

FALKIRK COUNCIL

Subject: **ERECTION OF 167 HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE AND GREEN SPACE AT LAND TO THE SOUTH OF KINGLASS COTTAGE, BORROWSTOUN ROAD, BO'NESS FOR MILLER HOMES AND AWG PROPERTY LTD – P/15/0364/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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This major application relates to a proposed residential development at Kinglass Farm, Bo'ness. The submitted plans show a proposed residential development with a mixture of 2-storey detached and semi-detached houses, and cottage flats within 2-storey buildings. The plan identifies areas for built development, open space, landscaping, footpath network and Sustainable Urban Drainage System (SUDS) in the form of 2 retention ponds.
- 1.2 The proposal relates to the development of 167 housing units, of which 12 would be flatbed dwellings. Access is to be taken via two vehicular accesses off Borrowstoun Road.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called to the Planning Committee for determination by Councillor Sandy Turner.

3. SITE HISTORY

- 3.1 Proposal of application notice Ref: PRE/2013/0013/PAN, for proposed residential development with associated infrastructure was submitted on 13 June 2014.
- 3.2 An application Ref: P/14/0702/FUL for a similar development was withdrawn on 29 March 2015, to allow amendments to the scheme to be undertaken.
- 3.3 The proposed development was screened on 18 December 2014 (during consideration of application P/14/0702/FUL) and an Environmental Impact Assessment (EIA) was found to be not required.

4. CONSULTATIONS

- 4.1 The Coal Authority do not object to the proposed development, subject to a condition requiring intrusive site investigation works (in relation to mine entries and shallow mine workings) before development commences.
- 4.2 Scottish Natural Heritage (SNH) do not object to the application.
- 4.3 The Council's Transport Planning Unit raised issues, which have been appropriately addressed by the applicant.
- 4.4 The Scottish Environmental Protection Agency (SEPA) have withdrawn an earlier objection to the application.
- 4.5 The Council's Children's Services have no objection to the proposed residential development, provided a contribution is made in relation to pressures at St Mungos High School and local nursery provision. A contribution of £1,250 per unit is required, totalling £208,750.
- 4.6 Scottish Water has no objections.
- 4.7 The Council's Roads Development Unit comment that they are satisfied with the road layout and the principle of adequate drainage has been demonstrated by the applicant.
- 4.8 The Council's Environmental Protection Unit advise of conditions relating to ground contamination.
- 4.9 National Air Traffic Services (Nats En-Route Ltd) has no objections.
- 4.10 The Council's Corporate and Housing Services have no objections to the proposals subject to the developer providing a contribution of £463,425 towards provision of affordable housing in the Bo'ness area.

5. COMMUNITY COUNCIL

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

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 17 third party representations, (13 objections, 2 supporting and 2 neutral) were received by the Council. The salient issues are summarised as follows:
 - The access road is dangerous. There is no information about traffic calming on the access road, including the change in speed limit;
 - The development would put an unacceptable pressure on outlying roads including Gauze Road;
 - Councillors have guaranteed local residents that the site would never be developed;
 - There is an existing drainage issue and a lack of information in relation to drainage in the application i.e. design and maintenance;
 - There are no allowances for the educational needs of local children;
 - There is no extra provision for NHS in the area;
 - Dental surgeries are oversubscribed;
 - Bo'ness has insufficient services including police and fire;

- Existing wildlife on the site will be affected; pipistrelle bats, badgers and deer frequent the site;
- There should be cash from the builders to upgrade the town centre, including the construction of a new supermarket;
- The bore reports are out of date;
- The application was withdrawn then resubmitted – the Council mishandled the application;
- The Council amended the Structure Plan to accommodate the proposed development;
- The application will result in a loss of countryside / green belt;
- There will be noise pollution to adjacent residents;
- The residents of the adjacent Kinglass residential development bought their houses due to the semi-rural location;
- The proposed development will impact surrounding property prices;
- The proposed development would see a loss in prime arable farmland. The development would add to the country's unacceptable drop in cereal production;
- The application would result in the loss of urban open space contrary to policy INF03;
- There are sites in Bo'ness which should be developed first, including the foreshore and next phase of the Drum development;
- General support for the development of new housing in the area;
- Objections from an adjacent landowner in relation to proposed footpath links entering the area of land. Request that the links are removed from the south-west corner of the application site; and
- Kinglass Cottage raised a number of questions which are being dealt with by the applicant.

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

The Falkirk Local Development Plan (FLDP) was adopted on 16 July 2015. The proposed development was assessed against the following policy or policies:

7a.1 Policy HSG01 - 'Housing Growth' states:

1. *The Council will aim to achieve an average housing growth of 675 dwellings per year across the Council area over the Plan period, and will ensure that a five year effective land supply is maintained;*
2. *The Council will monitor and update the effective housing land supply figures annually to make sure that a minimum five year supply is maintained at all times. If this Housing Land Audit process identifies a shortfall in the effective land supply, the Council will consider supporting sustainable development proposals that are effective, in the following order of preference:*
 - *Urban Capacity sites*
 - *Additional brownfield sites*
 - *Sustainable greenfield sites**In doing so, account will be taken of other local development plan policies and of any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.*
3. *The overall scale of housing allocations in each settlement area to meet the target level of growth, including flexibility, will be as shown in Figure 3.1.*

4. *The specific sites where new housing will be promoted are listed in the Settlement Statements, and detailed in the Site Schedule in Appendix 1.*
5. *The locations for most significant growth are identified as Strategic Growth Areas (SGAs). Within these areas, the preparation of development frameworks, masterplans and briefs, as appropriate, and the co-ordination of social and physical infrastructure provision, will be a particular priority. Site requirements are set out in Appendix 2.*

7a.2 The application site forms part of the Bo'ness South East Strategic Growth Area (SGA) and is identified as proposed housing site H02 on the Falkirk Local Development Plan proposals map and in Appendix 1 of the FLDP. The sites development is in accordance with policy HSG01 'Housing Growth.

7a.3 Policy GN01 - 'Falkirk Green Network' states:

- "1. The Council will support the Central Scotland Green Network in the Falkirk area through the development and enhancement of a multi-functional network of green components and corridors as defined in Map 3.5.*
- 2. Within the green network, biodiversity, habitat connectivity, active travel, recreational opportunities, landscape quality, placemaking, sustainable economic development and climate change adaptation will be promoted, with particular reference to the opportunities set out in the Settlement Statements, and detailed in the Site Schedule in Appendix 1.*
- 3. New development, and in particular the strategic growth areas and strategic business locations, should contribute to the green network, where appropriate, through the integration of green infrastructure into masterplans or through enabling opportunities for green network improvement on nearby land."*

7a.4 It is considered that the proposed development contributes to the green network, with the provision of strong structure planting and active open space provision, in accordance with GN01 'Falkirk Green Network'.

7a.5 Policy D01 - 'Placemaking' states:

"The following locations are regarded as key opportunities for placemaking within the area, within which there will be a particular emphasis on high quality design and environmental enhancement:

1. *Strategic Housing Growth areas & Business Locations*
2. *Town and Village Centres*
3. *Town Gateways and Major Urban Road Corridors*
4. *Canal corridor*
5. *Central Scotland Green Network"*

7a.6 It is considered that the proposed development meets the placemaking objectives, as demonstrated in the Design and Access Statement submitted in support of the application and in accordance with policy D01 'Placemaking'.

7a.7 Policy HSG02 - 'Affordable Housing' states:

New housing developments of 20 units and over will be required to provide a proportion of the units as affordable or special needs housing as set out in Figure 5.1. The approach to provision should comply with Supplementary Guidance SG12 "Affordable Housing".

Figure 5.1 Affordable Housing Requirements in Settlement Areas

Proportion of total site units required to be affordable

Larbert/Stenhousemuir, Polmont Area, Rural North and Rural South - 25%

Bo'ness, Bonnybridge/Banknock, Denny, Falkirk and Grangemouth - 15%

7a.8 As the development relates to over 20 units, there is an affordable housing requirement of 15%. The applicant had aspirations to address the affordable housing requirement by providing on site accommodation from the outset. However, through the course of the application it was found not to be feasible and the applicant has now agreed to make a financial contribution towards off site provision, in accordance with policy HSG02 'Affordable Housing'. Further comment and explanation is set out in paragraphs 7b.20 – 7b.22

7a.9 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 'Neighbourhood 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.10 It is considered that the layout, design and density of the proposed housing development conforms with the site-specific guidance contained in Appendix No.2 of the FLDP, Supplementary Guidance SG02 and Designing Streets. The application accords with policy HSG04 'Housing Design'.

7a.11 Policy INF02 - 'Developer Contributions to Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community infrastructure where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The nature and scale of developer contributions will be determined by the following factors:

- 1. Specific requirements identified against proposals in the LDP or in development briefs;*
- 2. In respect of open space, recreational, education and healthcare provision, the general requirements set out in Policies INF04, INF05 and INF06;*
- 3. In respect of physical infrastructure any requirements to ensure that the development meets sustainability criteria;*
- 4. In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- 5. Where a planning obligation is the intended mechanism for securing contributions, the principles contained in Circular 3/2012.*

In applying the policy, consideration of the overall viability of the development will be taken into account in setting the timing and phasing of payments.

7a.12 The applicant proposes to comply with requirements in relation to open space and play provision through on site provision. The applicant has agreed to make financial contributions in relation to education and affordable housing provision. In accordance with Supplementary Guidance SG11, 'Healthcare and New Housing Development', Bo'ness has not been identified by NHS Forth Valley as requiring a contribution. The application accords with INF02 'Developer Contributions to Community Infrastructure'.

7a.13 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.14 It is considered that proposed open space provision is well designed, appropriately located, functionally sized and suitably diverse to meet the different recreational needs in accordance with the criteria set out in Supplementary Guidance SG13 'Open Space and New Development'. Supporting information has been submitted in relation to the management and maintenance of the open space. The application accords with policy INF04 'Open Space and New Residential Development'.

7a.15 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.16 There is sufficient capacity in local catchment schools to serve the proposed residential development, with the exception of St Mungo's High School and local nursery provision. The applicant has agreed a financial contribution as set out in paragraph 4.5, in accordance with Policy INF05 'Education and New Housing Development'.

7a.17 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.18 There is no deficiency identified by NHS Forth Valley in the provision of local health care facilities in Bo'ness. It is noted that SG11 'Healthcare and New Housing Development' does not identify Bo'ness as a settlement where there will be capacity issues as a result of new development. The application does not offend Policy INF06 'Healthcare and New Housing Development'.

7a.19 Policy INF07 - 'Walking and Cycling' states:

- "1. The Council will safeguard and promote the development of the core path network. Where appropriate, developer contributions to the implementation of the network will be sought.*
- 2. New development will be required to provide an appropriate standard of pedestrian and cycle infrastructure, including cycle parking, which complies with current Council guidelines and meets the following criteria:*
 - Where appropriate, infrastructure supporting the two modes of walking and cycling should be combined and support objectives in agreed Travel Plans helping to support active travel;*
 - Pedestrian and cycle facilities in new developments should offer appropriate links to existing networks in surrounding areas, in particular to facilitate school journeys and provide connections to public transport, as well as links to other amenities and community facilities;*
 - The surfacing, lighting, design, maintenance and location of pedestrian and cycle routes should promote their safe use. Particular emphasis should be given to the provision of suitable lighting, and the provision of suitably designed and located crossing facilities where routes meet the public road network;*
 - Where practical, no pedestrian route should be obstructed by features that render it unsuitable for the mobility impaired."*

7a.20 Policy GN05 - 'Outdoor Access' states:

- "The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network, and routes which support the development of the Green Network. When considering development proposals, the Council will:*
- 1. Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;*
 - 2. Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and*
 - 3. Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development."*

7a.21 It is considered that the proposed development supports the core path network and would provide an appropriate network of pedestrian and cycle infrastructure in accordance with policy INF07 'Walking and Cycling' and GN05 'Outdoor Access'.

7a.22 Policy INF10 - 'Transport Assessments' states:

- "1. The Council will require transport assessments of developments where the impact of the development on the transport network is likely to result in a significant increase in the number of trips, and is considered likely to require mitigation. The scope of transport assessments will be agreed with the Council and in the case of impact on trunk roads, also with Transport Scotland.*

2. *Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development. The assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over use of the car.*
3. *The Council will only support development proposals where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified.”*

7a.23 The applicant has submitted a Transport Assessment which appropriately scopes the network impact of the proposed development, in accordance with policy INF10 ‘Transport Assessments’.

7a.24 Policy INF12 - ‘Water and Drainage Infrastructure’ states:

- “1. New development will only be permitted if necessary sewerage infrastructure is adopted by Scottish Water or alternative maintenance arrangements are acceptable to SEPA.*
- 2. Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation.*
- 3. A drainage strategy, as set out in PAN61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment.”*

7a.25 The applicant has submitted flooding and drainage information to the satisfaction of SEPA and Falkirk Council's Roads Development Unit. The application accords with policy INF12 ‘Water and Drainage Infrastructure’.

7a.26 Policy GN03 - ‘Biodiversity and Geodiversity’ states:

“The Council will protect and enhance habitats and species of importance, and will promote biodiversity and geodiversity through the planning process. Accordingly:

- 1. Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Qualifying features of a Natura 2000 site may not be confined to the boundary of a designated site. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions, and there are imperative reasons of overriding public interest. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*
- 2. Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- 3. Development likely to have an adverse effect on European protected species, a species listed in Schedules 5, 5A, 6, 6A and 8 of Wildlife and Countryside Act 1981 (as amended), or a species of bird protected under the Wildlife and Countryside Act 1981 (as amended) will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.*

4. *Development affecting Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites (as identified in Supplementary Guidance SG08 'Local Nature Conservation and Geodiversity Sites'), and national and local priority habitats and species (as identified in the Falkirk Local Biodiversity Action Plan) will not be permitted unless it can be demonstrated that the overall integrity of the site, habitat or species will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
5. *Where development is to be approved which could adversely affect any site or species of significant nature conservation value, the Council will require appropriate mitigating measures to conserve and secure future management of the relevant natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required, along with provision for its future management.*
6. *All development proposals should conform to Supplementary Guidance SG05 'Biodiversity and Development'.*

7a.27 The applicant has submitted an Ecology Assessment which adequately demonstrates that the proposed development would not unacceptably affect any habitats or species of importance. The application accords with policy GN03 'Biodiversity and Geodiversity'.

7a.28 Policy D02 - '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, distinctive, welcoming, adaptable, 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. *Climate Change & Resource Use. Development should promote the efficient use of natural resources and the minimisation of greenhouse gas emissions through 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.*

Masterplans will be required for significant development proposals requiring a co-ordinated approach to design and infrastructure, and should demonstrate how the above principles have been incorporated into the proposals. Masterplans should be informed by a development framework or brief where relevant.

7a.29 It is considered that the proposed development would achieve a high standard of design quality and compliance with principles of sustainable development identified in policy D02 'Sustainable Design Principles', specifically in relation to natural and built heritage, urban and landscape design, accessibility, resource use, infrastructure and maintenance. The application accords with Policy D02 "Sustainable Design Principles".

7a.30 Policy D03 - 'Urban Design' states:

"New development should create attractive and safe places for people to live, work and visit. Accordingly:

- 1. Development proposals should conform with any relevant development framework, brief or masterplan covering the site. Residential proposals should conform with Supplementary Guidance SG02 'Neighbourhood Design';*
- 2. The siting, density and design of new development should create a coherent structure of streets, public spaces and buildings which respects and complements the site's context, and creates a sense of identity within the development;*
- 3. Street layout and design should generally conform with the Scottish Government's policy document 'Designing Streets';*
- 4. Streets and public spaces should have buildings fronting them or, where this is not possible, a high quality architectural or landscape treatment;*
- 5. Development proposals should include landscaping and green infrastructure which enhances, structures and unifies the development, assists integration with its surroundings, and contributes, where appropriate, to the wider green network;*
- 6. Development proposals should create a safe and secure environment for all users through the provision of high levels of natural surveillance for access routes and public spaces; and*
- 7. Major development proposals should make provision for public art in the design of buildings and the public realm."*

7a.31 It is considered that the proposed development would create a safe and attractive place for people to live in accordance with policy D03 'Urban Design' and Supplementary Guidance SG02 'Neighbourhood Design'. It is considered that the siting, density and design would create a coherent structure of streets and create a sense of place, in accordance with 'Designing Streets'. Landscaping and green infrastructure is proposed, contributing to the green network. Public art is proposed in the form of 'cairns' and an installation at the feature entrance.

7a.32 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.33 The proposed development does not include incorporated on-site low and zero carbon generating technologies. However, it is considered that the design and layout of the development seeks to harness solar gain and shelter. The proposed development does not include energy generation or heat recycling schemes and fails to accord with Policy D04 ‘Low and Zero Carbon Development’.

Supplementary Guidance Forming part of Falkirk Local Development Plan

7a.34 The proposed development was designed in accordance with the design guidance contained in SG02 ‘Neighbourhood Design’.

7a.35 The applicant has submitted an Ecology Assessment in accordance with the guidance contained in SG05 ‘Biodiversity and Development’. The assessment concludes that there are no habitats or species which would be significantly affected by the proposed development.

7a.36 The Council's Children's Services have no objection to the proposed residential development, provided a contribution is provided in relation to pressures at St Mungos High School and local nursery provision. A contribution of £1,250 per unit is required, totalling £208,750. The applicant has accepted the required contributions in accordance with SG10 ‘Education and New Housing Development’.

7a.37 The Bo'ness area is not identified in SG11 ‘Healthcare and New Housing Development’ as an area where there will be capacity problems as a result of new residential development.

7a.38 The applicant intended to provide the required affordable housing on-site from the outset (this is reflected in the previous planning application). Unfortunately the applicant was not able to find a Registered Social Landlord (RSL) and was not able to achieve any of the other options in order of preference set out in SG12 ‘Affordable Housing’. The applicant has therefore agreed a financial contribution in accordance with SG12.

7a.39 The proposed development has open space and play facilities in accordance with the standards set out in SG13 ‘Open Space and New Development’.

7a.40 The proposed development does not include incorporated on-site low and zero carbon generating technologies. However, it is considered that the design and layout of the development seeks to harness solar gain and shelter. As such the proposed development does not fully accord with SG15 ‘Low and Zero Carbon Development’.

Accordingly, with the exception of Policy D04 and Supplementary Guidance SG13, the application accords with the Falkirk Local Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the assessment of public representations, summary of terms for legal agreement and consideration of the site in relation to coal mining legacy.

Assessment of Public Representations

7b.2 It is considered that the proposed development, including the resulting road widening and movement of the 30 MPH sign to the edge of the development will improve the road conditions and road safety on Borrowstoun Road.

- 7b.3 The applicant has submitted a Transport Assessment which demonstrates the road network can accommodate the proposed development.
- 7b.4 The application site is allocated for housing development in the Falkirk Local Development Plan, as such the principle of development of the site for residential development is accepted by Falkirk Council.
- 7b.5 The applicant has submitted sufficient information to demonstrate adequate drainage.
- 7b.6 The Council's Children's Services advise that the proposed development would put pressure on St Mungo's High School and local nursery provision. As such the application should only be approved subject to a Legal Agreement requiring a financial contribution as detailed in paragraph 7a.36.
- 7b.7 The NHS has not identified pressure on health services in the Bo'ness area.
- 7b.8 The provision of fire and police services are matters for the Scottish Fire and Rescue Service and Police Scotland.
- 7b.9 The applicant has submitted an Ecological assessment, from a suitably qualified specialist, which adequately demonstrates the proposed development would not adversely impact on the biodiversity of the area. Further it is noted that there could be biodiversity benefit as a consequence of the proposed development and resulting habitat diversification.
- 7b.10 Having regard to Scottish Government advice in circular 3/2012 concerning Planning Obligations it is not considered reasonable to secure financial contributions from the applicant in relation to Bo'ness Town Centre.
- 7b.11 It is noted that the bore logs are historic. The application has, however, submitted an up to date Coal Mining Risk Assessment and the Coal Authority have withdrawn their objection subject to intrusive site investigations. This can be addressed by imposing a planning condition.
- 7b.12 The Council has not mishandled the application. The applicant was procedurally entitled to withdraw their original application, P/14/0702/FUL, and make a further application.
- 7b.13 The Council has not amended the Structure Plan to accommodate the proposed development. The site was put forward as a potential housing opportunity at the start of the Falkirk Local Development Plan process in 2011. The application site went through the formal examination process and was included as a housing opportunity (H02) in the approved Falkirk Local Development Plan in July 2015.
- 7b.14 The site is within the urban boundary of Bo'ness and is an allocated housing site, as such the development would not result in the unacceptable loss of countryside or arable farmland and is not identified as Green Belt.
- 7b.15 It is anticipated that there may be disturbance to local residents during the construction phase of development, however action can be taken under statutory noise nuisance legislation where required. It should also be noted that Miller Homes advise that they apply their 'Respect Scheme' to all of their development which includes notification of neighbours in relation to construction works, the display of a help number on site and the appointing of a site manager who can deal with any complaints.
- 7b.16 It is noted that the residents of the adjacent Kinglass development may have bought their houses due to the semi-rural location; however this does not limit the development of surrounding sites.

- 7b.17 Any impact on property price is not a material planning consideration.
- 7b.18 The comments in relation to proposed footpath links to the south-west of the site are noted. The area of land in question is privately owned open space. Access to private land and land ownership issues are not considered material to planning.
- 7b.19 General support for the proposed development is noted.

Reason for and Summary of Terms of Planning Obligation

- 7b.20 Through assessment of the application it was identified that a 15% affordable housing provision is required and that the proposed development would impact St Mungo's High School and local nursery provision.
- 7b.21 Miller Home's position from the outset was to provide integrated affordable housing on site. The housing mix shown on the layout plan was influenced by discussions with the applicant and Places for People. Unfortunately it was found as the application progressed, that there was no appetite or available subsidy to invest in or support affordable housing provision on site. This came from detailed discussion with various registered social landlords including Link Housing Association, Places for People and the Wheatley Group. Shared equity and golden share schemes were also examined but found not to be viable. As the applicant has no other land interests in Bo'ness, or the wider Falkirk Area, off-site provision was not possible.
- 7b.22 Having exhausted all reasonable efforts to identify opportunities for on or off-site provision a financial contribution is required. The District Valuer assessed the commuted sum of £463,425 (based on 25.05 units (15%) x £18,500). The affordable housing contribution would be used in accordance with SG12 and in this case would be reinvested in the Bo'ness sub area. In addition to funding house building, the funds may be used to assist the purchase of sites or property.
- 7b.23 Children's Services identify education capacity issues at St Mungo's High School and local nursery provision as a result of development. A financial contribution of £208,750 is required.
- 7b.24 The applicant has agreed to make financial contributions in relation to affordable housing and education provision and this will be secured by a Legal Agreement 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.
- 7b.25 No other issues were identified that were required to be included in the Legal Agreement.

Consideration of the Site in relation to Coal Mining Legacy

- 7b.26 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. Any development proposal not exempt on grounds of type or nature, which would intersect with the ground requires the submission of a desk based Coal Mining Risk Assessment and consultation with the Coal Authority. A risk assessment has been submitted by the applicant and assessed by the Coal Authority. The Coal Authority do not object to the proposal subject to a condition being imposed requiring the applicant to carry out intrusive site investigation and remedial works.

7c Conclusion

- 7c.1 The proposal represents an acceptable form of development and with the exception of Policy D04 is in accordance with the Falkirk Local Development Plan. There are no material planning considerations that justify a refusal of planning permission in this instance.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee indicate it is minded to grant planning permission subject to (a) Conclusion within 6 months of a legal agreement / planning obligation to the satisfaction of the Director of Development Services 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 £463,425 for affordable housing provision and £208,750 for education/nursery 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, including mine entries on site. 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 mitigation measures shall be implemented prior to the development commencing.

- (4) No development shall commence on site until a drainage strategy has been submitted to and approved in writing by the Planning Authority. Thereafter development shall proceed in accordance with the approved details, unless otherwise agreed in writing.
- (5) 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.
- (6) Details of the phasing of the development shall be submitted to the Planning Authority for approval, and no work shall begin until the phasing scheme has been approved in writing. Thereafter, the development shall be implemented in accordance with the approved scheme unless otherwise agreed in writing.
- (7) No development shall commence on site until a detailed specification for all landscaping, play areas and the maintenance thereof have been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details unless otherwise agreed in writing.
- (8) Within 3 months of the occupation of the last residential unit occupied on site, all road and footway construction shall be completed in accordance with the approved site plan.

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 ensure adequate drainage can be achieved
- (5) To safeguard the visual amenity of the area.
- (6, 7) To safeguard the environmental amenity of the area.
- (8) 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.

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pp Director of Development Services

Date: 20 January 2016

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. Objection received from Mr Jim Hawthorne, 41 Bonhard Way, Kinglass Steadings, Bo'ness, EH519RF on 24 June 2015.
3. Objection received from Mrs Donna Gillooly, 20A Bonhard Way, Bo'ness, EH51 9RF on 18 June 2015.
4. Objection received from Mr Jim Hawthorne, 41 Bonhard Way, Kinglass Steadings, Bo'ness, EH519RF on 24 June 2015.
5. Objection received from Mr Trevor Spence, 24 Bonhard Way, Boness, EH519RF on 13 June 2015.
6. Objection received from Isobel Chirray, Isobelchirray@gmail.com on 16 June 2015.
7. Objection received from Mr Gordon Buchanan, 36 Ritchie Place, Bo'ness, EH51 9TU on 19 June 2015.
8. Objection received from Ronnie Shanks, 26 Bonhard Way, Bo'ness, EH51 9RF on 22 June 2015.
9. Objection received from Mrs Isobel Chirray, 22 Bonnard Way, Bo'ness, EH51 9RF on 24 June 2015.
10. Objection received from Miss J Robertson, 26 Drumview Gardens, Bo'ness, EH51 9RE on 26 June 2015.
11. Representation received from West Lothian Golf Club, FAO Alan E Gibson on 10 July 2015.
12. Support received from Mr Kyle Snedden, 78, Bo'ness, EH51 0PB on 2 July 2015.
13. Objection received from Mr George Chirray, 22 Bonnard Way, Boness, EH51 9RG on 24 June 2015.
14. Objection received from Mr David Webster, 11 Braefoot Road, Bo'ness, EH51 9TR on 27 June 2015.
15. Representation received from Gloria Watt on 18 September 2015.
16. Support received from Mr Craig Paterson, 56 Clydesdale Street, Bo'ness, EH51 9BU on 27 August 2015.
17. Objection received from Mr Brian Livingstone, 20 Kinglass Park, Bo'ness, EH51 9RD on 3 November 2015.
18. Objection received from Stewart Melrose, Stewart@scotwaste.com on 9 December 2015.

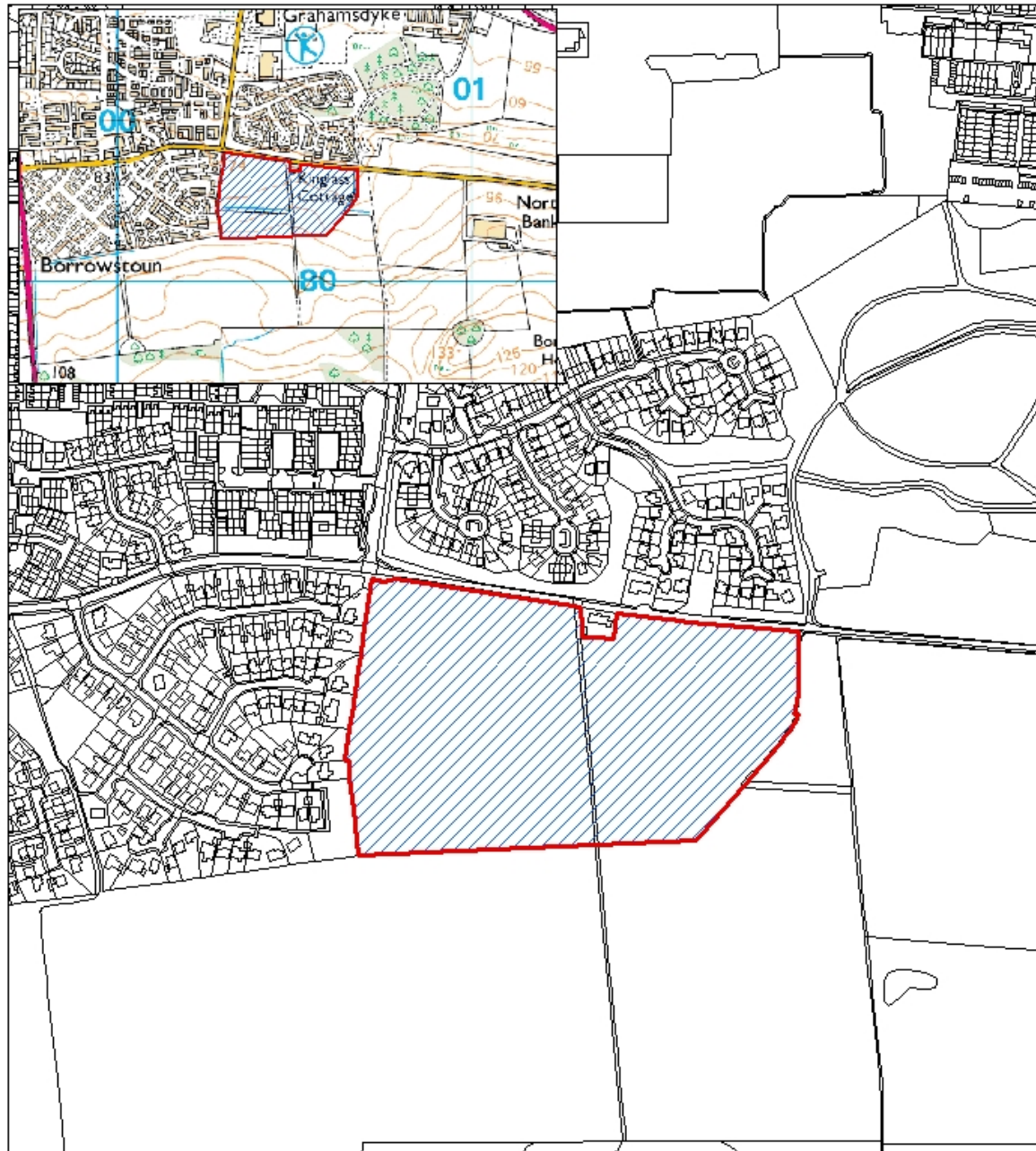
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/15/0364/FUL

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



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