

### PLANNING APPLICATION DETERMINED BY DIRECTOR OF DEVELOPMENT SERVICES UNDER DELEGATED POWERS – REPORT ON HANDLING

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**PROPOSAL** : Erection of 22 Flatted Dwellings and 1 Dwellinghouse  
**LOCATION** : Land To The West Of 14 King Street, Thornhill Road, Falkirk  
**APPLICANT** : G&N Homes (FK-L) Limited  
**APPN. NO.** : P/20/0530/FUL  
**REGISTRATION DATE** : 13 November 2020

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

The application site comprises 3048 sq.m. of public open space at the western edge of Victoria Park, Falkirk at the junction of Thornhill Road and King Street.

This application proposes the erection of nine one bedroom flats, thirteen two bedroom flats and one two bedroom dwellinghouse over two blocks, mainly three storeys. The development is proposed as affordable rented housing.

The proposal would provide 39 parking spaces, 37 standard and 2 disabled spaces. The proposed development additionally includes the formation of 16 parking spaces for the use of the community centre adjacent to the south. The formation of the car parking for the use of the adjacent community centre would compensate for the loss of parking at the community centre as a result of the proposed development. These 16 parking spaces would be partially formed on the community centre site outwith the application site.

Documents supporting the proposed development include:

- . Design and Access Statement
- . Parking Statement
- . Affordable Housing Statements
- . Footpath Statement
- . Daylight Impact Diagrams

#### 2. SITE HISTORY

06/0499/FUL – Erection of medical centre and associated parking – Granted 03.10.2006.

#### 3. CONSULTATIONS

The following responses to consultation were received:

Roads Development Unit

The proposed development does not provide sufficient off street parking spaces to accommodate the proposed development. The proposal would therefore not be in the best interests of road safety. Drainage is considered to be generally satisfactory. A drainage strategy should be submitted and it should be

	demonstrated that connection to Scottish water infrastructure is agreed.
Scottish Water	No objections. There is currently capacity in the water network.
Environmental Protection Unit	Steps should be taken to ensure that there would be no significant impact as a result of noise from the adjacent community centre. Contamination to be conditioned. No air quality issues.
Housing Strategy and Private Sector	Housing Strategy have noted that the proposal does not constitute affordable housing under the terms of the Development Plan and associated guidance. There is no registered social landlord identified. There are no details which would support the proposal being considered under affordable housing guidance.
NHS Forth Valley	No contributions applicable.
Transport Planning Unit	Appropriate cycle and walking links should be provided. Proposals for connectivity between Falkirk town centre and the Helix complex should be considered.
Children's Services	No objections. No developer contribution necessary.

Where the local Community Council requested consultation, their comments appear above.

#### **4. PUBLIC REPRESENTATION**

In the course of the application, 9 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

One representation neither objected nor supported the proposal. The remainder objected to the proposal. One objection was submitted twice.

Concerns raised are:

The proposal would cause traffic congestion and as a result would be detrimental to road safety.

There would be no adequate access for emergency vehicles.

The proposal would put unacceptable pressure on NHS and education services in the area.

The proposal would result in overshadowing of existing properties at King Street.

The proposal would result in loss of privacy to existing properties at King Street.

The loss of the open space to accommodate the proposal is unacceptable.

The area needs more litter bins, particularly bird proof bins.

There would be disruption to existing residents during construction.

No time frame is specified for development of the site.

The proposal should be refused as some existing residents at King Street have been refused permission to form driveways.

An existing decorative iron pillar at King Street should be retained.

## **5. THE DEVELOPMENT PLAN**

The Falkirk Local Development Plan was adopted on 7 August 2020. The proposed development was assessed against the following policy or policies:

HC03 - Affordable Housing

PE20 - Trees, Woodland and Hedgerows

PE01 - Placemaking

PE16 - Protection of Open Space

PE17 - Open Space and New Development

HC02 - Windfall Housing

HC04 - Housing Density and Site Capacity

IR02 - Developer Contributions

IR03 - Education and New Housing Development

IR04 - Community Facilities

IR05 - Travel Hierarchy and Transport Assessment

IR06 - Active Travel

IR07 - Bus Travel

IR09 - Parking

IR13 - Low and Zero Carbon Development

IR10 - Drainage Infrastructure

## **5A. MATERIAL CONSIDERATIONS**

The following matters were considered to be material in the consideration of the application:

Consideration of the site in relation to coal mining legacy

Falkirk Council Supplementary Guidance

Responses to Consultation

Reason for and Summary of Terms of Planning Obligation Under Section 75

Assessment of Public Representations

Additional Planning Considerations

## **6. PLANNING ASSESSMENT**

### **The Development Plan**

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 -

### **Local Plan Policies**

The proposed development would be compatible with neighbouring uses which is mainly residential and enjoys good transport links and pedestrian connectivity to shopping, community and recreational facilities.

The proposed development would afford a satisfactory level of residential amenity. It has been satisfactorily demonstrated that there would be no significant impact on the privacy of existing residents at King Street and that there would be no significant overshadowing of existing properties at King Street. The proposed access to the application site at King Street is satisfactory.

However, the proposed parking provision falls short of the parking spaces required to accord with the Council's adopted standards. As a result of the shortfall of 4 parking spaces, the proposal is likely to encourage on-street parking which would not be in the interests of road safety. It has not therefore been demonstrated that the application site can satisfactorily accommodate the number of dwelling units proposed. The proposal is considered to be overdevelopment of the application site.

The 16 parking spaces proposed for the use of the adjacent community centre reflects the existing spaces at the community centre in terms of number of spaces. It is noted this proposed parking provision includes an area outwith the application site. This delivery of these spaces could be secured by means of a Section 75 Obligation.



The proposed development does not accord with policies PE01, HC04 and IR09. Consequently, the proposal also does not accord with policy HC02.

It is noted that the application proposes that the development be considered as affordable housing. In terms of affordable housing, supplementary guidance SG06 "Affordable Housing" specifies the types and tenures of development which constitute affordable. SG06 as it relates to the proposed development is detailed in the "Falkirk Council Supplementary Guidance" section of this report. Whilst a Section 75 Obligation could be used to secure that 15% of the proposed development be delivered as affordable housing in accordance with the terms of Policy HC03, it has not been demonstrated that the type of flatted development proposed is acceptable to an RSL and can be satisfactorily delivered as affordable housing in accordance with SG06. The proposed development does not accord with Policy HC03.

The proposed development would not have a significant impact on the existing open space and play provision in the area. However the development would generate additional need for such provision. It is noted that no open space or play area is proposed on-site. The open space requirement generated by the proposed development can be addressed by means of a developer contribution, secured by a Section 75 Obligation, to secure improvements or maintenance of open space, greenspace and play facilities serving the proposed development. The applicant has agreed to contributions of £7200 towards the maintenance or improvement of active open space, £9600 towards passive open space and £3000 towards improvements to natural greenspace serving the proposed development. £19,800 in total.

It is noted that the proposal would result in the loss of trees. It is not considered however that there would be a significant impact on the amenity of the area as a result of the loss of the trees which would need to be removed. A satisfactory landscape plan, with compensatory planting, and maintenance plan could be secured by condition.

The proposed development accords with policies PE16, PE17, PE20 and IR02.

Children's Services have confirmed that the proposed development would not put significant pressure on any school relevant to the proposed development. No developer contribution is required towards the provision of education services. The proposal accords with policies IR02 and IR03.

There would be no significant impact on the function of the adjacent community centre. The proposal would provide sufficient parking to compensate for parking space lost to the proposed development. It is noted that compensatory parking could be secured by means of a Section 75 Obligation. The proposal accords with policy IR04 and policy IR09 in terms of parking provision for the adjacent community centre.

The proposed development would enjoy good transport links and pedestrian connectivity to shopping, community and recreational facilities. The proposed development would provide a satisfactory level of connectivity from and through the application site. There would be no significant impact on pedestrian and cycling connectivity servicing the application site and the wider community.

The proposal accords with policies IR05, IR06 and IR07.

Proposed drainage is satisfactory. However, it is noted that the Roads Development Unit has advised that the applicant should submit a drainage strategy and demonstrate that

connection to Scottish Water infrastructure is agreed. This can be addressed by condition. The proposal accords with Policy IR10.

The proposal would include photovoltaic panel carbon reducing energy generating technology. The details of this can be secured by condition.

The proposal accords with policy IR13.

Accordingly, the proposed development does not accord with the Falkirk Local Development Plan 2.

### **Falkirk Council Supplementary Guidance**

Supplementary Guidance in association with LDP2 is at various stages of preparation. Largely consisting of the updating and consolidation of Supplementary Guidance prepared alongside LDP1, a number of Supplementary Guidance notes have been adopted, while the others are being finalised or consulted on prior to adoption.

The proposed development accords with guidance contained in supplementary guidance SG05 "Green Infrastructure and New Development", SG10 "Education and New Development", SG15 "Low and Zero Carbon Development" and SG02 "Developer Contributions". SG02 is in the final stages of adoption and takes precedence from previous relevant guidance.

The proposal does not accord with guidance contained in supplementary guidance SG01 "Neighbourhood Design".

Supplementary Guidance SG06 "Affordable Housing" states that in cases where flatted accommodation is proposed as affordable housing, then 4 in a block type development is preferred. In cases where a different flatted development type is proposed then an identified RSL should confirm that the development type proposed is satisfactory to their requirements. This application does not identify a delivery RSL and therefore it cannot be demonstrated that the development can be delivered as affordable housing. The proposal does not accord with SG06.

### **Responses to Consultation**

The Roads Development Unit (RDU) have advised that the proposed level of parking does not accord with Council standards. The parking provision proposed falls short by four spaces. This is likely to encourage on-street parking which would not be in the best interests of road safety. The RDU have also raised concerns regarding the compensatory parking proposed for the adjacent community centre. It is noted that the number of spaces proposed reflects the existing number of spaces. The parking provision proposed for the use of the community centre is satisfactory. The RDU has also advised that drainage proposals are generally satisfactory. However the applicant should submit a drainage strategy and demonstrate that connection to Scottish Water infrastructure is agreed. This can be addressed by condition.

The Housing Strategy Unit have advised that the proposed development does not meet the tests for Affordable Housing in the Development Plan and supplementary guidance SG06 "Affordable Housing". Assessment of the proposal as affordable housing should not be a material consideration. The "additional planning considerations" of this report details.

Environmental Protection Unit (EPU) has advised that measures should be taken to ensure that there would be no significant impact of noise from the adjacent community centre. This is likely to take the form of window specification. This can be addressed by condition. The EPU have also advised that contamination can be addressed by condition.

Satisfactory connectivity links would be provided from and through the proposed development. There would be no significant impact on any aspirations to form a strategic connectivity link from Helix park to Falkirk town centre.

Children's Services have advised that there would be no significant impact on the provision of education services.

Scottish Water and NHS Forth Valley have not objected.

### **Reason for and Summary of Terms of Planning Obligation Under Section 75**

It is noted that the open space requirement generated by the proposed development can be addressed by means of a developer contribution, secured by a Section 75 Obligation, to secure improvements or maintenance of open space, greenspace and play facilities serving the proposed development. The applicant has agreed to contribution of £7200 towards the maintenance or improvements towards active open space, £9600 towards passive open space and £3000 towards improvements to natural greenspace serving the proposed development. £19,800 in total.

Also the proposed car parking for the use of the adjacent community centre can be secured and available for use prior to the occupation of any dwelling unit by means of a Section 75 Obligation also.

### **Assessment of Public Representations**

The Roads Development Unit concur that the proposed provision of parking spaces falls short of the Council's adopted standards and that on-street parking could be encouraged which would not be in the interests of road safety.

The Roads Development Unit have raised no concerns regarding provision for emergency vehicles.

Children's Services and NHS Forth Valley have advised there would be no significant impact on education services or health care.

There would be no significant impact on the privacy of existing residents or from overshadowing.

There would be no significant impact on the function of existing areas of open space or play provision.

The provision of litter bins in the area is not a material consideration in respect of this application.

The retention of an existing decorative iron pillar can be addressed by condition if appropriate.



The implementation of planning permission is governed by Section 58(1) of the Town and Country Planning (Scotland) Act 1997 as amended. Permission must be begun within 3 years of the date planning permission is granted.

Disturbance from construction sites can be controlled by other legislation.

The provision of driveways at properties at King Street is not a material consideration in respect of this application.

### **Additional Planning Considerations**

Documents supporting the proposed development promote the proposal as affordable social rent housing.

This site was included within the Strategic Housing Investment Plan (SHIP) 2021/22-2025/26 with funding attributed to a registered social landlord (RSL) to develop social housing for rent. Social rent is defined in paragraph 4.3 of Supplementary Guidance SG06 "Affordable Housing" as 'Housing provided at an affordable rent and managed locally by a Registered Social Landlord (RSL) such as a Housing Association, Housing Co-operative, local authority or other housing body regulated by the Scottish Housing Regulator'. There is no identified RSL in this case. The application site is no longer included in the SHIP. There is no justification as a result of this application to reinstate the site in the SHIP or to consider the proposal "Social Housing". The proposal constitutes mainstream rented housing.

It is noted that the applicant states that the proposed development should qualify for consideration of a reduced rate of parking standards as:-

- . The National Parking Standards, adopted by Falkirk Council, apply reduced rates of parking for housing association developments.
- . The proposed development would be occupied by people with low car ownership
- . The site is in the vicinity of Falkirk town centre.
- . The development is suitable for the operation of a car club ensuring shared car usage.

The proposed development does not identify, or is supported by, a registered social landlord. The "Falkirk Council Supplementary Guidance" section of this report is noted as it relates to affordable housing. It has not been demonstrated that a flatted development of this type is acceptable to an RSL and can be delivered as affordable housing in accordance with the development Plan and supplementary guidance SG06 "Affordable Housing".

No low car ownership group is identified in the proposal.

The application site is not located within the town centre as identified in the Falkirk Local Development Plan 2.

There are no car clubs in operation in Falkirk and there are no current plans to introduce or support them.

### **Consideration of the Site in relation to Coal Mining Legacy**



The application site falls within or is partially within the Development Low Risk Area as defined by the Coal Authority. However, as coal mining activity was undertaken at depth, no recorded surface hazards currently exist which could pose a risk to new development. Unrecorded coal mining related hazards could still exist. It is not necessary to consult the Coal Authority on any planning applications which fall within the Development Low Risk Area.

Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

## **7. HUMAN RIGHTS AND EQUALITY ASSESSMENT**

Officers have considered the Human Rights Act 1998 in making this recommendation. It is considered that the proposed recommendation would not adversely impact on any protected characteristic groups as identified within the Equality Act 2010.

## **8. CONCLUSION**

The proposed development does not accord with the Falkirk Local Development Plan 2 and does not accord with supplementary guidance SG01 "Neighbourhood Design".

The proposed development would not provide sufficient parking to accommodate the density of housing proposed. On-street parking is likely to be encouraged which would not be in the interests of road safety.

It is noted that :-

- . Landscaping, contamination, low and zero carbon development, noise impact measures, submission of a drainage strategy and Scottish Water infrastructure connection agreement and the retention of a decorative iron pillar can be addressed by condition.

- . The open space requirement generated by the proposed development can be addressed by means of a developer contribution, secured by a Section 75 Obligation, to secure improvements or maintenance of open space, greenspace and play facilities serving the proposed development.

- . The proposed car parking for the use of the adjacent community centre can be secured and available for use prior to the occupation of any dwelling unit by means of a Section 75 Obligation.

However, securing these measures by means of conditions and Section 75 obligation(s) would not take precedence over, or address, considerations of road safety.


There are no material considerations in this case to consider reduced parking standards or setting aside the Development Plan.

## **9. RECOMMENDATION**

Refuse Planning Permission

Refusal is recommended for the following reason(s):

1. The proposed development would not provide sufficient on-site parking to accord with Falkirk Council parking standards and would, accordingly, be likely to encourage on-street parking which would not be in the best interests of road safety. Accordingly, the proposed development does not accord with Falkirk Local Development Plan 2 policies IR09 "Parking", PE01 "Placemaking", HC02 "Windfall Housing" and HC04 "Housing Density and Site Capacity", and does not accord with supplementary guidance SG02 "Neighbourhood Design" or the "National Roads Development Guide".
2. The proposed development does not meet design requirements for flatted affordable housing developments in accordance with supplementary guidance SG06 "Affordable Housing". Furthermore it has not been demonstrated that the design of the units as proposed can be delivered by a registered social landlord as affordable housing under the terms of the Development Plan and associated guidance. Accordingly, the proposed development does not accord with Policy HC03 of the Falkirk Local Development Plan 2 "Affordable Housing" and does not accord with supplementary guidance SG06 "Affordable Housing".



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**pp Director of Development Services**

**20<sup>th</sup> July 2021**  
**Date**

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