

**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR RESIDENTIAL USE (12 NO. FLATS AND 7 NO. DWELLINGHOUSES) AT LAND TO THE WEST OF 127 DUKE STREET, DUKE STREET, DENNY FOR FALKIRK COUNCIL - P/15/0363/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 28 October 2015

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor Paul Garner  
Councillor Martin David Oliver

**Community Council:** Denny and District

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

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

- 1.1 The application seeks planning permission in principle for the development of land for residential use (for Council affordable social housing).
- 1.2 The application site consists of a substantial portion of an existing open space area. It is an undulating grass area, it contains a small number of semi-mature trees and appears to be well maintained. It is bounded by Duke Street and existing dwellings to the north-east and south-east, the B818 to the immediate south and the M80 to the immediate west.
- 1.3 The following information has been submitted in support of the application:-
- Design Statement;
  - Proposed Site Plan;
  - Street Elevations;
  - Site Investigation/Contaminated Land Information;
  - Drainage Details;
  - Road Traffic Noise Assessment;
  - Comments from Public Consultation;
  - Viability Statement;
  - Housing Need Information; and
  - Feasibility Studies of Potential Sites for Council Affordable Housing.
- 1.4 The Proposed Site Plan indicates 19 new residential units (a mix of flats, semi-detached houses and terraced houses), a new vehicular access off Duke Street and new tree planting within the adjoining land to be retained as open space.

- 1.5 The applicant considers that the required developer contributions totalling £250,497 would render the site unviable. The District Valuer confirms this independently. The sum of £250,497 comprises a Denny Eastern Access Road (DEAR) contribution of £65,786 (see paragraph 4.3), an education contribution of £57,950 (see paragraph 4.5) and open space contributions totalling £126,861 (see paragraphs 7a.11 and 7a.18). A sum of £123,636 to meet the education and DEAR contributions is on offer. This matter is assessed in paragraphs 7b.7 to 7b.10 which deals with viability issues as a material consideration.

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

- 2.1 The application requires consideration by the Planning Committee as granting planning permission in principle would be contrary to the Falkirk Local Development Plan.

## **3. SITE HISTORY**

- 3.1 The application site was an allocated housing site (H.DEN08) under the Falkirk Council Local Plan (adopted December 2010), which was replaced by the Falkirk Local Development Plan on 16 July 2015. The comments in the Falkirk Council Local Plan in respect of H.DEN08 were as follows:-

- The site provides a modest opportunity for housing;
- The site capacity is to be determined;
- A noise assessment would be required due to the proximity of the site to the motorway and this may place constraints on the development; and
- A contribution to the Denny Eastern Access Road (DEAR) will be required.

- 3.2 At the Local Plan Inquiry (2009) the Directorate of Planning and Environmental Appeals (DPEA) Reporter recommended that H.DEN08 be removed from the Falkirk Council Local Plan. The Council, using its discretion, decided to retain this housing allocation (H.DEN08), largely in connection with providing cross-funding for the Denny Town Centre regeneration project.

- 3.3 The housing allocation was carried over to the Falkirk Local Development Plan (Proposed Plan) as Proposal H20. However, objections to the allocation were received and the DPEA Reporter, at the Local Development Plan Examination (on 4 March 2015) identified a number of shortcomings in respect of housing development of the site and concluded that this small housing site should be deleted from the Falkirk Local Development Plan. The following is quoted from the Reporter's report: -

*"However I consider that the land at Duke Street has clear shortcoming as a potential housing site. Although there are no play facilities on the land, it is evidently valued as an open space, and it forms part of a connected network of green spaces, which together contribute to the amenity of this area of the town.*

*Any new houses on the site would stand at a higher level than, and might dominate, the existing houses to south east. The new houses would also be exposed to noise from the adjoining motorway which is at a similar level to land at the north end of the site. There is no noise screening at this point, so to address the harm to residential amenity that traffic noise would cause, development on site would need to leave a substantial unbuilt margin next to the motorway."*

- 3.4 The Council now has only limited circumstances in which it can overturn a Reporter's recommendations. These circumstances did not apply in this instance. Therefore, the housing allocation (H20) has been deleted and the site is designated as Open Space in the Falkirk Local Development Plan.

#### 4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit have advised that the fundamental impacts of the proposal such as access location and visibility have been considered previously and agreed. They advise that the proposed parking provision is acceptable. They advise that a surface water discharge to Castlerankine Burn at a rate of 4 litres per second has been agreed and that the drainage design will require consideration at detailed planning stage.
- 4.2 The Council's Environmental Protection Unit have reviewed the submitted contaminated land information and note that further investigations are to be undertaken to identify the sources of potential contamination and to address contaminated land issues. In addition, there are matters which require clarification. They will comment further when further information/clarification is provided. In addition, they have reviewed the submitted noise impact assessment and have no objection provided the glazing/ventilation requirements and the acoustic barrier are provided in accordance with the recommendations of the report.
- 4.3 The Council's Transport Planning Unit have advised that the site has been identified in the Denny Eastern Access Road (DEAR) Supplementary Planning Guidance as a contributing site to the overall costs of the DEAR. The current expected contribution from this site is £65,786.
- 4.4 Scottish Water have no objection to the application but advise that they are unable to reserve capacity at their water and wastewater treatment works in advance of a formal agreement. They advise that a Development Impact Assessment form will need to be completed and submitted to them due to the size of the proposed development and in order for them to assess the impact of this new demand on their existing infrastructure.
- 4.5 The Council's Children's Services have advised that 2 to 3 children from this development would be expected to enrol at Denny Primary School. This school does not have sufficient capacity to accommodate current planning permissions in the catchment area and a pro-rata contribution is required for all new housing proposals. They advise that 1 child from this development would be expected to enrol at St Patrick's RC Primary School. This school has sufficient capacity to accommodate this development and new housing growth allocated in the catchment area. They advise that 2 children from the development would be expected to enrol at Denny High School. This school is expected to experience capacity pressures within the next 10 years due to allocated new house building in the wider Denny/Bonnybridge area and a pro-rata contribution is required for all new housing proposals. A contribution is therefore required towards increasing capacity at Denny Primary School and Denny High School. The rates are set out in the Council's Supplementary Planning Guidance for Education and New Housing Development and are £2600 per house and £1000 per flat (Denny Primary School) and £2150 per house and £1050 per flat (Denny High School). On the basis of the submitted site plan showing 7 dwellinghouses and 12 flats, the overall education contribution would be £57,850 (£4750 per house and £2050 per flat).
- 4.6 Transport Scotland do not propose to advise against the granting of planning permission.
- 4.7 The District Valuer has reviewed the submitted viability statement and concluded that additional developer contributions beyond the sum proposed by the applicant would make the development unviable without increased public subsidy. He considers that the proposed build costs (if the commuted sums are removed) are reasonable and that the available funding (made up of grant aid and borrowing) is unlikely to exceed the figures adopted by the developer.

## **5. COMMUNITY COUNCIL**

- 5.1 The Denny and District Community Council have not made any representations in respect of the application.

## **6. PUBLIC REPRESENTATION**

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

- The DPEA recommended on two occasions that the proposed development be dropped from the Local Development Plan;
- The DPEA Reporter's recommendations are binding on the Council and require to be incorporated into the final Modified Plan;
- Has the proposal been removed from the LDP as per the Reporter's recommendations?
- Loss of privacy;
- Any building of more than single storey or built on the higher part of the site will overlook a neighbouring property and result in loss of privacy and views;
- Prospect of noise nuisance (from loud music) and unkempt gardens if the flats are to house young people or homeless people;
- The proposal is for social housing;
- Possible increase in anti-social behaviour in the area;
- Too close to the motorway (giving rise to safety concerns if a vehicle leaves the motorway);
- Additional traffic to the area;
- The traffic congestion at peak times at Denny Cross is bad enough without adding extra congestion;
- There are already potholes in this part of Duke Street without adding extra traffic;
- Has the sewage system been assessed to determine if it can cope with extra houses?;
- Schools and GP surgeries are at full capacity;
- Apart from Denny Sports Centre, there are insufficient recreational facilities to cope with additional children;
- There are not enough shops to cope with the present population without increasing numbers; and
- The site is on the former site of the Stripside Colliery. Assurances are needed that no damage would be caused to neighbouring properties by disturbance of any historical underground workings.

## 7. DETAILED APPRAISAL

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

Accordingly,

### 7a The Development Plan

7a.1 The Falkirk Local Development Plan (LDP) was adopted on 16 July 2015. It replaces the previous Falkirk Council Structure Plan and Falkirk Council Local Plan and includes a number of Supplementary Guidance documents which now have statutory status.

7a.2 Under the LDP, the application site lies within the Denny urban limits and is part of an area designated as Open Space.

7a.3 Policy HSG03 - 'Windfall Housing' states:

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

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

7a.4 The proposed development lies within the Denny urban limits and therefore the general principle of the proposed housing is considered to be acceptable provided the criteria contained in the policy are met. In respect of criterion 1 of the policy, the site consists of a substantial portion of a designated open space area but the loss of the site from this open space area is considered to be justified within the terms of Policy INF03 (see paragraph 7a.7 onwards). In respect of criterion 2, the proposed housing is compatible with neighbouring uses (housing) and a satisfactory level of residential amenity could be achieved (subject to suitable mitigation). In respect of criterion 3, the site is considered to enjoy good accessibility. In respect of criterion 4, capacity issues in respect of education (see paragraph 7a.20 onwards), healthcare (see paragraph 7a.24 onwards) and cumulative traffic impact have been identified. The Council's Supplementary Planning Guidance for DEAR identifies this site as a contributing site to the overall costs of the DEAR (the current expected contribution from this site is £65,786). In respect of criterion 5, the site is not at significant risk of flooding. Criterion 6 is not relevant. Criterion 7 requires compliance with the other LDP policies. In order to comply with this policy, the appropriate developer contributions would be required in order to address capacity issues with road infrastructure and community facilities.

7a.5 Policy HSG04 - 'Housing Design' states:

*"The layout, design and density of the new housing development should conform with any relevant site-specific design guidance, Supplementary Guidance SG02 'Housing Layout and Design' and the Scottish Government's policy on 'Designing Streets'. Indicative site capacities in the site schedules may be exceeded where a detailed layout demonstrates that a high quality design solution, which delivers the requisite level of residential amenity, has been achieved."*

7a.6 Whilst the application seeks planning permission in principle, a detailed site layout has been submitted in support of the application. The design and layout of the site have been subject to extensive pre-application discussions and are generally considered to reflect a high quality design solution. It can be noted that the detailed drawings submitted in support of the application would not be approved as part of any grant of planning permission in principle and a further (detailed) application would need to be approved before the development could commence.

7a.7 Policy INF03 - 'Protection of Open Space' states:

*"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value. Accordingly:*

1. *Development involving the loss of urban open space will only be permitted where:*
  - *There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
  - *There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
  - *The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
  - *Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*
2. *Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*
  - *The proposed development is ancillary to the principal use of the site as a playing field; or*
  - *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*
  - *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*
  - *The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7a.8 The application site consists of a substantial portion of a designated Open Space area. This open space is considered to have local amenity and recreational value. The relevant background is detailed in section 3 of this report. Under Part 1 of this policy, development involving the loss of urban open space will only be permitted if four criteria are satisfied.

- 7a.9 First, it has to be demonstrated that there would be no adverse effect on the character or appearance of the area. The DPEA Reporter's findings are quoted in paragraph 3.3 of this report. The Reporter found that the land is evidently valued as open space and it forms part of a connected network of green spaces which together contribute to the amenity of this area of the town. He also raised concerns that any new houses might dominate existing houses to the south-east. Balanced against this, it could be argued that the site is physically separated from the wider area of open space that is associated with the Castlerankine Burn corridor to the west of Nethermain Road leading to the River Carron corridor and Herbertshire Castle Park to the north. The site, itself, is currently undulating maintained grass with a few semi-mature trees only and is not of significant merit in terms of features or planting. If the site is developed, a small area of open space would remain to the north of the site and along the motorway and the B818, and there would still be substantial areas of existing open space along the nearby Castlerankine Burn corridor. However, the site is elevated relative to the B818 to the south and some of the adjacent houses, but there is opportunity for mitigating planting on the remaining open space to help to screen and soften the visual impact of the proposed development. Given these comments, it is considered that, on balance, and subject to mitigating planting, the proposed development would not have an adverse effect on the character and appearance of the area.
- 7a.10 Second, it has to be demonstrated that there would be no significant adverse effect on the overall recreational amenity of the local area. In this instance, the local area is well served by existing open space. The site itself lies close to (but not within) a substantial area of open space associated with the Castlerankine Burn linking to the River Carron corridor and Herbertshire Castle Park. It is therefore considered that the proposal would not result in a significant adverse effect on the overall recreational amenity of the local area.
- 7a.11 Notwithstanding this, the second bullet point of Part 1 of the policy requires the release of the site for development to be compensated for by qualitative improvements to other parts of the green network in the local area. Guidance for calculating a compensatory figure to fund improvements to other areas is contained in Supplementary Guidance SG13 Open Space and New Development. The compensatory sum is calculated at £21 per square metre. On the basis that the application site is 4,858m<sup>2</sup> (and therefore this is the area that would be lost as open space), the compensatory sum is £102,018.
- 7a.12 Third, it has to be demonstrated that the area is not of significant ecological value. The open space area is an undulating grass area, contains some semi-mature trees and is physically separated by roads/houses from the main Castlerankine Burn corridor. It is not considered to be of significant ecological value or play any significant role in habitat connectivity.
- 7a.13 Fourth, it has to be demonstrated that connectivity between the wider green network and public access routes would not be threatened. As previously noted, the open space area is physically separated from the wider green network in this area. There are no existing core paths or public rights of way affecting the site.
- 7a.14 Part 2 of the policy applies specifically to development that would involve the loss of playing fields or sports pitches. The open space area does not contain any formal playing fields or sport pitch and therefore this part of the proposal is not relevant to the proposal.
- 7a.15 It is considered that the application would comply with this policy if an open space contribution in the sum of £102,018 is paid.

7a.16 Policy INF04 - 'Open Space and New Residential Development' states:

*"Proposals for residential development of greater than 3 units will be required to contribute to open space and play provision. Provision should be informed by the Council's open space audit, and accord with the Open Space Strategy and the Supplementary Guidance SG13 on 'Open Space and New Development', based on the following principles:*

- 1. New open space should be well designed; appropriately located; functionally sized and suitably diverse to meet different recreational needs in accordance with criteria set out in Supplementary Guidance SG13 'Open Space and New Development'.*
- 2. Where appropriate, financial contributions to off-site provision, upgrading, and maintenance may be sought as a full or partial alternative to direct on-site provision. The circumstances under which financial contributions will be sought and the mechanism for determining the required financial contribution is set out in Supplementary Guidance SG13 'Open Space and New Development'.*
- 3. Arrangements must be made for the appropriate management and maintenance of new open space."*

7a.17 This policy indicates that open space and play facilities should be provided based on the quantitative, qualitative and accessibility standards and priorities for improvement set out in the Open Space Strategy. Supplementary Guidance SG13 provides guidance in relation to this matter and suggests that an off-site contribution may be acceptable in lieu of on-site provision of open space/play facilities for developments of less than 20 houses or 40 flats.

7a.18 In this instance, owing to the size of the proposed development, it is considered that an off-site contribution would be acceptable. Based on the submitted layout (showing 7 dwellinghouses and 12 flats), the contribution is £24,843.

7a.19 It is considered that the application would comply with this policy if an open space contribution in the sum of £24,843 is paid.

7a.20 Policy INF05 - 'Education and New Housing Development' states:

*"Where there is insufficient capacity within the catchment school(s) to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one, the basis of which is set out in Supplementary Guidance SG10 'Education and New Housing Development'. Where proposed development impacts adversely on Council nursery provision, the resourcing of improvements is also addressed through the Supplementary Guidance.*

*In circumstances where a school cannot be improved physically and in a manner consistent with the Council's education policies, the development will not be permitted."*

7a.21 This policy indicates that where there is insufficient capacity within the catchment schools to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies.

7a.22 The Council's Children's Services have requested contributions to address existing capacity issues at Denny Primary School and longer term capacity issues at Denny High School due to the cumulative impact of new housing proposals. Based on the submitted layout, the contribution is £57,850. This is explained in paragraph 4.5 of this report, and reflects the rates set out in Supplementary Guidance SG10 Education and New Housing Development.

7a.23 It is considered that the application would comply with this policy if an education contribution in the sum of £57,850 is paid.



7a.24 Policy INF06 - 'Healthcare and New Housing Development' states:

*"In locations where there is a deficiency in the provision of health care facilities identified by NHS Forth Valley, developer contributions will be sought to improve the quantity and quality of such provision commensurate with the impact of the new development. The approach to the improvement of primary healthcare provision will be set out in Supplementary Guidance SG11 'Healthcare and New Housing Development'."*

7a.25 This new policy indicates that in locations where there is a deficiency in the provision of health care facilities identified by NHS Forth Valley, developer contributions will be sought to improve the quantity and quality of such provision commensurate with the impact of new development. The approach to the improvement of primary health care provision will be set out in Supplementary Guidance SG11 Healthcare and New Housing Development.

7a.26 This policy will apply to all housing development sites in the Denny area due to capacity pressures at GP surgeries in their locality. SG11 includes a formula for calculating the appropriate contribution but a contribution for this application has not been calculated or discussed in any detail with the applicant. This is because SG11 is currently with Scottish Ministers for final approval. This matter is discussed as a material consideration later in this report. However, in the absence of an agreed contribution, the application must be assessed as contrary to this policy.

7a.27 Policy D04 - 'Low and Zero Carbon Development' states:

*"1. All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 10% of the overall reduction in CO2 emissions as required by Building Standards has been achieved via on-site LZCGT. This proportion will be increased as part of subsequent reviews of the LDP. All proposals must be accompanied by an Energy Statement which demonstrates compliance with this policy. Should proposals not include LZCGT, the Energy Statement must set out the technical or practical constraints which limit the application of LZCGT. Further guidance will be contained in Supplementary Guidance SG15 'Low and Zero Carbon Development'. Exclusions from the requirements of this policy are:*

- Proposals for change of use or conversion of buildings;*
- Alterations and extensions to buildings;*
- Stand-alone buildings that are ancillary and have an area less than 50 square metres;*
- Buildings which will not be heated or cooled other than by heating provided solely for the purpose of frost protection;*
- Temporary buildings with consent for 2 years or less; and*
- Where implementation of the requirement would have an adverse impact on the historic environment as detailed in the Energy Statement or accompanying Design Statement.*

*2. The design and layout of development should, as far as possible, seek to minimise energy requirements through harnessing solar gain and shelter;*

*3. Decentralised energy generation with heat recycling schemes (combined heat and power and district heating) will be encouraged in major new developments, subject to the satisfactory location and design of associated plant. Energy Statements for major developments should include an assessment of the potential for such schemes."*

7a.28 This policy seeks to ensure low and zero carbon developments and includes a requirement to incorporate on-site low and zero carbon generating technologies (LZCGT) to meet a proportion of the overall energy requirements. It is considered that the submission and approval of an Energy Statement could be the subject of a condition of any grant of planning permission in principle.

- 7a.29 The developer contributions required in order to comply with the relevant policies of the Development Plan amount to £250,497 (excluding a health care contribution). A sum of £123,636 to meet the DEAR and education contributions is on offer. On the basis that the total sum of the required contributions is not being met, the application is assessed as contrary to the Development Plan.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed in respect of this application are the planning history, the need for the proposed development, viability issues, the status of Policy INF06 of the Falkirk Local Development Plan, the consultation responses and the representations received.

### ***Planning History***

- 7b.2 The relevant planning history is set out in section 3 of this report. As detailed in this section, the application site formed part of an allocated housing site under the Falkirk Local Development Plan (Proposed Plan), but the DPEA recommended removal of this allocation. As a consequence, the site is designated as Open Space in the adopted Falkirk Local Development Plan.
- 7b.3 The applicant has advised that feasibility studies for assessing suitable sites in the Denny area for Council built affordable social housing were carried out between 2009 and 2011. As a result of this process, Duke Street (West) was deemed the most suitable site to develop and the scheme design proposal was developed during 2014 and the early part of 2015. The design work was progressed on the basis of the Falkirk Council Local Plan (adopted December 2010) which, as noted above, allocated the site for housing.
- 7b.4 The housing allocation under the Falkirk Council Local Plan provided certainty in respect of the principle of housing at this site. It was therefore entirely reasonable and appropriate for the applicant to have progressed, and commit resources to, the design of a detailed scheme for this site. On the other hand, the small number of objections to the carrying over of the housing allocation to the Falkirk Local Development Plan (Proposed Plan) introduced some risk, albeit that this was probably assessed by the applicant as being relatively small. Given the level of commitment to the site, the circumstances that the applicant now finds itself is somewhat unfortunate and probably fairly unusual. However, the new allocation of the site as Open Space does not, in itself, preclude the acceptability of housing if the relevant policies of the Development Plan can be satisfied. As detailed in this report, the loss of the site as open space is considered, on balance, to be acceptable with respect to its effects on the character and appearance of the area and the overall recreational amenity of the area. It can be noted, however, that the required developer contributions would have applied irrespective of whether the site was allocated for housing or open space.

### ***Need for the Proposed Development***

- 7b.5 The applicant has made the following submissions in support of the proposed development at this location:-

#### Housing Need and Demand Assessment (HNDA)

- The HNDA for the Falkirk area reinforces the Falkirk Council area as a 'self-contained Housing Market Area';
- The HNDA for the Falkirk Council area was confirmed by the Scottish Government Centre for Housing Market Analysis as robust and credible on 6 September 2011;
- The HNDA predicts that the average household size will reduce and as a result the number of households will increase;

- The HNDA indicates that the population is ageing. With an ageing population comes the need for more accessible housing;
- Birth rates in the Falkirk area are currently amongst the highest in Scotland;
- Of the six identifiable sub-areas in the Falkirk area, the Denny/Bonnybridge sub-area had the fastest growing population between 2001 and 2008;
- Sub-area projections indicate that in the period 2008 to 2018 most of the population growth will take place in the Denny/Bonnybridge area. The projections also indicate that Denny/Bonnybridge is one of the areas where the number of households is expected to grow the most;
- The HNDA looked at the shortfall of affordable housing across the various sub-areas and showed that the sub-areas with the greatest shortfalls are Stenhousemuir/Larbert/Rural North, Polmont South and Denny/Bonnybridge;
- The HNDA indicates a figure of 233 for estimated net annual affordable housing need over 10 years;

#### Local Housing Strategy (LHS)

- The supply targets set in the LHS were informed by the HNDA and were agreed corporately by the Council's Social Care Committee on 8 November 2011;
- The LHS covers the period 2012 to 2017. The first LHS outcome is 'best use is made of existing housing including empty houses and new affordable housing to address local needs'. One of the sub outcomes states 'New Build affordable housing will be provided';
- The LHS annual supply targets for the Falkirk Council area are 233, made up of 133 (making best use of existing stock) and 100 (new build affordable);
- Overall, the annual supply target has not been met in the previous two years (2013/14) and (2014/15) and this pattern is anticipated to continue in 2016/17 and 2017/18. The 100 new build affordable housing target was met in 2014/15 but this is not expected to be the case in the next two years. The 'making best use of existing stock' target was not met in 2013/14 or 2014/15 and is not expected to be met in the next two years;
- The LHS does not break down the housing supply targets by sub-area as the Falkirk Council area is a self-contained market. However, the LHS does indicate an annual affordable housing shortfall of 58 units for the Denny/Bonnybridge area;
- There are currently circa 4,000 on the Falkirk Council Waiting List for Denny/Bonnybridge;
- The house size mix for new build proposed in the LHS takes into account the findings of the HNDA. The proposed mix at the Duke Street (West) site is in line with this;

#### Accessibility

- The Council's Housing Occupational Therapist has advised that there are few properties in the Denny/Bonnybridge area that are accessible or have been adapted to be accessible;
- The proposed semi-detached units, the terraced units and the ground floor flats at Duke Street (West) are all designed to be fully accessible and would help to alleviate this problem;

### Alternative Sites

- Between December 2009 and November 2011, design feasibility studies were undertaken to identify suitable sites for the Council to build affordable social housing. The review included Council owned sites allocated for housing within the Local Plan, and other sites;
- Extensive design feasibility studies were considered for six sites within Denny. The studies dismissed four of those sites due to site specific constraints, e.g. access, flood risk, levels/slope and ground conditions. The former Denny High School was found to be a reasonable site to develop but, due to its large size, it was felt that the Council did not have the funding to afford the 'upfront' infrastructure costs to develop the site at this time. The remaining site, Duke Street (West), was considered to be the best site to develop at this time. The constraints were not considered to be insurmountable and it was noted that the site was allocated for housing in the Local Plan;
- A number of allocated housing sites within Denny were not reviewed. This was mainly because they are private rather than Council owned; and
- The other allocated housing sites within the Denny/Bonnybridge housing sub-area (i.e. at Bonnybridge, Longcroft, Haggs and Banknock) are constrained primarily by land ownership or size (either being too small or too large for the Council to forward fund the infrastructure at this time).

7b.6 The information submitted by the applicant to demonstrate affordable housing need would appear to be robust. The HNDA indicates a high level of need for affordable housing in the Denny/Bonnybridge sub-area, whilst the LHS annual supply targets for affordable housing are not being met. The wealth of comments received in the consultation process highlighting the need for good quality Council housing in the area further supports this. In addition, the information suggests that the proposal would meet house size needs and the accessibility needs of an ageing population. The information submitted in respect of suitable sites for Council affordable housing is also noted. Whilst the feasibility studies considered the Duke Street (West) site to be the best site in Denny to develop, the reviews were undertaken when the site was allocated for housing. This is no longer the case as the site is designated as open space, although an open space designation does not necessarily preclude its development, as explained in this report. There is an argument that an alternative site could have significantly reduced the required developer contributions, but the constraints of other sites as identified above are noted and the Council will consider a Viability Statement where the level of developer contributions raise viability issues (see paragraphs 7b.7 onwards).

### ***Viability Issues***

7b.7 The applicant has submitted a Viability Statement and contends that the proposed developer contribution reflects the amount that is affordable, taking into account the build costs, the available funding streams and the land value cost. The Viability Statement has been reviewed and accepted by the District Valuer (see paragraph 4.7 of this report).

7b.8 SG13 - 'Open Space and New Development'states:

*"With reference to the prevailing economic conditions and circumstances, if it can be demonstrated to the satisfaction of the Council that the benefits of developing a site which is financial marginal, outweighs the requirement for open space or provision or calculations, then this will be a material consideration in developing the application".*

7b.9 SG10 - 'Education and New Housing Development' states:

*"It will be for the developer to demonstrate to the Council's satisfaction that other developer contribution requirements, abnormal development costs and/or the prevailing economic circumstances in conjunction with the required developer contribution will render the development unusable. These should be set out through a Developer Viability Statement. The terms of the Development Viability Statement will be taken into account as a material consideration in determining the planning application".*

- 7b.10 In this instance, the benefits of the proposal, in providing much needed affordable and accessible social housing to the local area, are considered to outweigh the need for the payment of the total sum of the required contributions (£250,497). As detailed in this report, the information submitted by the applicant to demonstrate affordable housing need would appear to be robust. A sum of £123,636 is on offer to meet the education and DEAR contributions. It is considered that waiving the open space contributions (totalling £126,861) can be justified by (a) the generous provision of open space within the local area and (b) the need for the education and DEAR contributions being more critical in comparison. The offer of £123,636 is therefore considered to be acceptable, taking into account viability issues and the benefits of the proposal, which are considered to outweigh the requirement for the open space contributions in this instance.

***The Status of Policy INF06 of the Falkirk Local Development Plan***

- 7b.11 Policy INF06 is a new policy, introduced by the Falkirk Local Development Plan. This policy is explained in paragraphs 7a.24 to 7a.26. Supplementary Guidance SG11 includes a formula for calculating an appropriate developer contribution in circumstances where a contribution is required to address local healthcare capacity issues. SG11 is currently with Scottish Ministers for final approval. It is therefore considered that it may be premature to seek a healthcare contribution in this instance pending this approval.

***Consultation Responses***

- 7b.12 The consultation responses are summarised in section 4 of this report. The matters raised by the Council's Roads Development Unit and Environmental Protection Unit could be the subject of conditions of any grant of planning permission in principle. The Council's Transport Planning Unit have requested a developer contribution towards the provision of the DEAR. The Council's Children's Services have requested a developer contribution towards addressing existing capacity issues at Denny Primary School and predicted longer term capacity issues at Denny High School as a consequence of the cumulative impact of new housing growth. The comments of the District Valuer are noted.

***Representations Received***

- 7b.13 The concerns raised in the three objections to the application are summarised in section 6 of this report. In response to these concerns, the following comments are considered to be relevant:-
- The application site is designated as open space in the new Falkirk Local Development Plan. The planning history is detailed in section 3 of this report;
  - This application seeks planning permission in principle only and a subsequent application would be required to consider the detailed site layout and design. However, the submitted site layout has been subject to extensive discussions and is not considered to raise any material privacy or overlooking issues;
  - It is not the role of the planning system to protect a private view;

- Concerns about possible noise nuisance (from loud music) and possible anti-social behaviour are not material planning considerations;
- Concerns about the clientele of the housing is also not a material planning consideration;
- The issue of adequacy of safety barriers to prevent vehicle egress from the motorway is a matter for the trunk roads authority;
- The proposal in itself would not give rise to a significant increase in local traffic;
- Developer contributions are required towards the provision and upgrade of road infrastructure and community facilities in order to address the cumulative impacts of new housing development in the area. The required contributions and viability issues in relation to the payment of the contributions is discussed in this report. The current situation in respect of seeking health care contributions is also discussed;
- The proposal is to connect the foul water to Scottish Water's public sewerage system. Scottish Water do not object to the application, and their comments are summarised in this report;
- The Denny Town Centre regeneration scheme will reinstate/enhance the local shopping provision; and
- Extensive site investigations have been carried out and the detailed design will address all the issues raised by the report in respect of ground conditions, land contamination, etc.

## **7c Conclusion**

- 7c.1 The application is considered to be contrary to the Development Plan as the applicant does not propose to pay all of the required developer contributions (a sum of £123,636 is an offer to meet the education and DEAR contributions but not the open space contributions). However, there are considered to be material planning conditions to justify setting aside the terms of the Development Plan in this instance. These matters are discussed in detail in this report and relate to viability issues and the benefits of the proposal (for affordable social housing to address a demonstrable local need). The benefits of the proposal are considered to outweigh the requirement to pay the open space contributions as discussed and justified in this report. In addition, the report discusses the circumstances where the housing allocation has been recently removed in favour of an open space designation. The loss of open space has been assessed in this report and found to be acceptable. The overall high quality of the design and the opportunity to landscape the remaining open space have been noted in the report. In conclusion, drawing all matters together, it is recommended that the application be approved subject to appropriate conditions.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that the Committee grant planning permission in principle subject to the following condition(s):-

- (1) Plans and particulars of the matters specified below shall be submitted for consideration by the Planning Authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval. The specified matters are:

- (a) The siting of the building(s);
  - (b) The design of the building(s);
  - (c) The external appearance of the building(s);
  - (d) Details of the access arrangements;
  - (e) Details of landscaping of the site;
  - (f) Details of proposed boundary treatments;
  - (h) A drainage strategy and surface water drainage design and
  - (i) Details of proposed levels.
- (2) The development shall not commence until a contaminated land assessment has been submitted to and approved in writing by this Planning Authority. The development shall not be occupied until (a) any necessary remedial works to make the ground safe have been carried out in accordance with an approved remediation strategy and (b) any necessary remediation completion report/validation certificate has been submitted to and approved in writing by this Planning Authority.
- (3) The development shall not be occupied until an acoustic barrier has been provided in accordance with the recommendations of the Road Traffic Noise Impact Assessment prepared by Robin Mackenzie Partnership (RMP), dated 6 February 2015.
- (4) Each dwellinghouse/flat shall be fitted with glazing/ventilation in accordance with the recommendations of the Road Traffic Noise Impact Assessment prepared by Robin Mackenzie Partnership (RMP), dated 6 February 2015, before it is occupied.
- (5) A sum of £65,786 shall be paid to the Roads Authority towards the construction of the Denny Eastern Access Road (DEAR). The development shall not commence until the time(s) of payment of the contribution has been agreed in writing by this Planning Authority in consultation with the Roads Authority. The contribution shall be index linked from the date of grant of planning permission in principle.
- (6) A sum of £57,850 shall be paid to the Education Authority towards the future upgrade of Denny Primary School and Denny High School. The development shall not commence until the time(s) of payment of the contribution has been agreed in writing by this Planning Authority in consultation with the Education Authority. The contribution shall be indexed linked from the date of grant of planning permission in principle.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure the ground is suitable for the proposed development.
- (3) To ensure that the occupants of the new housing are safeguarded against excessive noise intrusion.
- (4) To ensure that the occupants of the new housing are safeguarded against excessive noise intrusion.
- (5) A proportional financial contribution towards the delivery of the DEAR is required in order to address the cumulative impact of new development in the area on capacity issues at Denny Cross.

- (6) A proportional financial contribution is required in order to address capacity issues at Denny Primary School and Denny High School as a consequence of the cumulative impact of new housing development in the area.

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pp Director of Development Services

Date: 20 October 2015

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

1. Falkirk Local Development Plan.
2. Falkirk Council Supplementary Planning Guidance Note, June 2013: Delivery of Denny Eastern Access Road (DEAR).
3. Falkirk Council Supplementary Guidance SG10, July 2015: Education and New Housing Development.
4. Falkirk Council Supplementary Guidance SG13, July 2015: Open Space and New Development.
5. Objection received from Mrs M Speirs, 123 Duke Street, Denny, FK6 6PR, on 2 July 2015.
6. Objection received from Mr John Campbell, 112 Duke Street, Denny, FK6 6PR, on 22 June 2015.
7. Objection received from Mr David Hames, 110 Duke Street, Denny, FK6 6PR, on 16 June 2015.

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

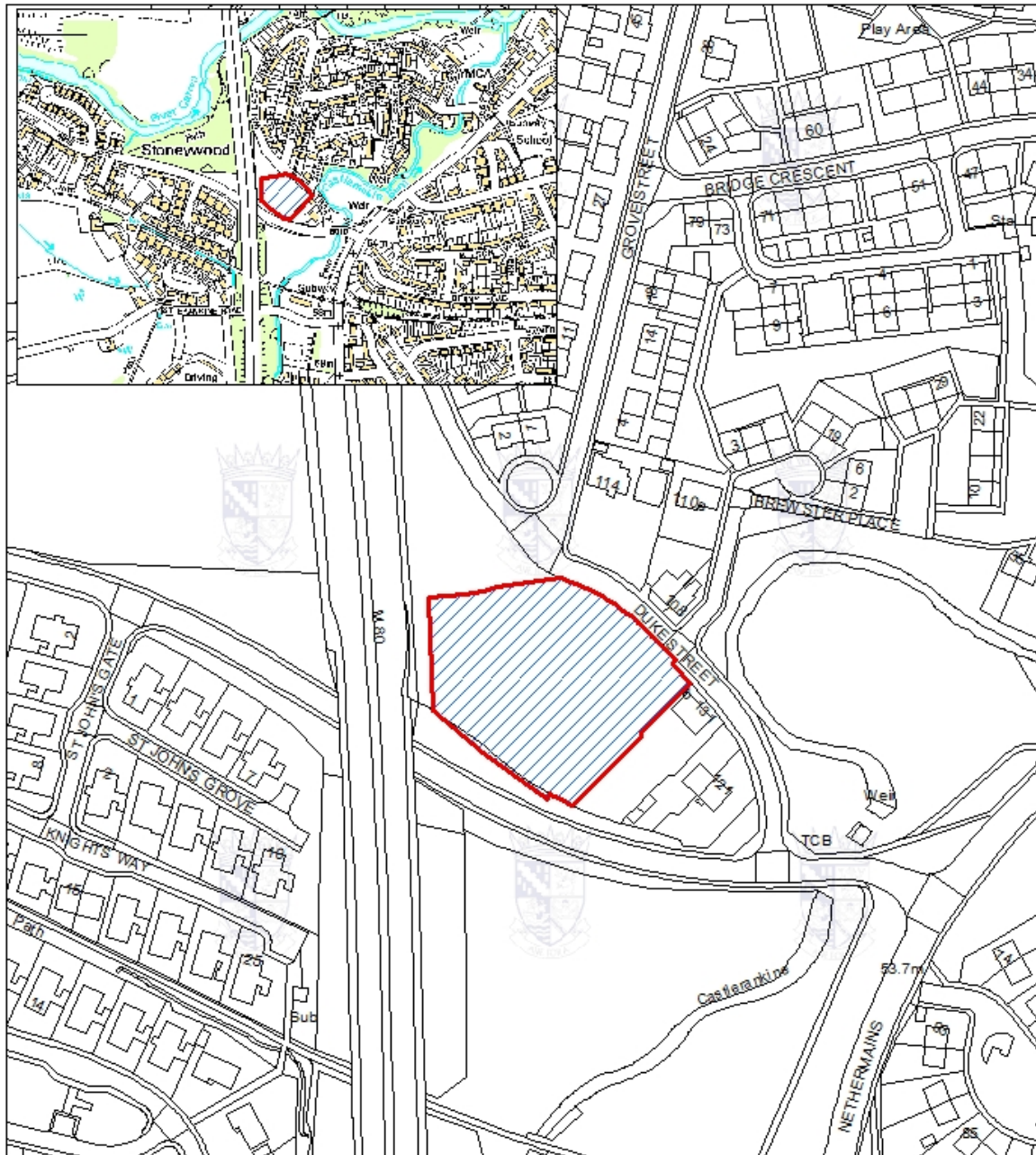


# Planning Committee

## Planning Application Location Plan

**P/15/0363/PPP**

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



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