

FALKIRK COUNCIL

Subject: **ERECTION OF 48 FLATS AND ASSOCIATED INFRASTRUCTURE AT
TORWOODLEA COMPLEX, BELLSDYKE ROAD, LARBERT, FK5 4EH
FOR BELLISLE DEVELOPMENTS LTD - P/08/0111/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **23 September 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Councillor William Buchanan
Councillor Tom Coleman
Councillor Linda Gow**

Community Council: Larbert, Stenhousemuir and Torwood

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

UPDATE REPORT

1. INTRODUCTION

- 1.1 The purpose of this report is to advise Committee of the inability to conclude a section 69 legal agreement with the applicant. The legal agreement is required in order to secure a financial contribution to fund education capacity improvements required as a result of the proposed development.

2. BACKGROUND

- 2.1 At the meeting on 21 May 2008 the then Regulatory Committee agreed it was minded to grant planning application reference P/08/0111/FUL subject to the conclusion of a legal agreement under section 69 of the Local Government (Scotland) Act 1973 as amended. The requirement of the agreement is to secure the provision of £57,600 to fund education capacity improvements required as a result of the proposed development.
- 2.2 Subsequent to the submission of this application, a separate planning application was submitted by Link Housing Association (reference P/08/1013/FUL) for the development of 43 flatted dwellings on the same site. This application was granted planning permission under delegated powers on 21 July 2009 following the successful conclusion of an appropriate legal agreement to provide £43,000 to provide education capacity improvements. The sum of £43,000 being less than previous education requirements but arrived at following the opening of Kinnaird Primary School and therefore a reduced capacity requirement in this area.

2.3 The development of the site by Link Housing Association is now under construction and the education contribution has already been received.

2.4 The development to which the application which remains under consideration relate cannot now be constructed even if approved. The applicant has declined numerous requests to either conclude the required legal agreement or, following the approval of the subsequent Link Housing application, withdraw the application.

3. RECOMMENDATION

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

- (1) The applicant has failed to conclude a legal agreement to address education capacity improvements required as a result of the proposed development. The proposal is therefore contrary to policies COM 5 – Developer Contributions and COM 7 – School Provision of the Falkirk Council Structure Plan for the reason that the grant of planning permission without developer contribution would result in an unacceptable capacity pressure on schools in the catchment area of the application site.**
- (2) Planning permission (reference P/08/1013/FUL) has been granted for 43 flatted dwellings on the application site and implementation of this permission is underway.**



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Director of Development Services

Date: 15th September 2009

LIST OF BACKGROUND PAPERS

1. Application File P/08/0111/FUL
2. Larbert and Stenhousemuir Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Letter of representation received from M & E Conroy, 6 St. Andrews Court, Larbert, Falkirk, FK5 4PQ on 5 March 2008.
5. Letter of representation received from B & A Ellis, 5 St. Andrews Court, Larbert, Falkirk, FK5 4PQ on 5 March 2008.

6. Letter of representation received from J & E Savage, 8 St. Andrews Court, Larbert, Falkirk, FK5 4PQ on 5 March 2008.

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

FALKIRK COUNCIL

Subject: ERECTION OF 48 FLATS AND ASSOCIATED INFRASTRUCTURE AT TORWOODLEA COMPLEX, BELLSDYKE ROAD, LARBERT FK5 4EH FOR BELLISLE DEVELOPMENTS LIMITED – P/08/0111/FUL

Meeting: REGULATORY COMMITTEE

Date: 21 May 2008

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor William Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site of the application is vacant licensed premises and industrial ground at Bellsdyke Road, Larbert.
- 1.2 The site is bounded to the north by modern office development to the east by a social club and to the south and west by housing.
- 1.3 The site is generally level. Mature tree planting exists to the north and west of the site and a stone wall runs along a public footpath to the north.
- 1.4 The proposed development is for the erection of 48 two bedroom flats with associated access (from Broomage Avenue to the west), car parking, open space and landscaping.
- 1.5 The proposed housing layout is that of 3 storey flatted blocks arranged around a central courtyard of car parking with open space to the north of the site.

2. SITE HISTORY

- 2.1 F/2005/0184 - erection of 41 flatted dwellings - approved 26 August 2005.
- 2.2 F/99/0740 - development of land for housing purposes (outline) - approved 31 January 2000.
- 2.3 F/92/0015 - development of land for housing purposes (outline) - approved 4 June 1992.

3. CONSULTATIONS

- 3.1 The Director of Education Services has no objection to the proposed development subject to the provision of £57,600 (£1,200 per flat) to fund educational capacity improvements required as a result of the development.
- 3.2 The Transport Planning Unit has no objections to the proposed development subject to the provision of cycle parking and the widening of footways fronting the site to create a cycle/footway.
- 3.3 The Roads and Development Unit has no objections to the proposed development subject to minor revisions to pedestrian entrance locations in order to avoid on-street parking. These revisions have been made by the applicant. Conditions requiring compliance of proposed infrastructure with Road Guidelines will be required.
- 3.4 The Environmental Protection Unit has no objections to the proposed development subject to the provision and approval of further information in relation to the mitigation of potential ground contaminants.
- 3.5 SEPA has no objections to the proposed development.
- 3.6 Scottish Water has no objections to the proposed development.
- 3.7 Central Scotland Police has provided comments on site safety and security.

4. COMMUNITY COUNCIL

- 4.1 No representation submitted.

5. PUBLIC REPRESENTATION

- 5.1 No representations submitted.

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 The site is identified in the Larbert and Stenhousemuir Local Plan as being suitable for housing development and in the Housing Land Audit. The proposal accords with this policy.

Adopted Larbert and Stenhousemuir Local Plan

6a.3 The application site lies within the urban limit and is identified as a housing site included in the agreed 1993 Housing Land Supply in the adopted Larbert and Stenhousemuir Local Plan as H3 - Torwoodlea Hotel, Larbert which states:

"Opportunity: Housing/Business/Leisure

Site Area: 0.46ha/ 1.14 acre

Agency: Private

Comments: Site granted outline planning permission for 24 flats in June 1992. Alternatively business or leisure uses may be equally acceptable, particularly in recognition of the site's close proximity to Central Business Park."

6a.4 Policy LAR 5 - 'New Residential Development' states:

"New residential development is directed towards sites H1 to H20 identified on the Policies, Proposals and Opportunities Map and other appropriate brownfield sites which become available within the Urban Limit."

6a.5 The site is identified as housing site H3 and accords with this policy.

6a.6 Policy LAR 37 - 'Design and the Local Context' states:

"Development should accord with good principles of urban design and contribute to the enhancement of the built environment. Proposals should respect and complement the character of the local townscape and landscape setting in terms of the following:

- (i) *the siting, layout and density of new development should create an attractive and coherent structure of public spaces and built forms which integrates well with the surrounding townscape, natural features and landforms;*
- (ii) *consideration should be given to creating a safe and secure environment for all users through the application of the general principles contained in PAN46 “Planning for Crime Prevention”;*
- (iii) *the design of new buildings should respond to that of the surrounding urban fabric in terms of scale, height, massing, building line, architectural style and detailing;*
- (iv) *building materials and finishes should be chosen to complement those prevailing in the local area;*
- (v) *opportunities should be taken within the development to incorporate new public spaces and other focal points, and to enhance existing ones; and*
- (vi) *the contribution to the townscape of existing buildings, natural features, important landmarks, skylines and views should be respected.”*

6a.7 The proposed development of blocks of flatted units is considered to foster an attractive environment related in design, scale and massing.

6a.8 Policy LAR 38 - ‘Landscape Design’ states:

“Proposals for development should include a scheme of hard and soft landscaping as an integral part of the submission for planning permission. The landscaping scheme should:

- (i) *respect the setting and character of the site;*
- (ii) *retain, where practical, existing vegetation and natural features;*
- (iii) *incorporate structure planting, street trees and informal open space planting, as appropriate to the nature and location of the proposal;*
- (iv) *make use of native tree and plant species;*
- (v) *incorporate high quality hard landscaping, including surfacing materials, boundary enclosures and street furniture which complement the development and the local townscape; and*
- (vi) *demonstrate that satisfactory arrangements have been made for the future maintenance and management of landscaped areas.”*

6a.9 The applicant has submitted a landscape scheme which maintains the existing mature indigenous planting to the north and west of the site. Selective removal of non-indigenous species is proposed. Replacement low level planting is proposed. In addition internal planting compliments the proposed car park area. The existing stone boundary wall will be retained and required.

6b Material Considerations

6b.1 The material considerations to be assessed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the views of consultees and site history.

- 6b.2 The application site is identified as a housing land audit site in proposal HL & S5 Torwoodlea, Larbert Opportunity HL & S5 states:

Site Area: 0.46 hectares
Capacity: 41 flats
Developer: Private
Status: Outline planning permission
Comments: Detailed planning application granted August 2005 for 41 flatted dwellings. Alternatively business or leisure uses may be equally acceptable, particularly in recognition of the site's close proximity to Central Business Park.

- 6b.3 The proposal has been further assessed against Policies EQ3 - Townscape Design, EQ4 - Landscape Design, SC6 - Housing Density and Amenity, SC11 - Developer Contributions to Community Infrastructure and is considered to comply with the requirements of these policies.
- 6b.4 The views and requirements of consultees can be accommodated in the form of planning conditions attached to the grant of planning permission or, in the case of financial contributions, by legal agreement.
- 6b.5 Education Services has requested that a contribution of £57,600 (£1,200 per flat) is made by the applicant towards required education capacity improvements at schools within the catchment area of the proposed development.
- 6b.6 The approval of 41 flats in 2005 (reference F/2005/0184) did not attract any request for contributions in consultation with Education Services. It is considered that, on the basis that the site has had detailed planning permission for in excess of 2 years and previously in outline that, the request for a contribution for all 48 flats would be unreasonable. A contribution of £1,200 for the 7 additional flats proposed in addition to the 41 flats which have the benefit of planning permission is, however, considered to be reasonable. In this regard the applicant has agreed to pay a financial contribution of £8,400 to be secured by a Section 69 Legal Agreement.
- 6b.7 This approach is consistent with Falkirk Council Supplementary Planning Guidance (SPG) Note - Education and New Housing Development.
- 6b.8 The drainage arrangements for the site propose attenuation of surface water in storage tanks underneath the car parking area prior to discharge into the combined sewer. Scottish Water have no objections to this arrangement.
- 6b.9 The provision of cycle parking spaces within external lockers requested by the Transport Planning Unit, is not favoured on the grounds of reduction in limited landscaped areas and security. It is considered that cycle storage can be accommodated internally in communal areas. However, the applicant's agent has agreed to the widening of footways fronting the site to create cycle/footways.
- 6b.10 The applicant has submitted an acceptable contaminated land desk study identifying potential contaminants and mitigation measures. The submission of further information is required by planning condition.

6c Conclusion

- 6c.1 The proposed development represents an acceptable form of development which complies with Development Plan policy. There are no material considerations which would justify the refusal of planning permission in this case.

7. RECOMMENDATION

- 7.1 It is recommended that the application is approved subject to the conclusion of a Legal Agreement under Section 69 of the Local Government (Scotland) Act 1973 to secure the provision of £8,400 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) Prior to the commencement of any work on site details of intrusive site investigations and site investigation programmed in the approved phase 1 and 2 site investigations shall be submitted for the assessment and written approval of the Planning Authority. No development shall commence, until all required remedial works are fully completed.
- (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 hardstandings/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) Details of the phasing of the development shall be submitted to the Planning Authority for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.
- (5) Development shall not begin until details of landscape completion programme and subsequent maintenance has been submitted for the assessment and written approval of the Planning Authority. The development shall thereafter be implemented in accordance with the approved landscaping and phasing scheme by the end of the first planting and seeding season following the occupation of the last house on the development.
- (6) The access into the site from Broomage Avenue and all footways and car parking areas shall be designed and constructed in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, October 1997, as amended January 2000.

- (7) Prior to work commencing on site a detailed specification for the restoration and enhancement of the boundary wall to the north of the site shall be submitted for the written approval of the Planning Authority. The specification shall include the extension of the wall along Broomage Avenue as indicated in brown on the approved site layout (drawing number RMDL/103/001). The wall shall thereafter be constructed in accordance with the approved specification prior to the occupation of the flats.
- (8) Prior to work commencing on site a detailed specification for underground surface water attenuation including design calculations for 1:100 and 1:200 year storm events and overflow provision shall be submitted for the written approval of the Planning Authority.

Reason(s):

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

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Director of Development Services

Date: 15 May 2008

LIST OF BACKGROUND PAPERS

1. Application File P/08/0111/FUL
2. Larbert and Stenhousemuir Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).

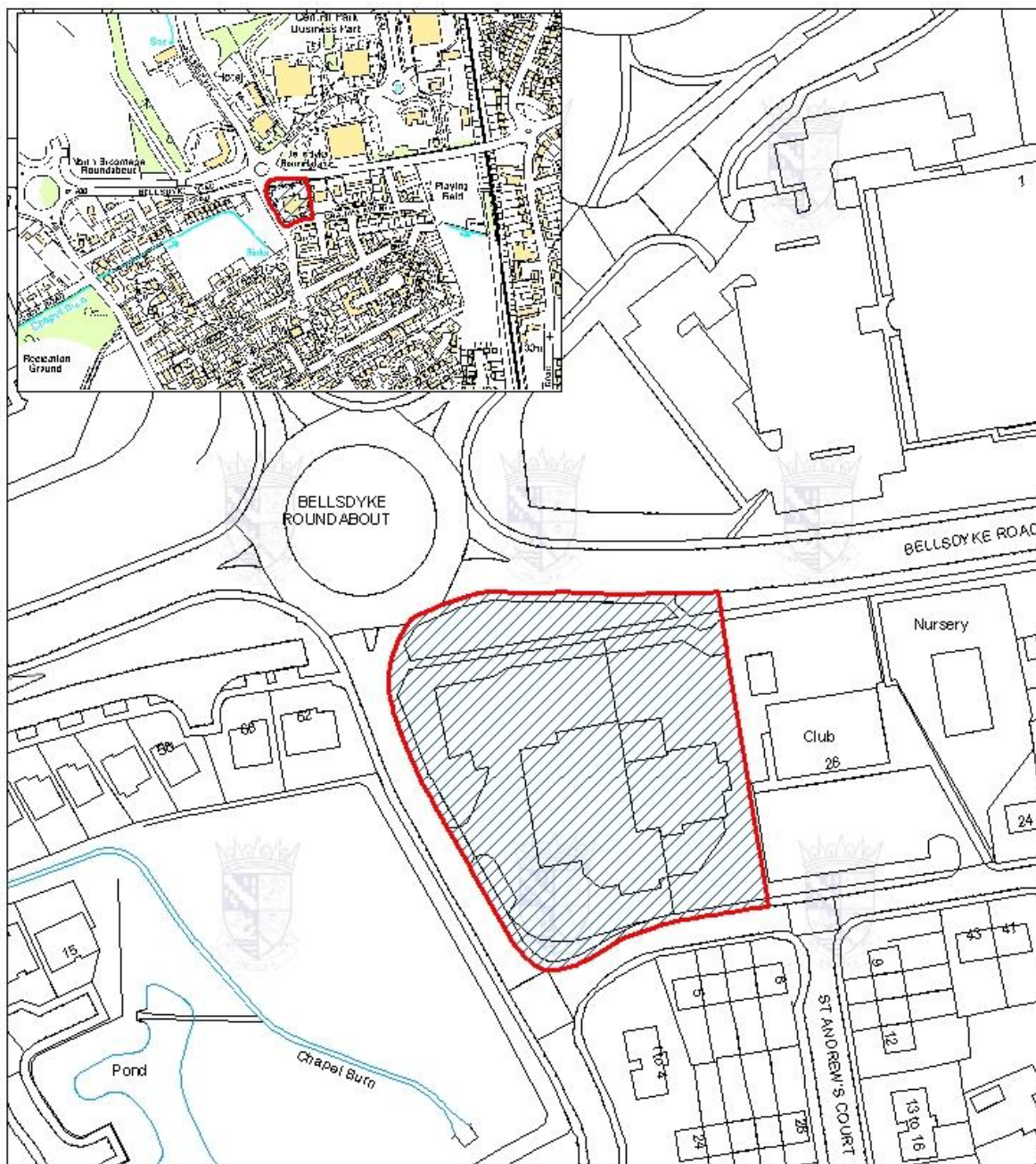
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Planning Officer.

Regulatory Committee

Planning Application Location Plan

P/08/0111/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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