

# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) Act 1997 (as amended),  
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)  
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>**

## 1. Applicant's Details

Title	Mr
Forename	Philip
Surname	MacFarlane
Company Name	
Building No./Name	43
Address Line 1	Princes Street
Address Line 2	California
Town/City	Falkirk
Postcode	FK1 2BX
Telephone	
Mobile	
Fax	
Email	

## 2. Agent's Details (if any)

Ref No.	
Forename	Anne
Surname	Cunningham
Company Name	Lowland Planning Associates
Building No./Name	5
Address Line 1	West Terrace
Address Line 2	Blackness
Town/City	Linlithgow
Postcode	EH49 7NN
Telephone	01506 834435
Mobile	
Fax	
Email	

## 3. Application Details

Planning authority	Falkirk Council
Planning authority's application reference number	P/16/0215/FUL

Site address

Land to the South East of Tappernail Farm/Hillcrest Square, Reddingmuirhead.

Description of proposed development

Erection of a Dwellinghouse

Date of application

11/4/2016

Date of decision (if any)

1/7/2016

**Note.** This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

#### 4. Nature of Application

Application for planning permission (including householder application)

☒

Application for planning permission in principle

☐

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

☐

Application for approval of matters specified in conditions

☐

#### 5. Reasons for seeking review

Refusal of application by appointed officer

☒

Failure by appointed officer to determine the application within the period allowed for determination of the application

☐

Conditions imposed on consent by appointed officer

☐

#### 6. Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

☐

One or more hearing sessions

☒

Site inspection

☐

Assessment of review documents only, with no further procedure

☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

The appeal site lies within a an area zoned for housing in the FLDP. There are complications relating to the zoning and landownership which made the assessment of the application unusual and policy based, rather than just the physical nature of the site.

#### 7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land?

☒

Is it possible for the site to be accessed safely, and without barriers to entry?

☐

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

There are none.

## 8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please refer to the accompanying Statement on the Reasons for Refusal and Productions pertaining to the Statement.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

If yes, please explain below a) why you are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.



## 9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

Statement on the Reasons for Refusal.  
Overall Draft Site plan for the Adjacent Housing Land in the Applicants' Family Ownership.  
Plan Showing the Whole Housing Zoning.  
Letter from The Applicant.  
Amended Plans Submitted to FC Planning but not on line( missed due the Decision being already taken).

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

## 10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☒

**Note.** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

## DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:



Name:

Anne P. Cunningham

Date:

25/08/2016

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

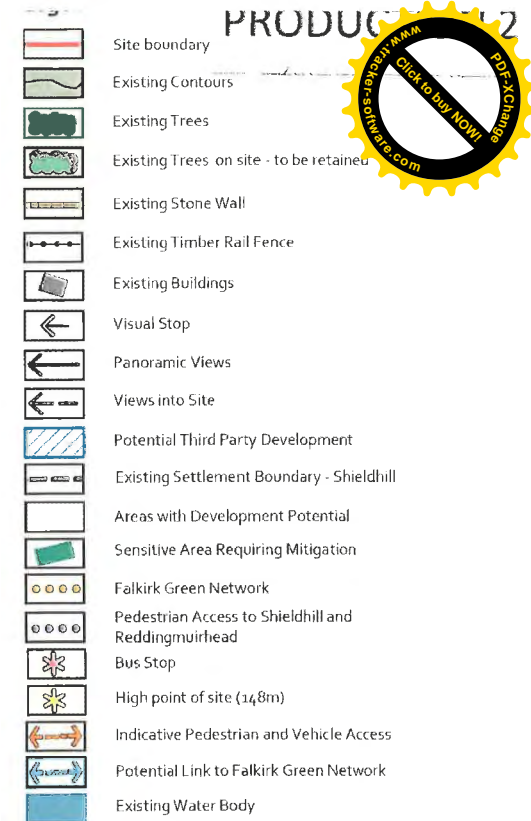
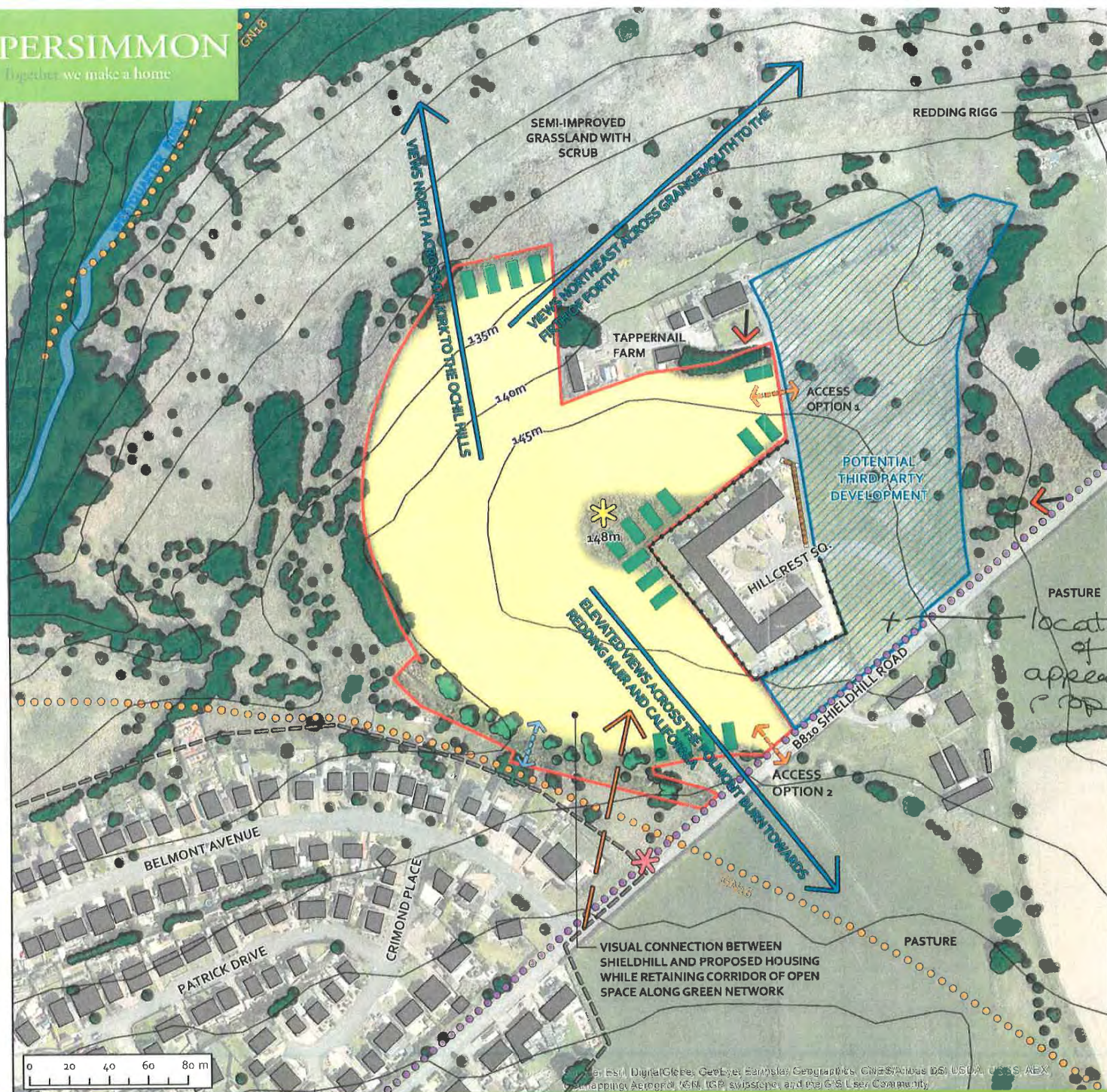
PRODUCTION 1

2

EA







#### Note

\* High point of site requires suitable mitigation.

#### DRAFT

Project: Hillcrest Farm, Reddingmuirhead	Client: Persimmon Homes
Drawing Title: Site Appraisal and Development Recommendations	
Scale: 1:2,000 @ A3	Date: 09 / 08 / 2016
Drawing No: Figure 01	Status: Consultation
Drawn by: L Brown	Checked by: J Brindley

**brindley**  
ASSOCIATES

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43 Princes Street  
California  
Falkirk  
FK1 2BX

August 22<sup>nd</sup> 2016

Dear Sirs,

I understand that my planning application to build a house on ground I own at Tappernail in Reddingmuirhead has been refused.

I have lived in the Falkirk area for over forty years and currently live in the village of California. I am married with two young children and my dream is to build my family home, and when the ground I own was zoned for housing, I was delighted. However, it now seems that my dream is being thwarted by the local planning department for reasons best known to themselves.

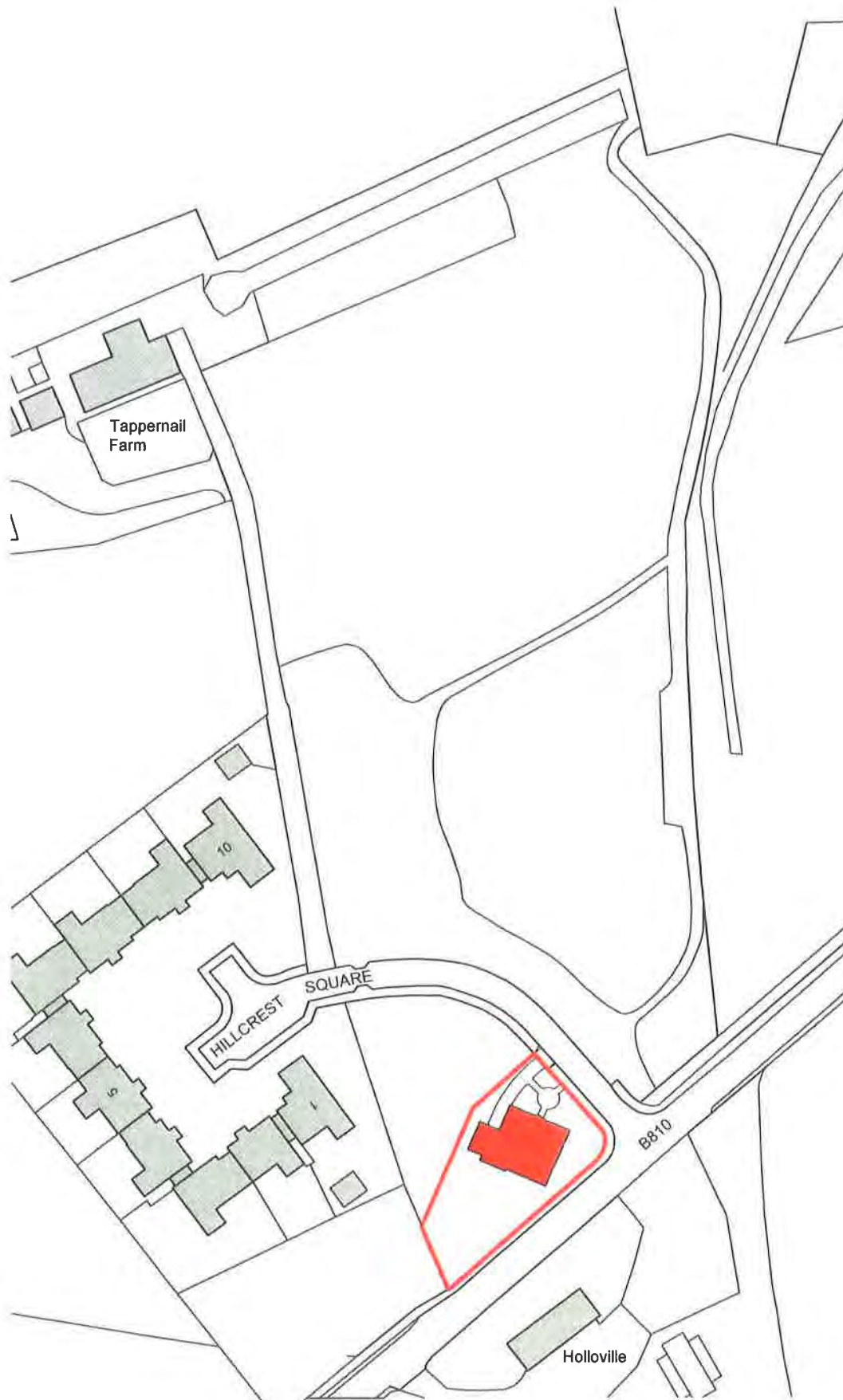
The house I want to build is a high quality architect designed family house on a perfect site. It would enhance the surrounding area and is in line with what the planning people wanted. It now appears that any permission depends on the application by neighbouring properties and I think this is grossly unfair. I do not understand why my permission depends on situations outwith my control. I could understand concerns if the house I intended to build was a cheap inferior building, but as this is not the case I am at a loss.

Part of the adjacent ground has been laid out with large individual plots for exclusive architect designed houses which would create a really beautiful residential layout. The problem appears to be with the ground that Persimmon Homes are planning to build on. Why this should reflect on my plot is a mystery and I would appeal to you for an explanation for the refusal and help in realising my dream home.

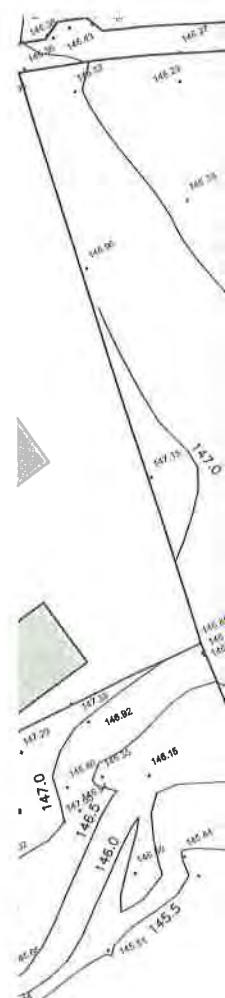
Yours sincerely,

A black rectangular box redacting the signature of Philip Macfarlane.

Philip Macfarlane



Location Plan  
Scale - 1:1250





LOWLAND PLANNING ASSOCIATES for

Mr Philip MacFarlane.

STATEMENT on the GROUNDS for APPEAL

Application No. :- P/16/0215/FUL

Architect:- Stuart Baxter of Anderson Bayne

#### INTRODUCTION and BACKGROUND

The appeal site, under consideration by Falkirk Councils' Local Review Body, comprises 1145.00 square metres( 0.1145 ha) of grassland to the immediate south east of Hillcrest Square, Reddingmuirhead. The site lies within the wider area of the original Tappernail Farm part of which is zoned for housing in the adopted Falkirk Local Development Plan. The zoned land is 5.5 ha, or thereby, in area. The overall site ,known in the FLDP as H69 is in 4 different ownership titles, 3 of the parts being owned by the appellants family. Their land totals just over 2 ha. The allocated site surrounds the existing housing at Hillcrest Square.

Lowland Planning Associates approached Falkirk Planning in 2015 with a draft plan for a low-density housing layout for the land in the MacFarlane family ownership. This plan includes the appeal site and is appended as Production 1. The original site visit with an officer was very positive, as Falkirk Council and the terms of the FLDP were prescribing a low-density development, which this clearly was.

However, further responses were gleaned from Planning officials with a somewhat different viewpoint and this led to an impasse which in turn led to Mr Philip MacFarlane seeing the only way forward was to 'go it alone' so to speak.

The requirements of developing residential site H69 are onerous and unrealistic to any developer. H69, which as stated above is 5.5 ha in area (12.54 acres) for 30 housing units, plus landscaping, SUDS, roads, services and play areas etc, is actually rendering that site undevelopable in normal economic parlance. In other words the costs would far outway the profits and therefore it won't happen. Given, also, the requirement for a masterplan covering the whole zoned area, that is further complicated by 4 different landownerships, the site is not an effective housing allocation. The land though IS a zoned residential site, and in the interests of following through with housing on that land a way forward by the use of compromise, intelligent development and a where there's a will there's a way approach will at some point have to be employed.

The larger part of H69 is not owned by the MacFarlane family. The other owner is working in tandem with Persimmon Homes to develop it for family housing with an affordable housing element either here at Tappernail or on a proxy site. Refer to Production 2 to view the Site Appraisal for the public consultation that was prepared for Persimmon. This clearly shows the tight relationship of the varying landownerships and, importantly, road access through to the Persimmon site via the MacFarlane land. As this land is over 2 ha in area and is a significant proposal/major application, Persimmon have already submitted a Planning Application Notice (PAN) to the planning authority to begin the pre-application negotiations with planners and the local community. This process is well advanced and does to some extent include my clients land( ie it is marked on the plans) although it is understood by all parties that our development strategies for each tract of land differ considerably. It is understood that more details will be available for consultation by Planning and the public in the near future. My clients will ensure that their low-density approach is included in those details for the next part of the public consultation in September 2016 as this is what the community requires in order to respond properly to the consultation process. This is without prejudice to my clients and any future planning application on their



land of course. On Production 2 the appeal site location is marked on the plan to show it in context of the wider area that is proving so controversial. However, having alluded to the controversial nature of the zoning in general, the 1<sup>st</sup> public exhibitions, in both Sheildhill and Reddingmuirhead, were fairly well attended and Persimmon reported a positive and rational response from those that visited the viewings. When more detailed plans are presented in due course, we will all be further in tune with the community views.

## THE PROPOSAL

Mr Philip MacFarlane and his family are not developers and as owners of a relatively small piece of land, already zoned for housing in the FLDP, wish to build an lovely architect designed family home for themselves to live in. They currently live in nearby California and truly love the area. As stated above, they are somewhat frustrated by being caught up in the complexities of the whole site development debate. Production 3 is a heartfelt letter from Philip which explains why he felt the need to put in his individual application, as it may be a long time before the Council and developers make headway with the overall site. It is Lowland Plannings' strongly held view that good quality, sensible development by an individual should not be thwarted by the ambitions of other landowners/developers when there is no physical impediment or disadvantage to the strategy of either the Council (more accurately the planning team), the community, or those developers. A house on the appeal site has no negative effect to any party.

Anderson Bayne, a leading architectural firm, with their head architect Stuart Baxter, are employed to draw up proposals for all the land in the MacFarlane family ownership. In liason with Philip MacFarlane and Lowland Planning, a stunning house has been drafted by them, which not only shows the intended quality of the proposed house, but the modernity, and it gives a glimpse of the forward-thinking nature of the development envisaged by Philips' father Ian for the remainder of their land. Low-density is emphasised here. Good houses, with large gardens, orientated for the spectacular views of the county and beyond, solar gain aiding sustainable development and very importantly with the

assurance that there is no predudice to the existing houses at Hillcrest Square or any future buildings.

Before we examine the refused plans further, Members' attention is drawn to amended plans that were requested by the planning officer to address highways issues of sightlines and other concerns such orientation of the main (front) elevation of the house. These comprise Production 4. We understand that these plans were not recieved by the planning department until after the delegated decision was processed. This is unfortunate, but we are of the view that , although material concerns, the amended plans would not have swayed the decision, which is on the grounds of prematurity and not design per se. More will be discussed on the prematurity issue below.

In consdering the appeal, the location of the house on the zoned site H69 is of paramount importance. It would indeed be wrong to place the house in a position on which it would detrimentally affect the site as a whole. That really would be bad planning and no sensible party here would support it. As Members can see from the appeal site location on Production 2, it is situated close the Hillcrest Square entry from the main road on grassland planted and maintained by the owner. The neat nature of the land is a product of a responsible landowner who wishes to ensure the existing householders at Hillcrest Square benefit in the meantime from a nice and tidy entrance. This tidiness should not of course predudice the fact that it is allocated housing land.

Again from Production 1, the draft low-density housing plan, shows the appeal site as Plot 1. One can readily see here that the existing access road to Hillcrest Square is protected in it's entirety and just as importantly, the future access roads to serve the wider housing land are not impeded by that plots' development.

#### THE REASONS for REFUSAL and the GROUNDS for APPEAL

The reasons for refusing application P/16/0215/FUL are before Members to undertake a de novo approach in assessing the application under review along with all the material old and new, in particular this Statement , to assist that process. Most of the arugments have been rehearsed above, but it is worth



summarising them in this section of the appeal, in the interests of absolute clarity.

Reason for Refusal 1 is the most pertinent. Rather than considering the proposal on the table, the planning officials are only viewing it in the context of the wider zoned site, regardless of the proposals individual merits. This is extremely predudicial to my clients as it can be clearly demonstrated that a single house in this particular location does not in any way prevent the whole of H69 to be developed as per the requirements of that housing allocation as described in the FLDP, whether we or other parties agree with it or not. The planning process is there to aid and direct good and sustainable development, not to prevent good and sustainable development. In this case a refusal of planning permission does just that and it should be overturned by those with the democratic and legal right to do so.

The 2nd Reason for Refusal is in my option padding. The design and location of the house on this large plot is and always has been subject to negotiation and change. We would be happy to work with officers on this matter if it is an issue following the upholding of this appeal.

## CONCLUSION

This application should have been a relatively simple case of allowing a house on a piece of land zoned for housing. It should never have come to the point where Members are required to make a decision. Unfortunately our pleas to officers for this to be a supportable, non-predudical proposal fell on deaf ears, despite a great deal of negotiation and explanation by Lowland Planning. We, and the appellant, advocate a grant of planning permission and respectfully and strongly commend the proposal to the LRB.

Anne Cunningham MRTPI

Lowland Planning Associates

for Mr Philip MacFarlane.