate density of development for this sensitive site (ie the cumulative footprints of dwellings) should be no greater than the cumulative footprints of the already approved proposal (P/12/0718/FUL), in order to keep the landscape and visual effects to an acceptable level and allow for open space and appropriate structure and screen planting. From an approximate measurement, this would require the removal of at least approximately 12 of the smallest plots from the proposed layout in order to be acceptable. Consideration would also need to be given to dwelling height and visual effect and the possible need for one and a half storey dwellings in some locations to minimise effects.*

Landscaping, Trees and Ecology

The following are other landscape issues that would need to be addressed for any final layout to be acceptable:

- a. The rooting area (root protection zones) of trees in existing gardens adjacent to the site and those on the boundary of the site need to be left undisturbed, as well as there being a need for a sufficient distance to be left between existing boundary trees and proposed dwellings to avoid future problems; in the submitted layout this relates to trees on the garden boundary of the house in Portree Crescent that is adjacent to plot 24 and the tree clump on the western boundary that is adjacent to plot 6 and the existing dwelling in Skye Drive, plus other boundary trees to the north. It is vital that a Tree Survey and Tree Protection Plan are undertaken in relation to these boundary trees in accordance with BS5837:2012 and the council's SG 'Trees and Development', regardless of whether the trees fall within the application site. This step will determine the position of temporary protective fencing during the construction process and the nearest acceptable position of dwellings to the trees (this level of information was not required for the previous application due to the lower density of housing).
- b. A high level of buffer / screen planting with trees and shrubs is required around the western, southern and eastern boundaries to the existing dwellings to ensure appropriate screening and privacy to existing dwellings to take account of level differences and the elevated position of new development.
- c. The opportunity should be taken to combine the existing open space area on the north side of Rodel Drive (at the turning area) with an open space / tree planted area at the entrance to the site (location of current plots 1 & 2 on dwg RD-02-01), which would create an overall more effective area of open space.
- d. The use of high fences, retaining walls, and 'engineered' slopes that are not sympathetic to the natural landform should be avoided to minimise visual impact; this is particularly relevant to the area near the pedestrian path through the north of the site.
- e. A 10m buffer strip should be provided between the proposed development and the remaining SINC to the northwest of the site.

Open Space

As you are aware from our pre application discussions, the site would be subject to a requirement for contributions towards open space provision in the area in accordance with our SPG. Following consultation with my policy colleagues, it is considered that a compensatory payment is also required towards the loss of existing open space. In light of the previous approval on the site, which did not require a separate compensatory payment, I have been keen to get clarity on our position in respect of this matter. Having now discussed the application history and the requirement of our SPG at some length I can conclude that we do feel it appropriate to seek a compensatory payment in this instance. The requirement for this contribution and calculations are summarised in the following extract from correspondence with our policy team:

The site formed semi-natural, passive open space, which was of significant amenity value, and is part of the Green Network. The previous proposal, when assessed against SC12 failed to comply.

Policy SC12 of the FCLP (INF03 of the Proposed LDP) states that 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.*

In respect to criteria 2, the site has never been deemed to be surplus to requirements. The site is identified as site number 207 in the Falkirk Council Open Space Strategy as part of the wider Whyteside area of open space. Whilst the open space strategy does not identify a shortfall in open space in the Polmont locality per se, the strategy maintained that the site should be managed primarily for nature conservation and informal access/recreation, and to improve key facilities on site. To clarify though, in order to meet the terms of SC12, the site must be surplus to requirements AND compensated for by qualitative improvements elsewhere. The site being deemed surplus to requirements does not negate the need for compensation.

In terms of compensation for the lost open space, the Public Open Space, Falkirk Greenspace and New Development SPG quantifies the price per m² of passive open space as £20m². The site size is 1.67 hectares (16,700m²) in size (the current application footprint comes in at 1.72m² but I have excluded the access road to the west). Therefore the compensatory amount would come in at £334,000 for that amount of open space lost.

In addition, there is the standard £1820 per dwellinghouse applicable under the terms of SC13 (INF04 of the Proposed LDP) and the SPG. So 43 dwellinghouses x £1820 comes in at £78,260 in addition to the above compensatory sum.

In respect of the above calculations, it is acknowledged that the LRB notice relating to the previous application (P/12/0718/FUL) for 6 dwellinghouses did not request a further compensatory payment in addition to the standard contribution for open space relating to 6 x dwellings. This is obviously a material consideration when calculating the total sum payable, and it is expected that the eventual amount realised after discussions with the applicant may not reflect the full amount set out above.

General Layout Concerns

Notwithstanding the more general concerns raised above, I have strong concerns in relation to the levels associated with the boundaries to plots 6 and 24. These appear both to include significant retention structures which are likely to be detrimental to the residential amenity of plot 6 and the property outwith the site immediately to the east of plot 24. The proposed levels require to be regarded to remove the reliance on such high retention structures. It is my view that the best way to achieve this would be to remove a plot in each corner of the site and regrade the gardens appropriately. I will of course be happy to discuss other options with you in order to rectify this matter and I acknowledge that the wider concerns already highlighted may well result in more significant layout changes across the site.

Education

Finalised consultation response awaited from Education services. This will be forwarded in due course.

Affordable Housing

It is acknowledged that Persimmon would prefer to make a commuted sum payment to address the affordable housing requirement for this site however this approach is at odds with our established supplementary guidance on affordable housing which makes it clear that commuted sum payments should only be used as a last resort. Consultation with my colleagues in Housing has confirmed that they would prefer to see the required provision being met by way of on site provision of affordable housing in the form of social rent, mid market, shared equity or a mixture of these tenure types. They have also offered the following advice in respect of unit sizes:

1. *It is recommended that there is a mix of 2-4 bedroom properties for affordable housing broken down as follows (1 and 2 bedroom -75%, 3 bedroom 15% and 4 bedroom 10%).*
2. *This would equate to the following at Rodel Drive 2 bedrooms – 8, 3 bedrooms 2, 4 bedroom s – 1*
3. *Taking into account the existing stock and local demand , it is suggested that houses are built*
4. *Taking into account local information on disabilities, it is suggested consideration is given to the provision of housing for people with mobility needs.*

With this in mind I would appreciate if you could clarify your intentions going forward.

I'd appreciate if you could respond to these points within the next 7-10 days to allow me to progress matters and in light of the extensive level of information and changes requested, I would appreciate if you could agree to an extension to the determination period of the application to take us past the next available planning committee date in August and a likely subsequent site visit. I would suggest an extension until 30 September would be appropriate at this stage. I understand that you will be keen to discuss the above matters in some detail with me and I am happy to meet with you to do so. I would however appreciate if in the first instance you could provide clarification on whether you can agree to the suggested time extension.

Best Regards

Kevin

Kevin Brown
Planning Officer
Development Management
01324 504701

The link below is for the Development Management Survey which we would be grateful if you would complete and submit.

https://www.surveymonkey.com/s/dev_management

For information, the undernoted is the direct link to the Scottish Government eplanning website
<https://eplanning.scotland.gov.uk/WAM>

2012 Scottish Awards for Quality in Planning - Falkirk Greenspace Initiative, (Overall Winner)

<http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/awards>

Hearing Statement from Transport Planning Unit, Development Services

Application for planning permission for the Erection of 43 Dwellinghouses, Formation of Access and Associated Landscaping and Infrastructure on Land to the East of 44 Rodel Drive, Rodel Drive, Polmont.

Application Reference: P/14/0274/FUL

1. Introduction

1.1 This hearing relates to the processing and consideration of the original planning application and includes the following:

- The Transport Planning Unit's case in relation to the above matters to be considered at the hearing session;
- The list of documents to which the Transport Planning Unit refers to in their case; and
- The nominated person representing the Transport Planning Unit at the hearing session in relation to these matters.

2. Matters to be considered at hearing session

2.1 Application P/14/0274/FUL proposing the Erection of 43 Dwellinghouses, Formation of Access and Associated Landscaping and Infrastructure on Land to the East of 44 Rodel Drive, Rodel Drive, Polmont was submitted on 12 May 2014.

2.2 During consideration of this application the Transport Planning Unit provided a consultation response on 4 June 2014 in relation to the impact of the development on the surrounding area.

2.3 The original response highlighted the following:

- Walking and cycling linkages provide adequate connections to the surrounding area;
- Access to the bus stops in line with the current dwellings in the surrounding area;
- The trips generated by the development are in line with those from the TRICS database and additional capacity issues are not expected as a result of this development;
- It was noted that the scale of development and including the existing dwellings would take the number of dwellings accessed from a single point access above the Council's recommended 200.

2.4 A further consultation response was sent in relation to the amended layout highlighting how the roads hierarchy has evolved:

- Pre 1996 – Central Regional Councils Guidelines (1988): No emergency access required but development limited to 200 dwellings;
- October 1998 – Falkirk Council's Guidelines: Up to 300 dwellings could be served from a single access point if an emergency access was provided; and
- January 2000 – Falkirk Council's revised Guidelines: The emergency access provision was removed and the guidance changed to up to 200 dwellings off a single point access and 400 if two accesses were provided 6m wide.

- 2.5 The response also made comment on the lack of a continuous footway on the north side of the main vehicular access being proposed. The Transport Planning Unit highlighted that this should be amended to incorporate a continuous footway on the both sides of the access road.
3. Documents for Consideration at Hearing Session
- 3.1 The following documents should be considered:
- Transport Planning Unit consultation response 4 June 2014;
 - Transport Planning Unit Response 28 July 2014;
 - Transport Assessment submitted in support of planning application May 2014; and
 - Revised Layout Drawing RD-02-01 submitted in support of the planning application.
4. Attendance at Hearing
- 4.1 The Transport Planning Unit will be represented at the Hearing Session by Kevin Collins (Transport Planning Co-ordinator, Development Services)
5. Conclusion
- 5.1 The Transport Planning has no issue with the capacity of the surrounding road network as a result of the scale of this development.
- 5.2 The Transport Planning Unit is concerned over the total number of dwellings that will served form a single access point. This is not in line with the Council's Design Guidelines.
- 5.3 The revised layout does not include a continuous footway along the north side of the development access road. This issue will need to be resolved if planning consent is granted for this development.

Hearing Statement from Roads Development Unit, Development Services

Application for Planning Permission for Erection of 43 Dwellinghouses, Formation of Access and associated Landscaping & Infrastructure on Land to the east of 44 Rodel Drive, Polmont.

Application Reference : P/14/0274/FUL

1. Introduction

1.1 This hearing statement relates to the processing and consideration of the current planning application P/14/0274/FUL, and specifically the roads, access and parking relative to the proposed development, and includes the following:-

- Falkirk Council's case in relation to the above matters to be considered at the hearing session;
- The list of documents to which Falkirk Council refers to in their case;
- The nominated person representing Falkirk Council at the hearing session in relation to these matters

2. Matters to be considered at hearing session

(a) The processing and consideration of the planning application regarding the roads, access and parking issues relative to the proposed development.

2.1 The site was subject to a previous application (P/12/0718/FUL) proposing the erection of 6 dwellinghouses, ancillary flat, 1 flatted dwelling and associated roads & landscaping, and was granted planning permission by the Local Review Body on 03 March 2014. The current application was submitted on 12 May 2014.

2.2 During consideration of the current application, Roads Development provided a consultation response on 05 June 2014, outlining that the applicant intends to develop land for housing in a site off Rodel Drive, Polmont which is an adopted residential road. Rodel Drive and several other cul de sacs are served by Lewis Road which access on to Gilston Crescent. The existing number of dwellings being served by this one access road is 182 which would rise to 225 under this proposal, and this would be contrary to the Design Guidelines & Construction Standards for Roads in the Falkirk Council Area, in which it is recommended that a general access road should serve between 3 and around 200 dwellings from one access point.

2.3 The existing parking arrangements on Rodel Drive at the entrance to the proposed site were also highlighted where the number of on-street parking spaces was to be reduced. Due to the existing parking problems on Rodel Drive this was deemed to be unacceptable and more rather than less on-street parking spaces was asked for. There was also comment regarding various technical aspects of the proposed roads layout and surface water drainage details.

2.4 On 12 June 2014 Roads Development responded to a question from the Planning Manager regarding the roads guideline figure for the maximum

number of dwellings that can be served by a single access (Appendix 1). It was pointed out that the Design Guidelines & Construction Standards for Roads in the Falkirk Council Area have around 200 dwellings as a maximum to be served by a single access and hence Roads Development had raised concerns and could not support such an increase above 200. The guideline figure has been used throughout the UK and abroad for many years and is based on vehicular access concerns regarding the maximum size of a cul-de-sac and maximum number of homes which could have no fire appliance/emergency vehicle access should there be an immovable road obstruction at the beginning of the cul de sac.

2.5 On 03 July 2014 the applicant provided an amended site layout and then a Notice of Review on 21 July 2014. Roads Development provided a response to these on 28 July 2014 noting that the applicant had provided an amended roads layout (RD-02-01B) where an emergency access had been proposed as an answer to the problem of street network and excessive number of dwellings. Such an emergency access is not included in our Design Guidelines & Construction Standards for Road in the Falkirk Council Area for historical reasons, as advised by our colleagues in Transport planning.

2.6 The amended roads layout proposed 13 end-on parking spaces at the site entrance but with no continuous public footway along the north side of Rodel Drive and this was deemed unacceptable. There was a shortfall in the number of visitors parking spaces provided within the site and this was also deemed unacceptable. Details of the proposed surface water drainage strategy including SUDS had not yet been approved.

3 Documents for Consideration at the Hearing Session

3.1 The following documents should be considered:-

- Roads Development consultation response – 05/06/2014
- Email answer to Planning Manager – 12/06/2014 (Appendix 1)
- Roads Layout drawing RD-02-01B – 03/07/2014
- Notice of review – 21/07/2014
- Roads Development consultation response – 28/07/2014

4. Hearing Session Attendance

4.1 Falkirk Council, Engineering Design Unit will be represented at the hearing by Russell Steedman (Network Co-ordinator, Engineering Design)

5. Conclusion

5.1 Roads Development are of the opinion that the excessive number of dwellings proposed, the lack of a continuous public footway along Rodel Drive, and the shortfall of visitors parking spaces within the site, could all be used to support a recommendation of refusal.

From: Steedman, Russell
Sent: 12 June 2014 15:47
To: Dryden, Ian; MacKenzie, Roddy; Collins, Kevin; Collins, Kevin
Cc: brown, kevin; Whittle, Bernard; Russell, Craig
Subject: RE: Rodel Drive - P/14/0274/FUL - Roads/TPU issues

Ian,

The development guidelines have, as I understand things, been approved by members as policy. Kevin C may be able to confirm. 200 is a maximum in the guidelines and hence we are raising concerns and cannot support an increase above 200. The guideline figure has been used throughout the UK and abroad for many years and is based on vehicular access concerns regarding the max size of a cul-de-sac and max number of homes which could have no fire appliance/emergency vehicle access should there be an immovable road obstruction at the beginning of the cul de sac. In some developments where slightly more than 200 is proposed there are future proposals to ultimately have two access points or construct a footway access which could be brought into use if necessary at limited cost and complexity. eg a wide 3.5m strengthened footway with bollards which could be removed if required. There does not seem to be scope for this in this particular development and hence we cannot support greater than 200.

Russell Steedman
 Network Co-ordinator
 Development Services
 Abbotsford House
 Davids Loan
 Falkirk FK2 7YZ
 01324 504830

From: Dryden, Ian
Sent: 12 June 2014 13:05
To: Steedman, Russell; MacKenzie, Roddy; Collins, Kevin; Collins, Kevin
Cc: brown, kevin; Whittle, Bernard
Subject: FW: Rodel Drive - P/14/0274/FUL - Roads/TPU issues

Gents

Re the above development, you have highlighted that the site as proposed would take the number of units accessed from a single point of access to over 225. Your roads guideline maximum figure is 200. Can you advise if you are raising concern/ will not support this increase?

We need to advise the applicant by return of issues arising and this is one of a number of key considerations. If this is the case that you cannot support the proposal can you elaborate the reasons for this – we need a bit more reasoning here in addition to the fact that it breaches the standard guidelines. It would be beneficial to have the concerns specific to this site and its context. If you don't have any particular concerns, other than the fact it breaches your current guideline, as it is a guideline, is there scope in this instance to support the increase in numbers being proposed?

An early response would be appreciated.

Thanks

Ian Dryden
 Development Manager
 Development Services
 Falkirk Council

