

FALKIRK COUNCIL

Subject: **ERECTION OF 8 DWELLINGHOUSES AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE NORTH OF 35 FOUNTAINPARK CRESCENT, BO'NESS FOR DA DEVELOPMENTS - P/14/0587/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **1 February 2016**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Bo'ness and Blackness**

Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: **Bo'ness**

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

UPDATE REPORT

1. Members will recall that the above application was presented to the Planning Committee on 25 November 2015 (copy of previous reports appended). Members agreed to continue consideration of the application to allow officers to liaise with the applicants on the satisfactory conclusion of the Legal Agreement. Members agreed that the application should be re-presented to the Planning Committee in January 2016 and considered for potential refusal if the Legal Agreement has not been concluded.
2. The applicant advises that the application site was purchased by them, including making full payment. The seller has not, however, fully concluded the sale and the applicant does not have Title Deeds for the site. All his attempts to make contact with the seller to date have failed.
3. This means that although the applicant legally owns the application site, they cannot enter into a Section 75 legal agreement without the required Title. The applicant considered entering into a Section 69 Legal Agreement with the Council (a simpler agreement where there is no need to register the Agreement as a Burden against the Title), however the applicant is concerned that although they could conclude matters, they would not be able to sell the resulting houses without the required Title Deeds. The applicant has requested additional time to conclude the sale.

4. RECOMMENDATION

4.1 It is recommended that the Planning Committee (a) note the content of this report and the previous report dated 25 November 2015; and (b) agree to continue this application and if a S75 Planning Obligation or S69 Legal Agreement has not been concluded by 29 April 2016, the Director of Development Services be authorised to refuse the application for the following reason:

- 1. The proposed development fails to contribute towards the provision, upgrading and maintenance of community infrastructure, in this instance open space and play provision, where a deficiency has been identified. The proposed development is assessed as being contrary to policies INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development' and Supplementary Guidance SG13 'Open Space and New Development' of the Falkirk Local Development Plan as to date there is no agreement with the applicant with respect to the payment of a developer contribution in the sum of £14,560 (£1,820 per Unit) towards open space and play provision.**

PP

.....
Director of Development Services

Date: 20th January 2016

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Development Plan.
2. Letter of Objection from Mr and Mrs David Plumb, 34 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
3. Letter of Objection from Mr A MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
4. Letter of Objection from Janet MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
5. Letter in Support from Ms Lynne MacDonald, 18b South Philpingstone Lane, Bo'ness EH51 9JZ on 2 November 2014
6. Letter of Objection from Miss Carrie Georgeson, 38 Fountainpark Crescent, Bo'ness EH51 9LB on 26 February 2015.

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

FALKIRK COUNCIL

Subject: ERECTION OF 8 DWELLINGHOUSES AND ASSOCIATED
INFRASTRUCTURE AT LAND TO THE NORTH OF 35
FOUNTAINPARK CRESCENT, BO'NESS FOR DA
DEVELOPMENTS - P/14/0587/FUL

Meeting: PLANNING COMMITTEE

Date: 25 November 2015

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Bo'ness and Blackness

Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: Bo'ness

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

UPDATE REPORT

1. Members will recall that the above application was presented to the Planning Committee on 29 April 2015 (copy of report appended), at which time Members were minded to grant planning permission, subject to the conclusion of a legal obligation and appropriate conditions. The legal obligation required:
 - (i) A financial contribution for the sum of £14,560 (£1,820 per unit) towards open space and play provision within the terms of Section 69 of the Local Government (Scotland) Act 1973 or Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. Conclusion of the legal agreement initially progressed positively, the applicant employing a solicitor who has engaged with the Council. Unfortunately, the applicant's solicitor reported difficulty in obtaining instruction or the property's title deeds from the applicant. The Council is unable to progress the legal agreement without the requested information and as such no progress has been made since May 2015.
3. On 19 October 2015, the Council wrote to the applicant's solicitor advising that, unless progress was made it would be assumed that the applicant did not intend to progress the legal agreement and the application would be re-assessed. The applicant's solicitor has responded, confirming that they are experiencing difficulty in acquiring the land. They have requested the Council give a deadline, but cannot advise how long it is likely to take to resolve.

4. As a legal agreement has not been concluded to secure a financial contribution in relation to open space and play provision, the application is assessed as being contrary to the Falkirk Local Development Plan, specifically in relation to policies INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development' and Supplementary Guidance SG13 'Open Space and New Development'.

4. RECOMMENDATION

- 4.1 It is recommended that the Planning Committee (a) note the content of this report; and (b) agree to continue this application and if a S75 Planning Obligation or S69 Legal Agreement has not been substantially concluded by 29 January 2016, the Director of Development Services be authorised to refuse the application for the following reason:

1. The proposed development fails to contribute towards the provision, upgrading and maintenance of community infrastructure, in this instance open space and play provision, where a deficiency has been identified. The proposed development is assessed as being contrary to policies INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development' and Supplementary Guidance SG13 'Open Space and New Development' of the Falkirk Local Development Plan as to date there is no agreement with the applicant with respect to the payment of a developer contribution in the sum of £14,560 (£1,820 per Unit) towards open space and play provision.

PP

.....

Director of Development Services

Date: 13 November 2015

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Development Plan.
2. Letter of Objection from Mr and Mrs David Plumb, 34 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
3. Letter of Objection from Mr A MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
4. Letter of Objection from Janet MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
5. Letter in Support from Ms Lynne MacDonald, 18b South Philpingstone Lane, Bo'ness EH51 9JZ on 2 November 2014
6. Letter of Objection from Miss Carrie Georgeson, 38 Fountainpark Crescent, Bo'ness EH51 9LB on 26 February 2015.

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

FALKIRK COUNCIL

Subject: ERECTION OF 8 DWELLINGHOUSES AND ASSOCIATED
INFRASTRUCTURE AT LAND TO THE NORTH OF 35
FOUNTAINPARK CRESCENT, BO'NESS FOR DA
DEVELOPMENTS - P/14/0587/FUL
Meeting: PLANNING COMMITTEE
Date: 29 April 2015
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Bo'ness and Blackness

Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: Bo'ness

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 25 March 2015 (copy of previous report appended), when it was agreed to continue the application for a site visit. The site visit took place on 13 April 2015.
2. At the site visit, the case officer summarised the report, the applicant and his agent spoke and the Local Member and Members of the Planning Committee were heard.
3. The applicant and his agent highlighted the background to the site and the benefits resulting from this development proposal. The benefits included the re-use of a vacant site, removal of an eyesore and the proposed improvements to the geometry and width of the public road, including the provision of a turning area.
4. Adjoining residents who had made representations to the application, reiterated and expanded on the concerns raised in their formal submissions. The main points of discussion related to the volume of traffic using the road and a lack of parking to serve the proposed development. This would lead to further congestion and related road safety concerns.
5. Local Member Councillor Anne Ritchie supported a number of the concerns raised by neighbours and reiterated concerns in relation to traffic generation and parking.
6. Members of the Planning Committee sought clarification regarding the application being in accordance with road standards and questioned whether there was an opportunity to accommodate any additional parking into the proposed scheme.

7. In relation to parking queries raised, Council officers explained that the proposed development met the Council's parking standards in terms of residents and visitor parking. Officers also advised that the proposed road improvements would upgrade the existing sub-standard road to a suitable standard.
8. Clarification was also sought as to why the site had been undeveloped for such a long period. In response, the site's history was clarified by the applicant's agent, who advised that this related to a change (latterly) to the postulated line of the Antonine Wall. Further clarification was raised in relation to overshadowing, privacy and the stability of the site, including existing retaining walls. Members also viewed the application site from an adjoining garden to the north-east of the application site.
9. It is considered that no new issues were raised at the site visit that would alter the previous recommendation of minded to grant planning permission. Since the Committee site visit, the applicant's agent has advised in writing, that they will seek to revise the proposed layout to accommodate two additional off-street parking spaces (where possible in the turning head) and delineation of visitors spaces. This matter will be updated at Planning Committee.

10. RECOMMENDATION

- 10.1 It is therefore recommended that the Planning Committee indicate it is minded to grant planning permission subject to- (a) a legal agreement / planning obligation to the satisfaction of the Director of Development Service within the terms of Section 69 of the Local Government (Scotland) Act 1973 or Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, for the sum of £14,560 (£1,820 per unit) toward open space and play provision (b) And thereafter on the conclusion of (a) above, to remit to the Director of Development Services to grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority;
- (2)
 - (i) No development shall commence on site unless otherwise agreed with the Planning Authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority;
 - (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination;

- (iii) Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority;
 - (iv) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) No development shall commence on site until an appropriate scheme of intrusive site investigation works has been undertaken to confirm coal mining conditions. The findings and details of any necessary remedial or other mitigation measures to ensure safety and stability of the proposed development shall be submitted to and approved in writing by the Planning Authority. The approved details shall be implemented prior to occupation/use of the development commencing.
- (4) No development shall commence on site until a material schedule, of all external materials, has been submitted to and approved in writing by the Planning Authority. Thereafter, only the approved materials shall be used, unless otherwise agreed in writing.
- (5) Prior to the occupation of any approved dwellinghouse, the access road, Fountainpark Crescent, across the full frontage of the site shall be brought up to an adoptable standard.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2,3) To ensure the ground is made suitable for the approved development.
- (4) To safeguard the visual amenity of the area.
- (5) To safeguard the interests of the users of the highway.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.

- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02A, 03, 04A, 05A, 06, 07, 08B, 09, 10 and Supporting Information.

.....
pp Director of Development Services

Date: 16 April 2015

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Local Development Plan (Proposed Plan).
4. Letter of Objection from Mr and Mrs David Plumb, 34 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
5. Letter of Objection from Mr A MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
6. Letter of Objection from Janet MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
7. Letter in Support from Ms Lynne MacDonald, 18b South Philpingstone Lane, Bo'ness EH51 9JZ on 2 November 2014
8. Letter of Objection from Miss Carrie Georgeson, 38 Fountainpark Crescent, Bo'ness EH51 9LB on 26 February 2015.

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

FALKIRK COUNCIL

Subject: ERECTION OF 8 DWELLINGHOUSES AND ASSOCIATED
INFRASTRUCTURE AT LAND TO THE NORTH OF 35
FOUNTAINPARK CRESCENT, BO'NESS FOR DA
DEVELOPMENTS - P/14/0587/FUL
Meeting: PLANNING COMMITTEE
Date: 25 March 2015
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Bo'ness and Blackness

Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: Bo'ness

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the erection of 8 semi-detached dwellinghouses on the north side of Fountainpark Crescent, Bo'ness. The proposed houses would be split level with 1½ and 2 storeys facing onto Fountainpark Crescent and 3 storeys to the rear elevation.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to the Planning Committee by Councillor Ann Ritchie.

3. SITE HISTORY

- 3.1 There are several historic planning applications relating to the residential development of the application site. Of particular note is application Ref: F/2003/0391 for the erection of 3 houses (granted on 22 July 2003) and application Ref: F/2004/0914 for the erection of 4 houses (granted on 24 March 2005). Planning application Ref: 05/0821/FUL for the amendment of planning permission Ref: F/2004/0914 was granted on 22 December 2005. None of these permissions were implemented and they subsequently lapsed.

4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit has no objection to the proposal.
- 4.2 The Council's Education Services have no objection to the proposal and do not request contributions.

- 4.3 Scottish Water did not respond to the consultation.
- 4.4 The Council's Environmental Protection Unit has no objection to the proposal, subject to a condition relating to ground contamination.
- 4.5 The Coal Authority has no objection to the proposal, subject to a condition relating to intrusive site investigations.
- 4.6 Historic Scotland has no objection to the proposal.
- 4.7 Scottish Power has no objection to the proposal.

5. COMMUNITY COUNCIL

- 5.1 Bo'ness Community Council did not make comment.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 4 contributors submitted letters of objection to the Council. There was also one letter of support. The salient issues in the letters of objection are summarised below:-
- The proposed development would have insufficient visitor parking provision;
 - The proposed development would cause an unacceptable impact on the volume of traffic on Fountainpark Crescent;
 - Existing residents park on-street;
 - The proposed development would cause parking and access problems, particularly for large vehicles;
 - The proposed houses will overshadow and overlook existing properties and cause a noise nuisance;
 - The road should be kept free of building materials at all times; and
 - The proposal is an overdevelopment of the available site.
- 6.2 One letter was received, supporting the application whilst asking questions in relation to the type of proposed boundary enclosures, access during construction, the type of drainage and proposed planting.

7. DETAILED APPRAISAL

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

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 The proposed development is not strategic in nature. There are no relevant policies of the Falkirk Council Structure Plan.

Falkirk Council Local Plan

- 7a.2 Policy EQ1 “Sustainable Design Principles” states:

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

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

- 7a.3 It is considered that the development would achieve a high standard of design quality and general compliance with principles of sustainable development in accordance with policy EQ1 ‘Sustainable Design Principles’.

7a.4 Policy EQ3 “Townscape Design” states:

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

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

7a.5 It is considered that the development would contribute positively to the quality of the built environment at Fountainpark Crescent. The proposal would front an established street, the design of the proposed houses would reflect the scale, height massing and building line of surrounding properties and the proposed materials would complement those found in the surrounding area. The application is supported by policy EQ3 ‘Townscape Design’.

7a.6 Policy EQ17 - ‘Antonine Wall’ states:

“The Council will seek to retain, protect, preserve and enhance the Antonine Wall, its associated archaeology, character and setting. Accordingly:

- (1) There will be a presumption against development which would have an adverse impact on the ‘Frontiers of the Roman Empire (Antonine Wall) World Heritage Site’ as defined on the Proposals Map;*
- (2) There will be a presumption against development within the ‘Frontiers of the Roman Empire (Antonine Wall) World Heritage Site’ buffer zones, as defined on the Proposals Map, which would have an adverse impact on the Site and its setting, unless mitigating action to the satisfaction of the Council in consultation with Historic Scotland can be taken to redress the adverse impact, and there is no conflict with other Local Plan policies; and*
- (3) The Council, in association with partner Councils and Historic Scotland, will prepare Supplementary Planning Guidance on the criteria which will be applied in determining planning applications for development along the line, or within the setting, of the Antonine Wall.”*

7a.7 The application site is within the postulated line of the Frontiers of the Roman Empire (Antonine Wall) World Heritage Site. The applicant submitted an Archeological Evaluation in support of the application. The evaluation detailed the results of archaeological investigation carried out by Falkirk Council within the application site in 2003 and in the grounds of Carndene House (just to the west of the site) in 2002. Both investigations produced a negative result and Historic Scotland conclude that it is unlikely the proposed development would have any impact on the archaeology of the World Heritage Site. The application does not offend the terms of policy EQ17 'Antonine Wall'.

7a.8 Policy SC2 - 'Windfall Housing Development Within The Urban / Village Limit' states:

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

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

7a.9 The proposed site is a brownfield site, within the urban settlement area of Bo'ness. The proposed housing use is seen to be compatible with neighbouring uses, which are residential, and it is considered that a satisfactory level of residential amenity can be achieved. The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities. Existing physical infrastructure such as roads, drainage, water supply and sewerage capacity are considered acceptable, or could be upgraded, if required, to accommodate residential use of the site. It is also considered that community facilities such as education and healthcare have the capacity to accommodate the site being used for residential purposes. The proposal is seen to satisfy Policy SC2 and there is no conflict with any other Local Plan policy or proposal.

7a.10 Policy SC8 'Infill Development and Subdivision of Plots' states:

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

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

(6) *the proposal complies with other Local Plan policies.”*

7a.11 It is considered that the submitted development proposals are of an appropriate scale, density, disposition and design of dwellings, which respects the architectural and townscape character of the area. It is also considered that an adequate amount of garden ground would be provided to serve dwellings on the site, and that adequate privacy would be afforded to the proposed dwellings and existing neighbouring dwellings. It is also considered that no significant loss of any established features such as trees, vegetation, walls etc would result. The proposed vehicular access and other infrastructure is of an adequate standard or could be upgraded as required, and the proposal is seen to comply with other Local Plan policies. It is therefore considered that the proposal accords with Policy SC8 ‘Infill Development and Subdivision of Plots’.

7a.12 Policy SC13 ‘Open Space and Play Provision in New Development’ states:

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

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

7a.13 All new residential development is required to contribute towards open space and play provision. Given the size of the proposed development, site constraints and proximity to established open space resources, it is considered that a financial contribution towards existing facilities is appropriate. The applicant is agreeable to commuted payments in accordance with the Supplementary Planning Guidance Note (SPG) on 'Public Open Space, Falkirk Greenspace and New Development', discussed in greater detail later in this report. The application accords with policy SC13 'Open Space and Play Provision in New Development'.

7a.14 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Proposed Falkirk Local Development Plan (FLDP), Falkirk Council Supplementary Planning Guidance and assessment of third party representation.

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

7b.3 The following policies of the Proposed FLDP are of relevance:

- Policy HSE03 - Windfall Housing
- Policy HSG04 – Housing Design
- Policy HSE05 - Infill Development and Subdivision of Plots
- INF04 – Open Space and New Residential Development
- D02 – Sustainable Design Principles
- D07 – Antonine Wall

7b.4 The above policies evolve policy thinking in respect of extant Falkirk Local Plan Policies and no new issues are introduced. The proposed development is considered to comply with all relevant policies of the Proposed FLDP.

Falkirk Council Supplementary Guidance

7b.5 The SPG on 'Public Open Space, Falkirk Greenspace and New Development' states that in residential developments under 10 units, financial contributions should be provided. In this instance a contribution of £14,560 (£1,820 per unit) is required. The applicant has indicated that this is acceptable and it should be subject to a Legal Agreement / planning obligation.

7b.6 It is considered that the site accords with guidance contained in the SPG's on 'Housing Layout and Design' and 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site'.

7b.7 The application accords with Supplementary Planning Guidance.

Reponses to Objections

- 7b.8 Fountainpark Crescent is currently of substandard width. Over a number of years the road has in effect 'slipped' into the application site. This has resulted in the restricted width, where 2 vehicles would find it difficult to pass. There are reports of bin lorries and emergency vehicles not being able to access the street and there is no turning area.
- 7b.9 This application involves the upgrading of the road to meet road standards, in terms of the width of road and turning head. The proposed development was assessed by the Roads Development Unit and deemed acceptable in terms of access, parking and road safety.
- 7b.10 Seventeen parking spaces are proposed to serve the development. This equates to 1 off-street parking space to serve each of the 2 bed houses and 2 off-street spaces to serve each of the 3/4 bed houses. Three visitor spaces would also be provided and the widened road, including turning area, would make parking and turning easier for existing residents.
- 7b.11 It is not considered that there would be an unacceptable volume of traffic to the site if it were developed.
- 7b.12 It is considered that the location and height of the proposed houses would not overshadow or significantly overlook existing properties.
- 7b.13 It is not considered that the proposed development is an overdevelopment of the site. The scale, massing and disposition of the houses is considered acceptable and a reasonable amount of garden ground would be provided.
- 7b.14 It is acknowledged that there may be an increase in noise and disturbance during the construction of the proposed houses. However, once completed it is not considered that 8 additional houses within the established residential area would cause an unacceptable impact on the noise and residential amenity of the surrounding area.

7c Conclusion

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with the Falkirk Council Local Plan and therefore the Development Plan. There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Planning Committee indicate it is minded to grant planning permission subject to- (a) a legal agreement / planning obligation to the satisfaction of the Director of Development Service within the terms of Section 69 of the Local Government (Scotland) Act 1973 or Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, for the sum of £14,560 (£1,820 per unit) toward open space and play provision (b) And thereafter on the conclusion of (a) above, to remit to the Director of Development Services to grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority;
- (2)
 - (i) No development shall commence on site unless otherwise agreed with the Planning Authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority;
 - (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination;
 - (iii) Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority;
 - (iv) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) No development shall commence on site until an appropriate scheme of intrusive site investigation works has been undertaken to confirm coal mining conditions. The findings and details of any necessary remedial or other mitigation measures to ensure safety and stability of the proposed development shall be submitted to and approved in writing by the Planning Authority. The approved details shall be implemented prior to occupation/use of the development commencing.
- (4) No development shall commence on site until a material schedule, of all external materials, has been submitted to and approved in writing by the Planning Authority. Thereafter, only the approved materials shall be used, unless otherwise agreed in writing.
- (5) Prior to the occupation of any approved dwellinghouse, the access road, Fountainpark Crescent, across the full frontage of the site shall be brought up to an adoptable standard.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2,3) To ensure the ground is made suitable for the approved development.
- (4) To safeguard the visual amenity of the area.
- (5) To safeguard the interests of the users of the highway.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02A, 03, 04A, 05A, 06, 07, 08B, 09, 10 and Supporting Information.

.....
pp Director of Development Services

Date: 16 March 2015

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Local Development Plan (Proposed Plan).
4. Letter of Objection from Mr and Mrs David Plumb, 34 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
5. Letter of Objection from Mr A MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
6. Letter of Objection from Janet MacLachlan, 35 Fountainpark Crescent, Bo'ness EH51 9LB on 13 November 2014.
7. Letter in Support from Ms Lynne MacDonald, 18b South Philpingstone Lane, Bo'ness EH51 9JZ on 2 November 2014
8. Letter of Objection from Miss Carrie Georgeson, 38 Fountainpark Crescent, Bo'ness EH51 9LB on 26 February 2015.

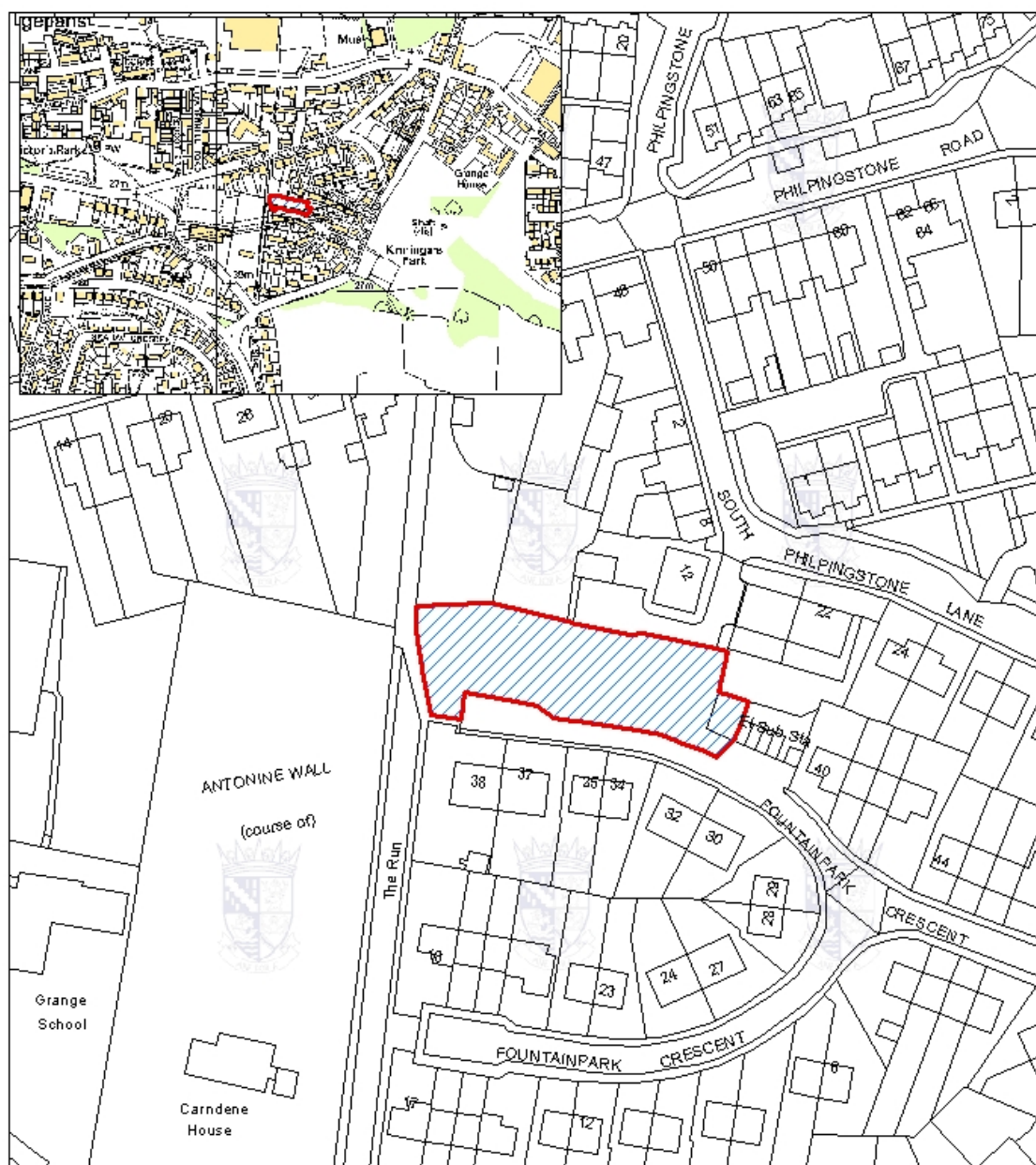
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/14/0587/FUL

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



Reproduced by permission of Ordnance Survey on behalf of HMSO.
© Crown copyright and database right 2015. All rights reserved.
Ordnance Survey Licence number 100023384