

FALKIRK COUNCIL

Subject: **ERECTION OF 29 HOUSES AND ASSOCIATED INFRASTRUCTURE (DETAILED) AT LAND TO THE WEST OF 23 CHURCH ROAD, CHURCH ROAD, CALIFORNIA FOR DUNDAS ESTATES - P/07/0809/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **20 May 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor Gordon Hughes**
 Councillor Stephen Fry
 Councillor John McLuckie

Community Council: Shieldhill and California

Case Officer: Allan Finlayson (Senior Planning Officer), Ext 4706

1. UPDATE REPORT

- 1.1 Members will recall that the Regulatory Committee were minded to grant planning permission at a previous meeting on 18 June 2008. The minded to grant decision was made subject to the payment, by the applicants, of a contribution of £116,000 towards education capacity increases at California Primary School, St. Andrews RC Primary School, Braes High School and St. Mungo's RC High School which would directly result from the proposed development.
- 1.2 A copy of the previous Committee report is appended to this report.
- 1.3 At the time of presenting the application to Committee on 18 June 2008 the applicants had agreed to the provision of this contribution to be secured by means of a legal agreement. Subsequently, the applicants asked that the proposed agreement should be under Section 75 of the Town & Country Planning (Scotland) Act 1997 to allow phased payments instead of a lump sum under the Section 69 of the Local Government (Scotland) Act 1973. The then Regulatory Committee agreed to this proposal on 28 January 2009. The applicants have now indicated that they are no longer willing to provide this contribution in relation to education capacity improvements.
- 1.4 The applicants have claimed that the education contribution requested is unreasonable given the lower price of housing in California, which the applicants claim is not a prime housing location.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Regulatory Committee were minded to grant planning permission for the development, subject to a contribution towards education capacity improvements, on 18 June 2008. The applicants are no longer willing to make the payment.

3. MATERIAL CONSIDERATIONS

- 3.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version) Supplementary Planning Note - Education and New Housing Development considerations.

Falkirk Council Local Plan Finalised Draft

- 3.2 The application site lies within the settlement area of California and is identified as a committed Housing Land Audit site HCAL3 with a capacity of 12 units. This application proposes 29 dwellinghouses, this being the number identified in the Housing Land Audit. The narrative in the California Village Statement states that the village contains a primary school, the role of which has been rising in recent years and capacity may need to be increased. Developer contributions are therefore be required in accordance with Policy SC14.

- 3.3 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

- 3.4 The failure to agree the provision of a financial contribution towards education capacity increases required as a direct result of the development does not satisfy the terms of this policy.

- 3.5 Policy SC14 'Education and New Housing Development' states:

"Where there is insufficient capacity within the catchment school 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 will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."

- 3.6 The required financial contribution has been calculated by the Director of Education in accordance with the above policy. The calculation is based on proposed housing unit numbers and number of bedrooms rather than the value of house proposed. This is considered to be the most effective method of calculating the likely number of children resulting from any proposed development. The failure to provide a contribution does not satisfy the terms of this policy.
- 3.7 Therefore the proposed development does not accord with the terms of the Falkirk Council Local Plan Finalised Draft for the reason of the failure to provide financial contributions to education capacity improvements required as a direct result of the proposed development.

Supplementary Planning Guidance Note "Education and New Housing Development"

- 3.8 The SPG emphasises that financial contributions from developers will be sought when new housing is proposed in the catchment areas of schools which will have inadequate or no capacity for additional pupils likely to be generated by such housing.
- 3.9 The failure to agree the provision of a financial contribution towards education capacity increases required as a direct result of the development does not satisfy the terms of this SPG.
- 3.10 Accordingly the proposed development does not accord with the SPG.

4. CONCLUSION

- 4.1 The proposed development would result in school capacity increases at California Primary School, St. Andrews RC Primary School, Braes High School and St. Mungo's RC High School. Education Services has confirmed that these schools are experiencing capacity pressures now and that this will continue to be an issue over the next 5 years. The Committee has already agreed to the phasing of payments to assist the applicants in offsetting contributions against profits taken following the occupation of dwellinghouses.
- 4.2 The failure to provide a contribution to capacity improvements directly resulting from the proposed development is a significant material consideration. In this regard the proposal fails to satisfy policies SC11 - Developer Contributions to Infrastructure and SC14 - Education and New Housing Development.
- 4.3 The planning application under consideration was submitted on 21 August 2007. Following detailed assessment and negotiation, which centred on the applicants' acceptance of the principle of education contributions, a report recommending the grant of planning permission subject to education contribution was presented to the then Regulatory Committee on 18 June 2008. Since that date the applicants have sought to phase payments to assist with the profitability of the development, and this principle was accepted by the then Regulatory Committee on 28 January 2009.
- 4.4 The application has been considered in the context of the Economic Downturn Action Plan approved by Falkirk Council on 10 December 2008. In this document Falkirk Council confirms commitment to a number of actions to assist in prospects for business, investment and jobs. Private housing is not explicitly addressed, although the commitment to supporting, wherever possible, construction projects is made.

- 4.5 It is considered that assistance, through the agreement to phase education contributions over a period of time, has been provided in the context of the current economic climate and Falkirk Council's Economic Downturn Action Plan. The impacts on education capacity on schools under pressure cannot, however, be ignored. The applicants are no longer willing to meet the level of contribution required as a result of the development. It is therefore recommended that the application is refused for the reasons of contradiction to established Development Plan policies relating to education capacity contributions and the potential adverse impact on education provision should planning permission be granted without the required level of contribution.

5 RECOMMENDATION

5.1 It is recommended that planning permission be refused for the following reasons:-

- (1) The proposed development is contrary to policy COM 5 'Developer Contributions' of the Falkirk Council Structure Plan for the reason that the applicants have declined to provide financial contribution towards school capacity increases which would directly result from the erection of additional dwellinghouses within the catchment area of schools either at capacity or expected to reach capacity within the next five years.**
- (2) The proposed development is contrary to policies SC11 'Developer Contributions to Community Infrastructure' and SC14 'Education and New Housing Development' of the Falkirk Council Local Plan Finalised Draft (Deposit Version), and Supplementary Planning Guidance Note "Education and New Housing Development" for the reason that the applicants have declined to provide financial contribution towards school capacity increases which would directly result from the erection of additional dwellinghouses within the catchment area of schools either at capacity or expected to reach capacity within the next five years.**

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Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan (2007).
2. Rural Area Local Plan.
3. Falkirk Council Local Plan & Finalised Draft (Deposit Version)
4. Supplementary Planning Guidance Note – Education and New Housing Development.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Allan Finlayson (Senior Planning Officer).

FALKIRK COUNCIL

Subject: ERECTION OF 29 HOUSES AND ASSOCIATED INFRASTRUCTURE (DETAILED) AT LAND TO THE WEST OF 23 CHURCH ROAD, CHURCH ROAD, CALIFORNIA, FALKIRK FOR ELMINGTON HOMES - P/07/0809/FUL
Meeting: REGULATORY COMMITTEE
Date: 18 June 2008
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Shieldhill and California

Case Officer: Allan Finlayson (Planning Officer), ext 4706

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed application proposes the erection of 29 detached and semi-detached one and a half and two storey dwellinghouses with access taken from Rosewood Terrace (B8028). The proposed housing is arranged around a central amenity space.
- 1.2 The site is cleared of vegetation in a predominantly residential area to the rear of Church Road. The site is bounded by one and two storey detached and semi-detached residential properties to the south, east and west and agricultural grazing land to the north.

2. SITE HISTORY

- 2.1 Previous application ref: F/2002/0537 for outline permission for housing land was granted on 20 August 2003. This permission has established the principle of residential development on the site.
- 2.2 Application ref: 06/0779/OUT renewed the above outline permission and was granted on 29 November 2006.
- 2.3 Application ref: P/07/0127/REM for the erection of 24 dwellinghouses was withdrawn on 14 February 2007.
- 2.4 Application ref: P/07/0514/FUL for the erection of 29 dwellinghouses was withdrawn on 06 August 2007.

3. CONSULTATIONS

- 3.1 The Environmental Protection Unit requested that a contamination land survey be carried out to establish if there is any contamination within the site. A report submitted by the applicant is considered to be acceptable by the Environmental Protection Unit.
- 3.2 The Roads and Development Unit has no objections to the proposed development subject to the provision of acceptable detailed surface water attenuation calculations.
- 3.3 The Transport Planning Unit has no objections subject to the widening of the footway on the east side of Rosemead Terrace and the relocation of an existing bus stop also on Rosemead Terrace. These matters can be covered by condition.
- 3.4 Scottish Water has no objections to the proposed development.
- 3.5 SEPA has no objections to the proposed development.
- 3.6 Education Services requires the payment of £4000 per house (total £116,000.00) to fund educational improvements required as a consequence of the development at schools within the site's catchment area. The applicant has agreed to make this payment which would be secured by means of a Section 69 Legal Agreement.
- 3.7 Central Scotland Police has provided advice on 'Secured by Design' requirements.

4. COMMUNITY COUNCIL

- 4.1 The Shieldhill and California Community Council has not made representation.

5. PUBLIC REPRESENTATION

- 5.1 Three letters of representation have been received following the neighbour notification process. These express concerns in relation to failure to receive neighbour notification, vehicular access arrangements, loss of existing trees and the loss of view to Grangemouth docks, and disruption during construction works.
- 5.2 One representation requests that the development does not encroach on a nearby graveyard.

6. DETAILED APPRAISAL

When determining planning applications, the status of the development plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

6a The Development Plan

Falkirk Council Structure Plan

6a.1 Policy COM.1 'Housing Land Allocations' states:

"The Council will:

- 1 support the phased provision of land for new housing as detailed in Schedule COM.1a to which a flexibility allowance of 10% will be added under Policy COM.2;*
- 2 maintain an effective 5 year supply of the housing land set out in Schedule 1a;*
- 3 review the housing calculations and allocations at intervals of no more than 5 years; and*
- 4 In delivering the requirement in Schedule Com.1a the Council will support special initiatives for residential led regeneration at the location listed in Schedule Com.1b, provided that action plans and masterplans/ development frameworks are prepared in accordance with the local plan. In particular these must address phasing, social and physical infrastructure provision, the avoidance of adverse impacts on European sites, the removal of significant restraints and land acquisition as appropriate."*

6a.2 As detailed later in this report this site is identified for housing purposes in the Falkirk Council Local Plan Finalised Draft (Deposit Version) and is included as an effective site in the Housing Land Audit 2007/2008 with a capacity of 29 units. The proposal accords with this policy.

6a.3 Policy COM.2 'Implementation of Housing Land Requirement' states:

"In implementing the housing land requirement set out in Schedule COM.1a, Local Plans will:

- 1 take into account completions since 30th June 2001 and the current effective and established housing land supply;*
- 2 make an assessment of the likely output from windfall and small sites in arriving at the amount of land to be allocated and add to that amount a 10% flexibility allowance;*
- 3 adopt an approach to site selection whereby priority is given to brownfield sites and to sites which enjoy a high level of accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4 ensure the housing land allocation is based on the phasing guidelines set out in Schedule COM.1a;*
- 5 ensure that there are adequate community facilities and physical infrastructure to accommodate the allocation;*
- 6 ensure that the location, scale, and design of allocated sites is sympathetic to the character of settlements and that significant land releases are accompanied by the preparation of masterplans; and*
- 7 take into account the location and firm development proposals of business and industrial premises including chemical and petrochemical facilities.*
- 8 Local Plans will also identify the site or area of search of the general locations listed in Schedule Com.1b taking into account the avoidance of adverse impact on European sites and specific requirements for new social and physical infrastructure."*

6a.4 This policy sets out the criteria to be used in allocating land through the Local Plan process to meet the housing land requirements. The inclusion of the site in the Falkirk Council Local Plan Finalised Draft (Deposit Version) satisfies the terms of this policy

6a.5 Policy COM.5 ‘Developer Contributions’ states:

“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”

6a.6 The applicant has agreed to a financial contribution towards educational provision (identified in Schedule Com.5) which is required as a result of the proposed development. The proposal accords with the terms of this policy.

Rural Local Plan

6a.7 The village limit policy of the California Statement in the Rural Local Plan states:-

"The boundary of the village area as defined on the California village map, is regarded as the desirable limit to growths at least for the period of the Local Plan. Accordingly, there will be a presumption against proposals for development which would extend the village area beyond this limit or which would constitute sporadic development in the countryside".

6a.8 The application site is outwith the village limits as defined in the Rural Local Plan and accordingly, the proposal does not accord with the Development Plan. However, it is considered that the proposed development is compatible with neighbouring uses and the character of the village and would not constitute sporadic development in the countryside. It is further considered that, on the basis of the two previous grants of outline planning permission, no sustainable policy objections exist that could resist residential development on the site.

6b Material Considerations

6b.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version) and the representations received in so far as they relate to material planning considerations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 6b.2 The application site lies within the settlement area of California and is identified as a committed Housing Land Audit site HCAL3 with a capacity of 12 units. This application proposes 29 dwellinghouses, this being the number identified in the Housing Land Audit. The narrative in the California Village Statement states that the village contains a primary school, the role of which has been rising in recent years and capacity may need to be increased. Developer contributions may therefore be required in accordance with Policy SC14.
- 6b.3 The difference in numbers indicated in the Local Plan and those proposed is noted, however, the proposed housing development is compatible with neighbouring uses and the proposals would create an adequate level of residential amenity for both the new dwellinghouses and the surrounding properties. The proposed dwellinghouses would benefit from an acceptable level of private garden ground and would not result in an unacceptable level of overshadowing or overlooking of neighbouring residential properties.
- 6b.4 Policy EQ3 ‘Townscape Design’ states:
- “New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*
- (1) The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
 - (2) Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
 - (3) The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
 - (4) Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
 - (5) Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
 - (6) The contribution to the townscape of important landmarks, skylines and views should be respected.”*
- 6b.5 The proposed development is compatible with the surrounding areas architectural and townscape character. The site is located adjacent to single and two storey properties. The proposed one and a half and two storey designs and therefore considered to be compatible with the scale and massing of neighbouring properties.
- 6b.6 The predominant finishing material in the area is roughcast with a mixture of different roofing finishes visible from the site. Therefore the proposed materials are acceptable in this location.

6b.7 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

6b.8 The provision of a financial contribution towards education provision satisfies the terms of this policy.

6b.9 Policy SC14 'Education and New Housing Development' states:

"Where there is insufficient capacity within the catchment school 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 will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."

6b.10 The proposed financial contribution has been calculated by the Director of Education in accordance with the above and satisfies the terms of this policy.

6b.11 Therefore the proposals accord with the terms of the Falkirk Council Local Plan Finalised Draft.

Representations Received

6b.12 The concerns over neighbour notification have now been resolved and the objector made aware of the proposed development. Vehicular access arrangements are to the satisfaction of the Roads Development Unit. The trees on the site were not protected by a preservation order. The applicant proposes replacement planting along site boundaries and at the central amenity space. The loss of a view and disruption during the construction period are not material planning considerations.

6b.13 The proposed development is not in proximity to the graveyard in question.

6c Conclusion

- 6c.1 The proposal is an acceptable form of development and, although the site lies outwith the settlement area defined by Policy Rural 3 of the Rural Local Plan, the existence of two previous outline permissions have established the acceptability of residential development on the site. The allocation of the site as a committed Housing Land Audit site in the Falkirk Council Local Plan Finalised Draft (Deposit Version) establishes that the site lies within the settlement area now proposed. In addition the design of development is acceptable in the context of the surrounding area. There are no material planning considerations which would justify the refusal of planning permission.

7. RECOMMENDATION

- 7.1 It is recommended that planning permission be granted subject to the conclusion of a Legal Agreement under Section 69 of the Local Government (Scotland) Act 1973 to secure the provision of £116,000 towards education improvements required as a result of the proposed development and, subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years from the date of this permission.
- (2) Within 3 months of the date of this permission, details of a carriageway narrowing 30mph marker 'gateway' feature at the position indicated in pink on the approved site layout plan (PL 01.06) shall be submitted for the approval of the Planning Authority. The details shall be designed and constructed in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Area, and installed prior to the occupation of any dwellinghouse onsite.
- (3) Development shall not begin until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
- (4) Development shall not begin until details of the scheme of soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
 - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density programme for completion and subsequent maintenance.

- (5) Prior to the occupation of any dwellinghouse on the site the footway on the east side of the B8028 Rosemead Terrace shall be widened to 2 metres in width, as highlighted in pink on the approved site layout (drawing number (PL)01.06). The works shall be carried out to adoptable standard as defined by the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area".
- (6) Development shall not begin until a replacement position for the existing bus stances on the B8028, required as a result of Condition 4 above, has been agreed in writing with the Planning Authority.
- (7) The development shall be implemented in accordance with the approved phasing scheme and the approved landscape scheme for each phase shall be fully implemented by the end of the first planting and seeding season following the occupation of the last house within that phase of the development.
- (8) Access to the proposed parking spaces shall be by means of a standard footway crossing constructed in accordance with Falkirk Council's Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, October 1997, as amended January 2000.
- (9) There shall be no obstruction to visibility over 1 metre in height above carriageway level within 2.5 metres of the carriageway edge along the full frontage of the site with Rosewood Terrace (B8028).
- (10) Development shall not begin until detailed surface water and flood risk calculations including 1 in 100 and 1 in 200 year storm events have been submitted to and approved by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (3,4,7) To safeguard the visual amenity of the area.
- (2,5,6,8,9) To safeguard the interests of the users of the highway.
- (10) To ensure that adequate drainage is provided.



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pp Director of Development Services

Date: 12 June 2008

LIST OF BACKGROUND PAPERS

1. Letter of representation from Hugh, Cecelia & Catriona Brown, Hill Cottage, Main Street, California, Falkirk on 31 August 2007
2. Letter of representation from T. Martin, 7 Rosemead Terrace, California, Falkirk FK1 2BB on 21 April 2008
3. Letter of representation from Mr John Cooper, 'Johmarkan', 21 Church Road, California, FK1 2BD on 18 March 2008

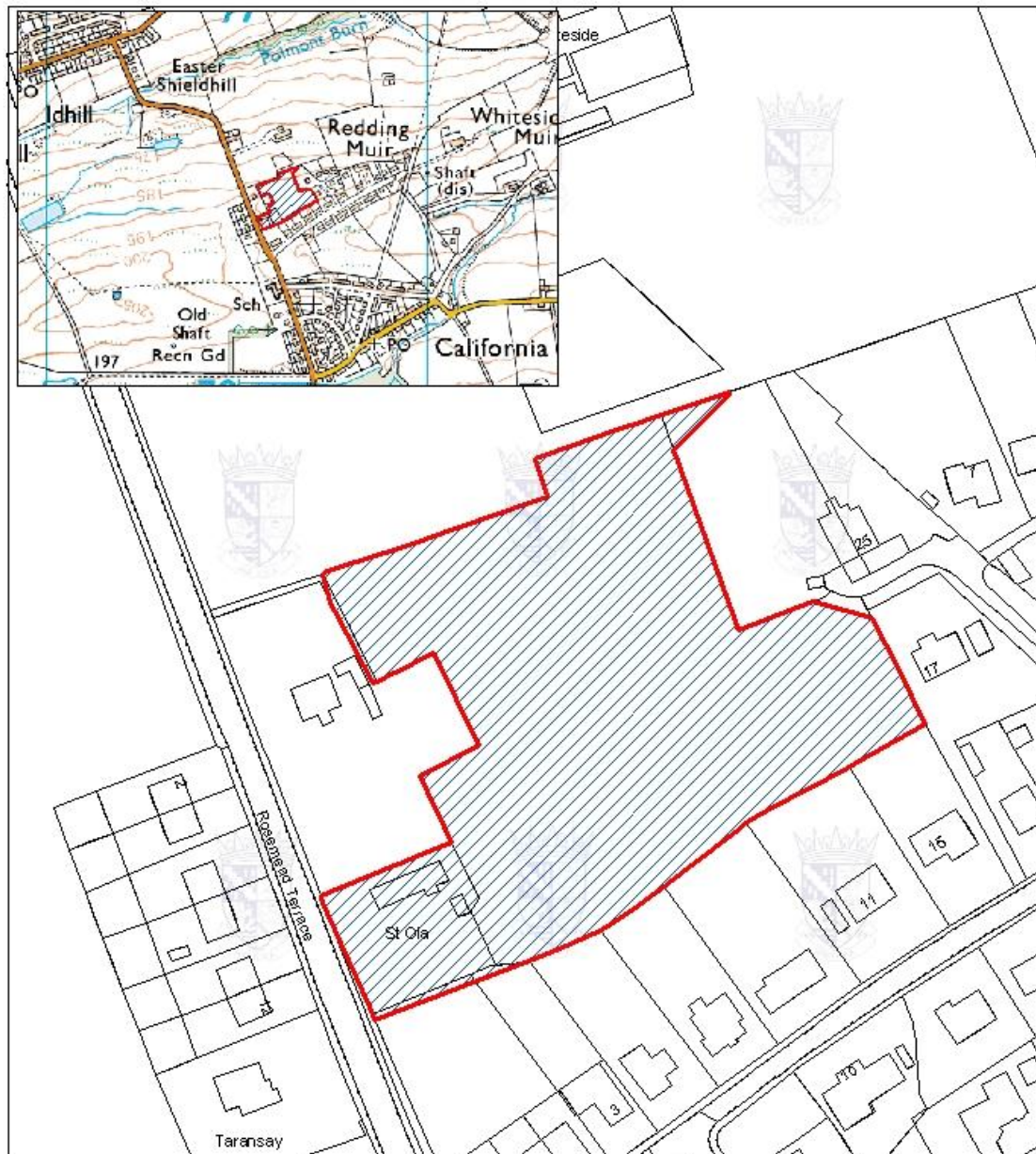
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson (Planning Officer).

Planning Committee

Planning Application Location Plan

P/07/0809/FUL

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



Falkirk Council

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