



## **Agenda Item 8**

**CONSTRUCTION OF 2 DWELLINGHOUSES  
AND DETACHED DOMESTIC GARAGES AT  
LAND TO THE SOUTH OF 7 BLACKBRAES  
ROAD, FALKIRK FOR ALCHEMY  
DEVELOPMENTS - P/22/0095/FUL**

**FALKIRK COUNCIL**

**Subject:** CONSTRUCTION OF 2 DWELLINGHOUSES AND  
DETACHED DOMESTIC GARAGES AT LAND TO THE  
SOUTH OF 7 BLACKBRAES ROAD, FALKIRK FOR  
ALCHEMY DEVELOPMENTS - P/22/0095/FUL

**Meeting:** PLANNING COMMITTEE  
**Date:** 25 October 2022  
**Author:** DIRECTOR OF PLACE SERVICES

**Local Members:** Ward - Upper Braes

Councillor Claire Brown  
Councillor Siobhan Paterson  
Councillor Jim Robertson

**Community Council:** Shieldhill and California

**Case Officer:** Stephen McClure (Planning Officer) Ext. 4702

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

- 1.1 The site is seen to be formed from a previous industrial site which is located to the south of the village of California, just out with the village limit. To the north lie residential dwellings, with Blackbraes Road to the west. The remainder of the site is surrounded by marshland and tree plantations. The site appears to have been raised to the road level and formed from a compacted surface, with no permanent buildings. The frontage of the site is separated from the road by an open drainage ditch, and there is a grouping of small trees/bushes along the rear of the ditch. The site is relatively flat, and has been in limited use since the original industrial use ceased on the site. It is now being proposed to erect two detached dwellings on the site with detached garages and associated off-street parking and garden grounds.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 Granting of the planning application would be contrary to the Development Plan.

**3. SITE HISTORY**

- 3.1 05/1062/OUT - Outline Granted – 26 June 2006 - Development of Land for Housing Purposes.
- 3.2 P/07/0319/FUL - Application Withdrawn - 24 May 2007 - Erection of Dwellinghouse and Garage.

- 3.3 P/07/0320/FUL - Application Withdrawn - 24 May 2007 - Erection of Dwellinghouse and Garage.
- 3.4 P/07/0994/FUL - Application Withdrawn - 25 February 2008 - Erection of Dwellinghouse and Domestic Garage.
- 3.5 P/07/0995/FUL - Application Withdrawn - 25 February .02.2008 - Erection of Dwellinghouse and Domestic Garage.
- 3.6 P/08/0302/FUL - Detail - Granted - 06 November 2008 - Erection of 2 Dwellinghouses and Detached Garages.
- 3.7 P/11/0571/PPP - Planning Permission in Principle Granted - 24 April 2012 - Erection of Dwellinghouse.
- 3.8 P/12/0310/PPP - Planning Permission in Principle Granted – 09 November 2012 - Erection of 2 Dwellinghouses.
- 3.9 P/14/0019/FUL - Application Withdrawn – 29 April 2014 - Erection of Dwellinghouse and Detached Garage.
- 3.10 P/14/0660/FUL - Application Withdrawn - 16 March 2015 - Erection of Dwellinghouse and Detached Garage.
- 3.1 P/18/0360/FUL - Application Withdrawn - 20 August 2018 - Erection of 2 Dwellinghouses and Domestic Garages.
- 3.12 P/18/0483/FUL - Application Withdrawn – 04 December 2018 - Erection of 2 Dwellinghouses and Domestic Garages.
- 3.13 P/20/0443/FUL - Application Withdrawn - 18 March 2021 - Erection of 2 Dwellinghouses and Detached Domestic Garages.
- 3.14 P/21/0309/FUL - Application Withdrawn - 18 January 2022 - Erection of 2 Dwellinghouses and Detached Domestic Garages.
- 3.15 F/2004/0702 - Outline Refused - 16 February 2005 - Development of Land for Housing Purposes.

#### **4. CONSULTATIONS**

- 4.1 Roads Development Unit - No objection to the proposal.
- 4.2 Scottish Water - No objection to the proposal.
- 4.3 Environmental Protection Unit - No objection to the proposal. However, a contaminated land assessment would be required to be submitted and approved by the Planning Authority, prior to any works commencing on-site.
- 4.4 The Coal Authority - No objection o the proposal, subject to the addition of conditions provided to any approval.
- 4.5 Flooding Unit - No objection to the proposal.

## **5. COMMUNITY COUNCIL**

- 5.1 The Shieldhill and California Community Council have not made representation.

## **6. PUBLIC REPRESENTATION**

- 6.1 During consideration of the application, no letters of objection or representation were received.

## **7. DETAILED APPRAISAL**

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

Accordingly,

### **7a The Development Plan**

- 7a.1 [The Falkirk Local Development Plan \(LDP2\)](#) was adopted on 7 August 2020. The proposed development was assessed against the following policy or policies:

#### PE01 - Placemaking

- 7a.2 It is considered that the proposed dwellings, where relevant, would meet the six qualities of successful places, which forms the basis of placemaking and design, development, renewal regeneration of the urban and rural built environments. It is therefore considered that the proposal accords where relevant with policy PE01.

#### PE14 - Countryside

- 7a.3 The site is located within the countryside as identified in the Falkirk Local Development Plan 2. Policy PE14 Countryside advises that the proposed development be assessed in relation to policy HC05 Housing in the Countryside.

#### PE20 - Trees, Woodland and Hedgerows

- 7a.4 The site is mainly barren of any vegetation, but there are smaller trees, bushes and shrubs on the on the extremities. The majority would not be affected by the development given the location on the site. The trees/bushes to the front of the site would require to be removed. These are not protected and would appear for the majority to be self-seeded given their position and spread. It is not considered that their loss would affect the amenity of the immediate or wider area. A landscape plan would be a condition of any grant of planning permission. Given the limited area affected, it would be too onerous to request a full Tree Survey to be submitted. It is therefore considered that the proposal where relevant accords with Policy PE20.

#### HC05 - Housing in the Countryside

- 7a.5 The policy contains criteria where housing development in the countryside will be supported. This includes housing required for the pursuance of a rural activity, restoration and replacement of existing houses, conversion of non-domestic rural buildings, infill development, enabling development and traveller sites. The current proposal does not fall within any of the criteria where development is acceptable within the countryside. It is therefore considered that the proposal does not accord with Policy HC05.

#### IR13 - Low and Zero Carbon Development

- 7a.6 It is considered that given the proposed dwellings are new-build, they would be able to meet the requirements of Policy IR13. It is therefore considered appropriate that if the application were to be granted, a condition in relation to low and zero carbon development could be applied.

### **Supplementary Guidance Forming Part of Local Development Plan**

- 7a.7 Falkirk Council Supplementary Guidance SG01 Development in the Countryside, SG06 Trees and Development and SG14 Renewable and Low Carbon Energy – It is considered from the above policy assessment, that the proposal where relevant would accord with Supplementary Guidance SG06 Trees and Development and SG14 Renewable and Low Carbon Energy. Due to the location being in the countryside, as noted the proposal at this stage does not meet the criteria for housing in the countryside, and therefore would not comply with Supplementary Guidance SG01 Development in the Countryside. It should however be noted that the dwellings design would be seen to meet the criteria of the adjacent dwellings and overall urban fabric of the adjacent section of the village.

### **7b Material Considerations**

- 7b.1 The material consideration to be assessed are Scottish Planning Policy (SPP), additional planning considerations and Consideration of the Site in relation to Coal Mining Legacy.

### **Scottish Planning Policy**

- 7b.2 The Falkirk Council area is an accessible and pressurised rural area, where Scottish Planning Policy (SPP) (2014) advocates a more restrictive approach to new housing development in the countryside. SPP advises that most new developments should be guided to locations within or adjacent to settlements and sets out the circumstances in which new housing outwith settlements may be seen as appropriate. As highlighted earlier in this report, Policy HC05 of the Falkirk Local Development Plan 2 clearly sets out the circumstances where housing development in the countryside would be acceptable. As the proposed dwelling is contrary to Policy HC05 of the Falkirk Local Development Plan 2, it is also not supported by Scottish Planning Policy.

### **Additional Planning Considerations**

- 7b.3 As discussed within this report, there are policy issues in relation to the principle of development within this countryside location. As such, material planning considerations are required to outweigh the terms of the Local Development Plan to justify the granting of planning permission.

- 7b.4 Given the site has been used for commercial purposes in the past; there is an existing vehicular access to the site. The site is clearly defined and separate from the surrounding agricultural/rural land, and given its size and location can be seen to have the character of a residential plots. The redevelopment of the site with two dwellings would replicate and maintain the character and settlement pattern of development within the area, and would allow for a more robust and defensible village limit to be established.
- 7b.5 The proposed dwellinghouses, in visual terms, would follow the design of the adjacent dwellings. It is considered that this would be an improvement on the more commercial appearance of the land at this site bounding the village. The proposed design and materials reflect the palette of materials used within more recent additions to the village, ensuring the overall character and appearance reflects that of the location.
- 7b.6 It is considered that the redevelopment of the site with new dwellinghouses rather than a continued use of the site for commercial purposes, would respect the rural character of the area, as well as fit within the landscape setting and established development pattern of the area. The proposal would also be seen to achieve a design in-keeping with the adjacent dwellings and of a high environmental standard.
- 7b.7 It is therefore considered from the matters noted above and the specifics of the location and history of the site, that these would mitigate the impact of the development in the rural area and outweigh the terms of the Falkirk Local Development Plan 2.

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

- 7b.8 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.
- 7b.9 The process recognises the need for flexibility and in cases where a further application (Matters Specified in Conditions) is necessary, the Coal Mining Risk Assessment may be deferred until that stage. If an assessment has been received and the views of the Coal Authority sought, these are summarised within the consultation responses above and appropriate conditions and/or informatives have been applied.

### **7c Conclusion**

- 7c.1 The application has been assessed as being contrary to terms of the Falkirk Local Development Plan 2 and Scottish Planning Policy. As such, material planning considerations are required to outweigh the terms of the Local Development Plan to justify granting of planning permission.
- 7c.2 The development relates to the erection of two dwellinghouses on brownfield land previously used for commercial purposes, which bounds the current village limit. The resulting development would create dwellinghouses of the same quality and similar design to those adjacent, which would be suitable for specifics of this rural location, and would fit within the landscape and settlement pattern. The proposal would have less of an impact on the site than any further industrial uses, and allow for a more aesthetically appropriate design solution. It is therefore considered that this would be more beneficial to the site and wider area and allow for a more robust and defensible village limit to be formed. Therefore, it would justify in this instance the granting of planning permission.

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

- 8.1 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.

## **9. RECOMMENDATION**

- 9.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following condition(s):-

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 should 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. The scheme must be approved in writing by the Planning Authority.
  - 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 until;
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coalmine workings, and;

- b) any remediation works and/or mitigation measures to address land instability arising from shallow workings, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.**

**The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.**

- 4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by shallow coalmine workings.**
- 5. Prior to works commencing on-site, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.**
- 6. Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):**
  - i. existing and finished ground levels in relation to a fixed datum, preferably ordnance**
  - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored**
  - iii. location and design, including materials, of walls, fences and gates**
  - iv. soft and hard landscaping works**
- 7. The development hereby approved shall not be occupied or brought into use until the following documents have been submitted to and approved in writing by the Planning Authority:**
  - i) a copy of the appropriate sustainability label (i.e. at least Bronze Active); and**
  - ii) a Statement of Conformity which confirms that 12%, of the required CO<sub>2</sub> emissions reduction is achieved through the installation of low and zero carbon generating technologies.**

**Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by Falkirk Council. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.**



**Reason(s):-**

1. As these drawings and details constitute the approved development.
- 2-4. To ensure the ground is suitable for the proposed development.
- 5-6. To safeguard the visual amenity of the area.
7. To ensure the development achieves the required CO<sub>2</sub> emission reduction as a result of development.

**Informative(s):-**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04, 05 and 06.
2. 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.
3. The applicant shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

Monday to Friday	08:00 - 19:00 Hours
Saturday	08:00 - 13:00 Hours
Sunday / Bank Holidays	No noise audible at site boundary

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Protection Unit.

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**pp Director of Place Services**

**Date:** 7 October 2022

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan 2.
2. Falkirk Council Supplementary Planning Guidance.
3. Scottish Planning Policy (SPP).

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

## **Policy Schedule**

### **PE01 Placemaking**

Development proposals should promote the six qualities of successful places as defined in Scottish Planning Policy by addressing the following principles:

#### **1. Distinctive**

- Existing natural and historic environment features should be identified, conserved, enhanced and integrated sensitively into development. Further guidance is set out in Policies PE05-PE27, and accompanying Supplementary Guidance SG07- SG12;
- The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create a coherent structure of buildings, streets and public spaces that are attractive, distinctive and create a sense of identity within the development. Further guidance is set out in SG02 'Neighbourhood Design';
- Development should include landscaping and green infrastructure which enhances, structures and unifies the development, assists integration with its surroundings, manages surface water sustainably, and contributes, where appropriate, to the wider green network. Further guidance is set out in SG05 'Green Infrastructure and New Development';
- Developments of a significant scale should contribute to public art either through a contribution to an existing local project, or through provision of public art within the development, guided by a strategy prepared by the developer in consultation with the Council and Falkirk Community Trust. Further guidance is set out within SG13 'Developer Contributions' and the public art procurement guide produced by Falkirk Community Trust.

#### **2. Safe and pleasant**

- Development 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 provision of safe access for all. Further guidance is set out in SG02 'Neighbourhood Design';
- Development should not exacerbate existing air quality issues or introduce new sources of pollution which impact on local air quality without appropriate mitigation.

#### **3. Easy to move around and beyond**

- Development should be designed to encourage the use of active travel and sustainable, integrated transport. Further guidance is set out in Policies IR05-IR07;
- Development should build on the existing network of paths, edges, nodes, districts and landmarks to create places that people can navigate easily around.

#### **4. Welcoming**

- Streets and public spaces should have buildings fronting them or, where this is not possible, a high quality hard or soft landscape treatment. Further guidance is set out in SG02 'Neighbourhood Design'.

## **5. Adaptable**

- Development should be designed to consider how people use places differently, for example depending on age or degree of personal mobility;
- Where appropriate, development should provide a mix of building densities, tenures and typologies where a variety of diverse but compatible uses can be integrated.

## **6. Resource efficient**

- In support of climate change mitigation, 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 incorporating space to separate materials at source; incorporation of low and zero carbon generating technologies and integration into neighbourhood and district heating networks. Further guidance is set out in Policies IR12-IR14;
- In support of climate change adaptation, 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;
- Provision should be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.

## **PE14 Countryside**

1. The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside. Development in the countryside will be assessed in terms of the relevant countryside policies for specific uses (HC05 and JE05);
2. Development proposals in the countryside for uses not covered by policies for specific uses will only be permitted where:
  - It can be demonstrated that they require a countryside location;
  - They constitute infill development; or
  - They utilise appropriate existing buildings.

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 Development in the Countryside;

3. Development proposals in the countryside should additionally demonstrate that their scale, siting and design is such that there will be no significant adverse impact on the rural environment, having regard to other policies on the natural and historic environment, and design guidance in Supplementary Guidance SG01 'Development in the Countryside'.

## **PE20 Trees, Woodland and Hedgerows**

1. There will be a presumption against the removal of safe and healthy trees, non-commercial woodlands or hedgerows, where such removal would be detrimental to landscape, local amenity, nature conservation, recreation or historic environment interests, or erosion and natural flood management. Criteria in the Scottish Government's policy on Control of Woodland Removal will be used to determine the acceptability of woodland removal;
2. Ancient, long-established and semi-natural woodland, including sites identified in the Scottish Ancient Woodland Inventory, will be protected as a resource of irreplaceable value;
3. In areas covered by a Tree Preservation Order (TPO) or Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, health or stability of trees, or their landscape, biodiversity or historic value. Where appropriate, other endangered trees or woodlands which have amenity, cultural or historic importance will be protected through the designation of further TPOs;
4. Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development'. A Tree Survey and Tree Constraints Plan will be required to inform the design, together with a Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting on site comprising similar species and numbers to the trees and hedgerows removed;
5. The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a tree group or woodland area is integral to a development proposal, developers will be required to prepare and implement an appropriate Management Plan;
6. The provision of new trees and woodland in association with new development will be encouraged in accordance with Supplementary Guidance SG05 'Green Infrastructure and New Development'; and
7. There will be a preference for the use of locally native species in new and replacement planting schemes, or other species where these are integral to an historic landscape.

## **HC05 Housing in the Countryside**

Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:

1. Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;
2. Restoration or replacement of houses which are still substantially intact, provided that the restored/ replacement house is of a suitable size and design;
3. Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;

4. Appropriate infill development;
5. Limited enabling development to secure the restoration of historic buildings or structures; or
6. Small, privately owned gypsy traveller sites which comply with Policy HC09.

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'.

### **IR13 Low and Zero Carbon Development**

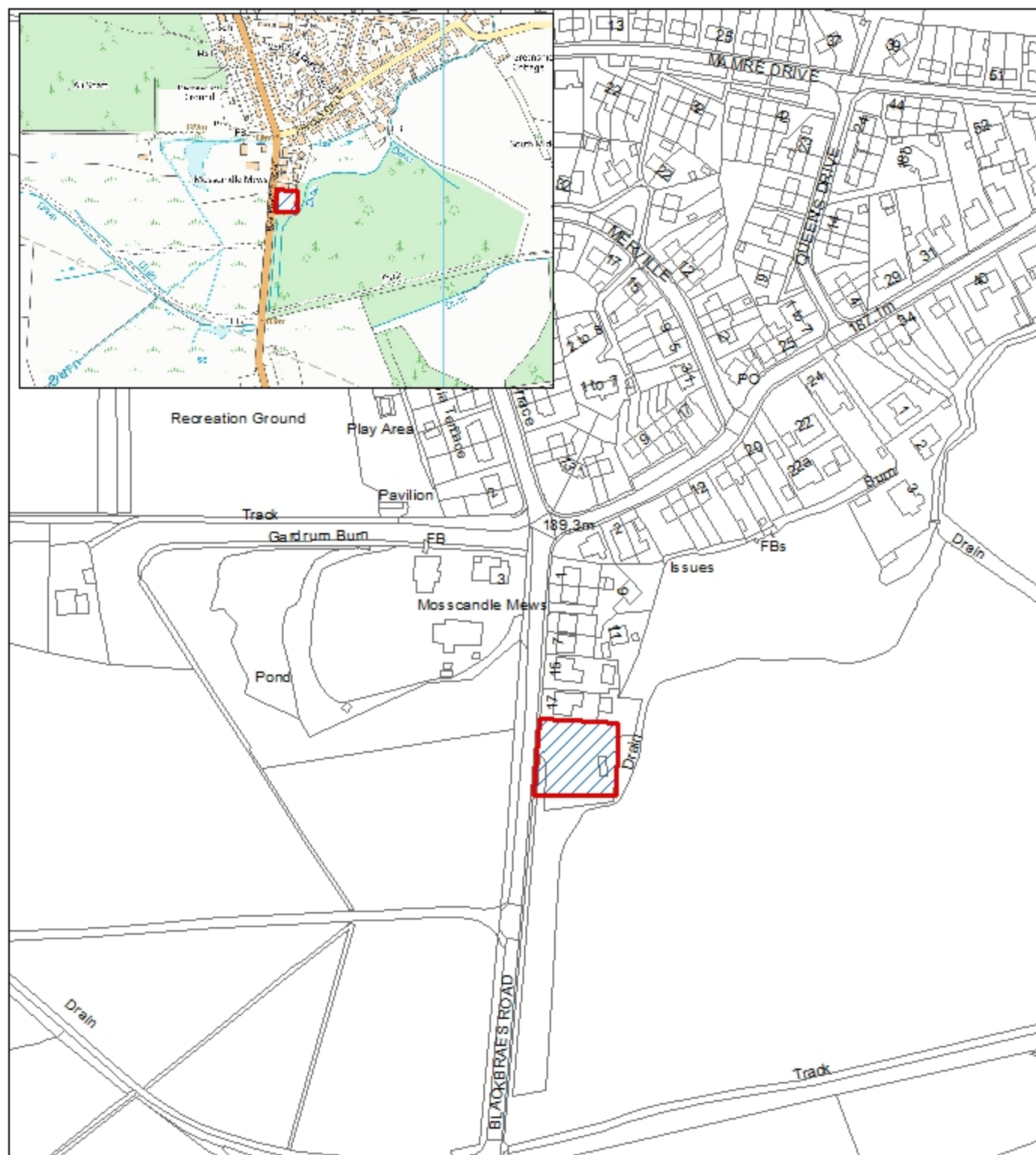
1. All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 12% of the overall reduction in CO2 emissions as required by Building Standards has been achieved via on-site LZCGT. 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 is contained in Supplementary Guidance SG14 Renewable and Low Carbon Energy. 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 the other sustainability aspects of the current Sections 6 and 7 of the current Building Standards Technical Handbook.

# Planning Committee

## Planning Application Location Plan

**P/22/0095/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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