

FALKIRK COUNCIL

Subject: **ERECTION OF 6 FLATS AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE NORTH OF 17 KINACRES GROVE, BRIDGENESS ROAD, BO'NESS, FOR BMR DEVELOPMENTS LTD (P/08/0773/FUL)**

Meeting: **PLANNING COMMITTEE**

Date: **4 November 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor John Constable**
 Councillor Adrian Mahoney

Community Council: Bo'ness

Case Officer: Julie Seidel (Planning Officer), ext 4880

1. UPDATE REPORT

- 1.1 Members will recall that this application was considered at the meeting of the Planning Committee on 23 September 2009 (copy of the previous report appended – Appendix 1), when it was agreed to continue consideration to allow a site visit by Members. This site visit took place on 20 October 2009.

2. BACKGROUND

- 2.1 At the site inspection Members viewed the application site and the development which is the subject of the planning application.
- 2.2 At the site meeting the applicant's agent was heard in support of the application. The agent advised that the application has been under consideration since October 2008, in excess of one year, and stressed that the application was amended and information submitted to satisfy the requirements of the planning authority.
- 2.3 The objectors were heard and raised concerns regarding inadequate parking provision, overlooking, scale and impact of development on surrounding properties, overshadowing, site access during construction, preservation order covering the boundary wall, the unacceptable loss of an area of open space and the suitability, in terms of location and financial contribution, of the provision of play facilities within the Kinningars Park. Non-material planning comments were made in relation to the popularity of flatted accommodation and the potential impact that this type of accommodation can have on established residential communities.
- 2.4 Members of the Planning Committee raised questions in relation to the loss of an area of open space, the scale and height of the proposed flatted development and parking within Kinacres Grove.

- 2.5 Further questions were raised in relation to the reduction in height of the boundary wall, the loss of trees within the application site and that the commuted payment was inadequate to offset the loss of the site as open space.
- 2.6 Craig Russell, Roads Development Officer, confirmed that the development met Falkirk Council's Roads Guidelines in relation to access and parking provision.
- 2.7 Following these discussions the applicant's agent advised that construction vehicles would be contained within the application site during construction and that vehicular access would be taken from Bridgeness Road.
- 2.8 Following the site inspection, and for clarification, it should be noted that the boundary wall is not listed. The wall is breached in several locations, most notably at Birdland Avenue and Kinnacres Grove / Cuffabouts junction onto Bridgeness Road. The wall varies in height along its length. The trees are not covered by a tree protection order.
- 2.9 Community Services, Parks and Recreation have clarified that the nature of the contribution could be used for other facilities within Kinninggars Park such as kick goals, basketball ends etc. The money could also be used with other top-up monies to improve the existing facility.

3. RECOMMENDATION

- 3.1 It is recommended that Committee indicate that it is minded to grant planning permission subject to:- (a) an appropriate legal Agreement requiring the payment of a sum of £4,500 (£750 per flatted dwelling) as a contribution towards off site play provision and thereafter, (b) on conclusion of the forgoing matters, remit the Director of Development Services to grant planning permission subject to the following conditions:-
- (1) The development to which this permission relates must be begun within three years of the date of this permission.
 - (2) Development shall not commence until acceptance that Scottish Water will accept all water from the development site is submitted to and agreed in writing by the Council. If discharge is limited then a SUDS scheme shall be submitted to and approved in writing prior to development commencing.
 - (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) No development shall commence on site until a series of tests for ground contamination have been carried out. Full details of the test results shall be submitted to the Planning Authority. Any necessary remedial work to make the ground safe shall be carried out to the satisfaction of the Planning Authority before any work on the development commences.
- (5) Development shall not commence on site until a scheme for the maintenance of open space and landscaping within the development is submitted to and approved in writing by the Planning Authority.
- (6) All roads and footway construction shall be carried out in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
- (7) Within the visibility splay of 2.4 metres x 70 metres in both directions the existing wall shall be removed.
- (8) Development shall not commence until a scheme for protecting residential properties from noise from Bridgeness Road and adjoining industrial/commercial premises has been submitted to and approved in writing by the Planning Authority.
- (9) The occupation of any flatted dwelling shall not take place until the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.
- (10) For the avoidance of doubt the ground floor finished floor level shall be 5.450 metres AOD.
- (11) All landscaping works shall be implemented by the end of the first planting and seeding season following the occupation of the last flatted dwelling.

Reason(s):-

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that adequate drainage is provided.
- (3,5) To safeguard the visual amenity of the area.
- (4) To ensure the ground is suitable for the proposed development.
- (6-7) To safeguard the interests of the users of the highway.
- (8-9) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.
- (10) As the development would not be acceptable without these additional works.
- (11) To safeguard the environmental amenity of the area.

Informative(s)

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference 01A, 02B, 03A, 04A, 05A, 06A, 07A, 08A, 09A, 10 and additional information.

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Director of Development Services

Date: November 2009

LIST OF BACKGROUND PAPERS

1. File P/08/0773/FUL
2. File F/85/0532
3. Falkirk Council Structure Plan
4. Bo'ness Local Plan
5. Falkirk Council Local Plan Finalised Draft (Deposit Version)
6. Letter of representation received on 17 October 2008 from Caroline McMillan 7 Maidlands Linlithgow EH49 6AG.
7. Letter of representation received on 28 October 2008 from Mr Colin Bennie 21 Kinacres Grove Bo'ness EH51 9LT
8. Letter of representation received on 30 October 2008 from Mr L S Meldrum 13 Kinacres Grove Bo'ness EH51 9LT
9. Letter of representation received on 19 September 2008 from Mr William Scholefield 15 Kinacres Grove Bo'ness EH51 9LT
10. Letter of representation received on 16 October 2008 from Claire Edwards & Craig Grant 17 Kinacres Grove Bo'ness EH51 9LT
11. Letter of representation received on 10 May 2009 from Mr Craig Grant 17 Kinacres Grove, Bo'ness EH51 9LT

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel (Planning Officer).

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BO'NESS, FOR BMR DEVELOPMENTS LTD (P/08/0773/FUL)
Meeting: PLANNING COMMITTEE
Date: 23 September 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor John Constable
Councillor Harry Constable
Councillor Adrian Mahoney

Community Council: Bo'ness

Case Officer: Julie Seidel (Planning Officer), ext 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of an area of open space located on the south of Bridgeness Road, Bo'ness. To the north of the site, interrupted by a roadway, is the existing Walker Timber sawmill and associated commercial / industrial yard area. To the west, east and south the application site is bounded by established residential properties, comprising a mixture of detached and semi-detached housing and flatted dwellings. The site is bounded by a 2 metre high wall onto Bridgeness Road and a 2 metre high fence encloses the remainder of the site.
- 1.4 The proposal is for the erection of six 2 bedroom flats within a 3 storey building. The proposed site layout does not include pedestrian access to the adjoining Kinacres Grove. Vehicular access would be taken via Bridgeness Road.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor John Constable.

3. SITE HISTORY

- 3.1 F/85/0532 – erection of 47 houses and 12 detached garages – granted on 13 February 1986. The application site was developed as an open space / play area for the above established residential development.

4. CONSULTATIONS

- 4.1 The Roads Development Unit do not advise against the proposals subject to conditions regarding drainage and road construction. With regard to flood prevention, the applicant has amended the proposal and, by means of raising ground levels and internal floor levels, has met the requirements of SPP7 - Flooding.
- 4.2 Scottish Water has no objection to the planning application, but connection to Scottish Water infrastructure is not guaranteed.
- 4.3 Environmental Protection have requested a scheme for protecting the proposed dwellings from transport noise. In addition, the applicant should undertake a site investigation to establish if contamination is present on the site.
- 4.4 Community Services, Parks and Recreation, have advised that a financial contribution of £4,500 (£750 per flatted dwelling) would be required to offset the loss of the area of open space and to provide off site play equipment in the nearby Kinningars Park.

5. COMMUNITY COUNCIL

- 5.1 Bo'ness Community Council have not made any representation.

6. PUBLIC REPRESENTATION

- 6.1 The application was advertised in the local press as being potentially contrary to the Development Plan on 20 February 2009. Six letters of objection were received from 5 households raising the following issues:
- There is insufficient car parking for the adjacent Kinacres Grove;
 - Parking for the proposed development is inadequate and would affect parking at Kinacres Grove;
 - If Bridgeness Road was to be used for parking this would cause problems for heavy goods vehicles entering and exiting the adjacent timber yard;
 - Parking on Bridgeness Road would be a danger to road users and pedestrians and would reduce visibility at the existing exit from Kinacres Grove;
 - Access to Kinacres Grove would be via an existing pathway making access convenient for new residents;
 - The proposed car park would intrude on privacy and generate noise and fumes for adjacent residents;
 - The proposed development would overshadow adjacent properties and dominate the area;

- Proposed windows would overlook adjacent properties;
- A previous application for this site was rejected;
- The application site forms part of the residential area of Kinacres Grove and was an area of open space and play area until the developer closed the area off;
- The open space area is a valuable community asset and provides a safe enclosed area;
- The proposed development would not provide adequate amenity space for the proposed development and would remove the area of open space serving Kinacres Grove;
- The proposed development is unsympathetic to the single and 2 storey houses at Kinacres Grove and is out of keeping with the scale and character of the area.
- The high density design would cause noise disruption to the quiet area of Kinacres Grove; and
- The existing trees should not be removed.

7. 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,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy COM.6 ‘Open Space and Recreational Facilities’ states:

“The Council will seek to ensure that a satisfactory distribution and quality of open space and recreational facilities exists across the Council area. Accordingly:

- (1) the loss of open space and recreational facilities will not normally be permitted except where, as part of a community-wide assessment of provision, it is demonstrated that the loss will have no adverse impact on visual or recreational amenity and will release resources for qualitative improvements to facilities in the community as a whole;*
- (2) Local Plans will identify and seek to address any remaining localised deficiencies in provision;*

- (3) *resources will generally be concentrated on improving the quality, management and accessibility of existing provision; and*
- (4) *all new housing development must contribute to the provision and maintenance of open space and recreational facilities either through on-site provision or contributions to off-site provision. Standards will be set out in Local Plans based on the provision of 2.8ha per 1000 persons."*

7a.2 The application would result in the loss of an area of open space, planned and formed to serve the adjacent Kinacres Grove housing development (F/85/0532). The area is not identified as a principal area of open space in the adopted Bo'ness Local Plan or emerging Falkirk Local Plan. The area was planned as a children's play area, but there is no evidence of play equipment at the site and no complaints have been received in relation to the closure of the area by a 2 metre high fence.

7a.3 It is considered that the area of open space is of little recreational or amenity resource to the surrounding residential area, given its location within the development and quality of facilities provided. The area has limited natural surveillance and is bounded by 2 metre high boundary treatments, wall and fence, on all sides resulting in the area having limited visual amenity benefit. A small 2 metre wide footpath connected the area to the surrounding development but this is now closed by a 2 metre high fence.

7a.4 There is a direct pedestrian link from Kinacres Grove to Kinningars Park, this being a large landscape and recreational amenity space. The loss of the area of open space is considered acceptable as a commuted payment would offset the loss of the area of open space and contribute towards the provision of play facilities within Kinningars Park. A reasonable level of amenity area and landscaping is proposed to serve the proposed flatted dwellings. The site is considered too small to achieve any meaningful open space or play provision. The application does not offend the terms of the above policy.

7a.5 Policy ENV.4 'Coastal Planning and Flooding' states:

"The Council will apply the following general principles with regard to coastal planning and flooding issues:

- (1) *There will be a general presumption against development in the undeveloped coastal zone (as indicated generally on the key diagram), unless it is clearly demonstrated that a coastal location is essential for that development.*
- (2) *In assessing proposals for development within the coastal zone or coastal defence measures on the developed coast, particular attention will be paid to the likely implications in terms of flooding, existing and future coastal defence works, nature conservation, landscape impact, water pollution and the need to work in partnership with other agencies to promote the integrated management of the estuary and its resources.*
- (3) *The Coastal zone north of the River Carron will be a priority area for evaluating the feasibility for managed retreat and other coastal zone management measures.*

- (4) *In areas where there is a significant risk of flooding, there will be a presumption against new development which would be likely to be at risk or would increase the level of risk for existing development. Where necessary the Council will require applicants to submit supplementary information to assist in the determination of planning applications.”*

7a.6 The application site is not located in the undeveloped coastal zone as indicated on the key diagram. Due to the proximity of the application site to the Firth of Forth a Flood Risk Assessment was required. The applicant has submitted information to assist in the determination of the application and it is considered that the issue of flooding has been addressed. The application involves some minor elevation in the ground levels <1 metre and a finished floor level of 5.450 AOD. The flooding mitigation measures would not affect the visual amenity of the area. The application accords with the above policy.

Bo'ness Local Plan

7a.7 Policy BNS 8 ‘Environment Quality in New Housing’ states:

“Proposals for new residential development will be required to achieve a high standard of design and amenity. In particular, they should:

- (i) respect and complement the character of the surrounding townscape and/or landscape;*
- (ii) combine layout and built form in a manner which affords a visually attractive, safe, defensible and convenient environment;*
- (iii) incorporate amenity and recreational open space commensurate with the size and nature of the development (see Policy BNS 33);*
- (iv) incorporate adequate and appropriate landscaping (see Policy BNS 38);*
- (v) retain and enhance, where possible, existing landscape features and/or buildings where they make a contribution to the amenity of the area;*
- (vi) provide for the amenity and safety of pedestrians and cyclists, including the use, where appropriate, of traffic calming; and*
- (vii) take account of the potential for energy-efficient design”*

7a.8 The proposed three storey flatted development respects and complements the character of the Bridgeness Road area, which it fronts, in particular by continuing the strong frontage and building ridge line of the adjacent Birdland Avenue development. The proposed flatted development complements the adjacent detached and semi detached properties at Birdland Avenue and Kinacres Grove. The proposed layout and built form would afford a visually attractive, safe and defensible environment. An adequate level of open space and landscaping is provided in relation to the size of the site and accommodation provided. The stone wall fronting Bridgeness Road is to be retained but reduced to 650 mm in height to allow visibility. No information has been submitted in relation to energy efficiency. On balance the application accords with the above policy.

7a.9 Policy BNS 10 'Infill Development and Plot Sub-Division' states:

"Within the urban area, proposals for the erection of additional residential units within the curtilage of existing properties, or on small gap sites, will be considered favourably provided that, in the opinion of the District Council:

- (i) the scale, design and disposition of the proposed houses are sympathetic to neighbouring properties;*
- (ii) provision can be made for adequate garden ground associated with the proposed houses without an unacceptable reduction in the size of existing gardens;*
- (iii) the proposal respects the privacy enjoyed by neighbouring residents;*
- (iv) the proposal will not result in a loss of trees such as to cause unnecessary detriment to the amenity of the neighbourhood;*
- (v) the proposal is satisfactory in terms of access and car parking; and*
- (vi) the proposal does not constitute backland development (i.e. development of a plot without a road frontage).*

7a.10 The scale, design and disposition of the proposed flatted development is sympathetic to neighbouring properties in particular the adjacent flatted development at Birdland Avenue. Adequate open space and landscaping would be afforded to residents. The development faces onto the gable of adjacent dwellings, but it is accepted that there would be some overlooking of garden ground. This is not considered to be significant given the distance of the development from mutual boundaries. A small number of trees would be lost as a result of the development, but this is not considered to cause visual detriment to the neighbourhood. The proposal is satisfactory in terms of access and car parking. The proposal does not constitute backland development. The application accords with the above policy.

7a.11 Policy BNS 31 'Protection of Open Space' states:

"The District Council will protect parks, playing fields and other areas of public open space from unrelated development which would diminish their recreational or amenity value. Proposals involving the loss of any area of public open space, whether through built development or incorporation as private garden ground, will normally be resisted where:-

- (i) the proposal will have an adverse effect on the recreational value of any area of active or passive open space, considered in relation to overall standards of provision in the local area;*
- (ii) the proposal will result in the loss of amenity open space such that the character or appearance of the area or its setting will be adversely affected, or*
- (iii) the proposal is likely to set an undesirable precedent for further incremental loss of public open space such that amenity or recreational provision in the area will be eroded."*

7a.12 It is considered that the proposed development would not have an adverse impact on the recreational value of open space in the area in relation to overall standards in the area and, in particular, the adjacent Kinningars Park. There is direct pedestrian access to Kinningars Park from Kinacres Grove. The development would not adversely affect the character or appearance of the area and is unlikely to set an undesirable precedent. The application does not offend the terms of the above policy.

7a.13 Policy BNS 33 'Open Space in New Developments' states:

"The District Council will require the provision of public open space and play areas in new residential developments and adequate arrangements to be made for their future maintenance. The extent of provision should be commensurate with the size, form and density of the development and the character of the site and in general accordance with the District Council's approved standards. The location, design and landscaping of the open space should be such that :

- (i) it forms an attractive and integral part of the development, contributing to its character and identity;*
- (ii) advantage is taken of existing natural features in, or adjacent to, the site; and*
- (iii) play areas are convenient, safe and allow easy surveillance."*

7a.14 The application site provides an adequate level of open space and landscaping given the size of the site and type of accommodation proposed. The site is considered too small to allow for the provision of any meaningful open space or play facilities. The application site is in close proximity to Kinningars Park and has strong pedestrian access routes. A condition shall be applied to any planning permission requiring a submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. The application accords with the above policy

7a.15 Policy BNS 37 'Townscape' states:

"Within the urban area, the District Council will require to be satisfied that proposals for development respect the character and appearance of the townscape in terms of form, layout and design. Cognisance should be taken of the architecture of neighbouring properties with particular regard to the established pattern of building lines and roof profiles, use of materials and window arrangement."

7a.16 The application site lies within an area of mixed use and a variation of house type. Fronted by an industrial user and adjoining parkway and existing housing, the proposal offers a strong frontage onto Bridgeness Road. The external finishing materials can be covered by condition. The proposal accords with the above policy.

7a.17 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

- The material considerations to be assessed are the Falkirk Council Local Plan Finalised Draft (Deposit version), the points raised through comment and consultation.

Finalised Draft Falkirk Council Local Plan

7b.1 Policy EQ1 'Sustainable Design Principles' states:

"New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:

- (1) Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) Infrastructure. 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; and*
- (6) Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure."*

7b.2 The development accords with good standards of sustainable design principles. Natural and built features, four trees and the existing boundary wall (at a reduced height) would be integrated into the development. The scale, siting and design of the development responds positively and sympathetically to the sites surroundings. The application site lies on a bus route allowing the use of sustainable transport and provides safe access for all users. No information has been provided in relation to resource use. Infrastructure needs and their impacts are addressed and discussed later in this report. A condition shall be applied to any planning permission requiring the submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. On balance the application accords with the terms of the above policy.

7b.3 Policy EQ2 'Implementation of Sustainable Design Principles' states:

"In order to ensure that the principles set out in Policy EQ1 are incorporated into development proposals:

- (1) Masterplans will be required for development proposals requiring a comprehensive approach to design and infrastructure. The Council will set out the basis for the preparation of Masterplans in Development Frameworks or Briefs;*
- (2) Development Briefs will be prepared by the Council for other development sites where merited by the size, sensitivity or complexity of the site;*
- (3) Supplementary Planning Guidance Notes will be produced to provide detailed advice on the application of the sustainable design principles; and*
- (4) Planning applications for significant residential, business or commercial development, or smaller proposals affecting protected sites or buildings, should be accompanied by a Design Statement explaining how each of the factors in Policy EQ1 has been complied with."*

7b.4 The application was not accompanied by a Design Statement and fails to accord with the terms of the above policy.

7b.5 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."*

7b.6 The above policy reinforces policy BNS 8 'Environment Quality in New Housing' of the adopted Bo'ness Local Plan. It is considered that the proposed development would contribute positively to the quality of the built environment in the Bridgeness Road area and would complement the adjoining residential developments. The application accords with the above policy.

7b.7 Policy EQ4 - 'Landscape Design' states:

"Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:

- (1) Be informed by the surrounding landscape;*
- (2) Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*
- (5) Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas."*

7b.8 The proposed development allows a reasonable level of open space and landscaping for the size of the site and accommodation provided. A condition shall be applied to any planning permission requiring the submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. The application accords with the above policy.

7b.9 Policy SC2 - 'Windfall Housing Development Within The Urban / Village Limit' states:

"Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:

- (1) The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- (3) The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) Existing physical infrastructure, such as roads and drainage, water supply, sewage capacity and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) There is no conflict with any other Local Plan policy or proposal."*

7b.10 The application site is not identified within the Bo'ness Local Plan as a housing site. The site comprises urban open space whose loss can be justified in the terms of Policy SC12. In land use terms the proposed development is compatible with neighbouring uses. The site enjoys a good level of residential amenity and can be accommodated through existing infrastructure and community facilities. There is no conflict with any other Local Plan policy or proposal. The application accords with the above policy.

7b.11 Policy SC6 - 'Housing Density And Amenity' states:

- "(1) Overall density in new residential developments should conform to the indicative capacity shown for allocated sites or, in the case of windfall sites, be dictated by the character of the surrounding area and the design objectives for the site, as established in the Design Concept Statement. Higher densities may be allowed where this helps to achieve design excellence.*
- (2) On large sites, housing density should be varied to create areas of different character, reflecting the structure of streets and spaces in the development. A mix of housing types will be required.*
- (3) Adequate properly screened private amenity space should be provided for dwellinghouses. In flatted developments, communal space for clothes drying and private amenity should be provided.*
- (4) Housing layouts should be designed to ensure adequate privacy and to avoid excessive overshadowing of houses or garden ground. A minimum distance between overlooking windows of 18 metres will generally be required."*

7b.12 The density of the application site is considered acceptable when consideration is given to the proximity of a major area of open space - Kinningars Park, the relatively dense nature of settlement pattern and the accommodation proposed. The application accords with the above policy.

7b.13 Policy SC8 'Infill Development and Subdivision of Plots' states:

"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies."*

7b.14 The above policy reinforces policy BNS 10 'Infill Development and Plot Sub-Division' of the adopted Bo'ness Local Plan. Although planned as part of the original development as an area of open space / play area, the site is considered to have little recreational or amenity value, its loss is not considered to have an adverse effect on the character and appearance of the area. The application accords with the terms of the above policy.

7b.15 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."*

7b.16 A financial contribution is required to offset the loss of the area of open space and to provide off site play facilities at Kinningars Park. The applicant's agent has confirmed in writing that the applicant has agreed to pay the financial contribution. The application accords with the above policy.

Policy SC12 - 'Urban Open Space' states:

"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*

- (2) *In the case of recreational open space, it can be clearly demonstrated from the Council's open space audit and strategy, or a site specific local audit of provision in the interim, that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) *The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) *Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded."*

7b.17 The above policy reinforces policy BNS 31 'Protection of Open Space' of the adopted Bo'ness Local Plan. The application site is not identified on the Proposals Map as a principal area of open space. It is considered that the loss of the area of open space would not adversely affect the character and appearance of the residential area as the site is poorly located, bounded on all sides by 2 metre high wall and fence and does not benefit from natural surveillance. The application site was not included in the qualitative analysis of the Council's Open Space Audit. Development of the application site would be compensated by qualitative improvements to Kinningars Park. The application site is not an area of ecological value and connectivity within the overall open space network will not be affected. The application accords with the above policy.

7b.18 Policy SC13 'Open Space and Play Provision in New Development' states:

"New development will be required to contribute to open space and play provision. Provision should accord with the Council's open space audit and strategy and the SPG Note on 'Open Space and New Development', once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:

- (1) *The baseline standard for open space development in new residential development is 60 m² per dwelling, any alternative standard that may be set by the open space strategy, or any site-specific standard that may be set in a development brief;*
- (2) *Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where:*
 - *existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
 - *in residential developments, the size of the development falls below the threshold of 10 houses, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
 - *as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*
 - *The required financial contribution per house will be set out in the SPG Note on 'Open Space and New Development'.*
 - *The open space strategy indicates that there is a sufficient amount of open space in the area, and that priority should be given to qualitative improvements to existing open space;*
- (3) *The location and design of open space should be such that it:*
 - *forms an integral part of the development layout, contributing to its character and identity;*
 - *is accessible and otherwise fit for its designated purpose;*
 - *links into the wider network of open space and pedestrian/cycle routes in the area;*
 - *sensitively incorporates existing biodiversity and natural features within the site;"*

- *promotes biodiversity through appropriate landscape design and maintenance regimes; and*
 - *enjoys good natural surveillance;*
- (4) *Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it."*

7b.19 The above policy reinforces policy BNS 33 'Open Space in New Developments' of the adopted Bo'ness Local plan. The application site provides an adequate level of open space and landscaping given the size of the site and type of accommodation proposed. The site is considered too small to allow any meaningful open space or play facilities. The application site is in close proximity to Kinningars Park and has strong pedestrian access routes. A financial contribution for off site play provision at Kinningars Park is considered acceptable. (A condition shall be applied of any planning permission requiring the submission of a maintenance scheme prior to development commencing). The application accords with the above policy.

7b.20 Policy ST12 - 'Flooding' states:

"In areas where there is significant risk of flooding, there will be a presumption against new development which would be likely to be at risk, would increase the level of risk for existing development or would be likely to require high levels of public expenditure on flood protection works. Applicants will be required to provide information demonstrating that any flood risks can be adequately managed both within and outwith the site."

7b.21 The applicant has carried out a flood risk assessment of the site, which has required the overall ground levels and subsequent floor levels of property to be minimally increased. Information relating to flood risk has been submitted by the applicant and assessed as adequate to address this issue. The application accords with the above policy.

7b.22 Policy ST12A - 'Sewerage Infrastructure' states:

"New development will only be permitted if necessary sewerage infrastructure is adopted by Scottish Water or alternative maintenance arrangements are acceptable to SEPA."

7b.23 The applicant has been made aware of obligations with regard to sewerage infrastructure and maintenance.

Points Raised Through Comment

7b.24 This application has no bearing on the car parking issues arising on the neighbouring housing development.

7b.25 The proposal would have dedicated car parking of a sufficient standard to serve the development.

7b.26 No issues of over-shadowing or privacy have arisen.

7b.27 The existing use of the land is private open space, enclosed on three sides and of limited access and use.

- 7b.28 The size, scale and massing of the building is considered acceptable and will integrate within an area of mixed house types of varying storey height and design.
- 7b.29 Existing trees are not covered by a Tree Preservation Order and there is no preventative mechanism for retaining them on site.
- 7b.30 The proposal is considered acceptable in terms of visual impact on the streetscape and will not lead to coalescence of development.
- 7b.31 The limited number of residential units would not significantly contribute to traffic generation in the area.
- 7b.32 The proposed development is of a similar density to the adjacent Birdland Avenue development and is considered to have a minimal impact on noise nuisance in the area against existing background noise levels from the adjacent industrial uses and traffic on the Bridgeness Road.

Points Raised Through Consultation

- 7b.33 Points raised by the Roads Development Unit and Environmental Protection Unit are addressed through the use of appropriate conditions. Environmental Health have requested a scheme for protecting the proposed dwellings from transport noise. In addition, the applicant should undertake a site investigation to establish if contamination is present on the site.
- 7b.34 A financial contribution is required to offset the loss of the application site as an area of open space and to provide off site play provision. This can be dealt with by way of an appropriate legal Agreement.

7c Conclusion

- 7c.1 The application has been assessed and accords with the terms of the Development Plan and emerging Falkirk Local Plan. The points raised through comment are noted and discussed in this report. There are no material considerations that would justify the laying aside of the terms of the Development Plan.
- 7c.2 The application is recommended for approval subject to the imposition of appropriate conditions and a legal Agreement being entered into for a financial contribution towards off site play provision.

8. RECOMMENDATION

- 8.1 It is recommended that Committee indicate that it is minded to grant planning permission subject to:- (a) an appropriate legal Agreement requiring the payment of a sum of £4,500 (£750 per flat dwelling) as a contribution towards off site play provision and thereafter, (b) on conclusion of the forgoing matters, remit the Director of Development Services to grant planning permission subject to the following conditions:-

- (1) The development to which this permission relates must be begun within three years of the date of this permission.

- (2) Development shall not commence until acceptance that Scottish Water will accept all water from the development site is submitted to and agreed in writing by the Council. If discharge is limited then a SUDS scheme shall be submitted to and approved in writing prior to development commencing.
- (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) No development shall commence on site until a series of tests for ground contamination have been carried out. Full details of the test results shall be submitted to the Planning Authority. Any necessary remedial work to make the ground safe shall be carried out to the satisfaction of the Planning Authority before any work on the development commences.
- (5) Development shall not commence on site until a scheme for the maintenance of open space and landscaping within the development is submitted to and approved in writing by the Planning Authority.
- (6) All roads and footway construction shall be carried out in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
- (7) Within the visibility splay of 2.4 metres x 70 metres in both directions the existing wall shall be removed.
- (8) Development shall not commence until a scheme for protecting residential properties from noise from Bridgeness Road and adjoining industrial / commercial premises has been submitted to and approved in writing by the Planning Authority.
- (9) The occupation of any flatted dwelling shall not take place until the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.
- (10) For the avoidance of doubt the ground floor finished floor level shall be 5.450 metres AOD.
- (11) All landscaping works shall be implemented by the end of the first planting and seeding season following the occupation of the last flatted dwelling.

Reason(s):-

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that adequate drainage is provided.

- (3,5) To safeguard the visual amenity of the area.
- (4) To ensure the ground is suitable for the proposed development.
- (6-7) To safeguard the interests of the users of the highway.
- (8-9) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.
- (10) As the development would not be acceptable without these additional works.
- (11) To safeguard the environmental amenity of the area.

Informative(s)

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference 01A, 02B, 03A, 04A, 05A, 06A, 07A, 08A, 09A, 10 and additional information.



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Director of Development Services

Date: 15 September 2009

LIST OF BACKGROUND PAPERS

- 1. File P/08/0773/FUL
- 2. File F/85/0532
- 3. Falkirk Council Structure Plan
- 4. Bo'ness Local Plan
- 5. Falkirk Council Local Plan Finalised Draft (Deposit Version)
- 6. Letter of representation received on 17 October 2008 from Caroline McMillan 7 Maidlands Linlithgow EH49 6AG.
- 7. Letter of representation received on 28 October 2008 from Mr Colin Bennie 21 Kinacres Grove Bo'ness EH51 9LT
- 8. Letter of representation received on 30 October 2008 from Mr L S Meldrum 13 Kinacres Grove Bo'ness EH51 9LT
- 9. Letter of representation received on 19 September 2008 from Mr William Scholefield 15 Kinacres Grove Bo'ness EH51 9LT

10. Letter of representation received on 16 October 2008 from Claire Edwards & Craig Grant 17 Kinacres Grove Bo'ness EH51 9LT
11. Letter of representation received on 10 May 2009 from Mr Craig Grant 17 Kinacres Grove, Bo'ness EH51 9LT

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel (Planning Officer).

Regulatory Committee

Planning Application Location Plan

P/08/0773/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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