

FALKIRK COUNCIL

Subject: ACCESS ROAD FOR CONSTRUCTION AND MAINTENANCE OF CANAL HUB AT LAND TO THE NORTH OF WEST MAINS INDUSTRIAL ESTATE, FALKIRK FOR THE HELIX TRUST – P/10/0293/FUL

Meeting: PLANNING COMMITTEE

Date: 16 June 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn
Councillor Pat Reid

Community Council: Grangemouth

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The proposal under consideration is for the construction of a new road to the existing Carron sea lock (Lock 2) on the Forth and Clyde Canal where it meets the Carron river. The proposed road is to allow improved access to Lock 2 for maintenance and the construction of a new canal hub as part of the wider Helix regeneration proposals.
- 1.2 An access to the existing Lock 2 passes through West Mains Industrial Estate to the south east of the application site.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Falkirk Council is a partner in the Helix proposals to which this application relates.

3. SITE HISTORY

- 3.1 There are no relevant planning applications within the last ten years at the site.

4. CONSULTATIONS

- 4.1 Falkirk Council Roads Development Unit has no objections on the basis that the proposed road is not intended to be adopted for use by the public and is to facilitate access to and maintenance of the Forth and Clyde Canal.

- 4.2 The Falkirk Council Environmental Protection Unit has advised of planning conditions to require contaminated land investigation.
- 4.3 Falkirk Council Transport Planning Unit has no objections to the proposed access and maintenance road on the condition that access is, by planning condition and physical barrier, restricted to avoid public vehicular access. In addition details of alternative pedestrian access is required and, if future public vehicular access is proposed, the road will be required to be upgraded to adoptable standard prior to public use.
- 4.4 Falkirk Council Emergency Planning Unit has noted the proposed development and has no objections.
- 4.5 Transport Scotland has no objections to the proposed development.
- 4.6 British Waterways has no objections.
- 4.7 Historic Scotland has no objections to the proposal.
- 4.8 SEPA has no objections to the proposed development.
- 4.9 Scottish Water has no objections.
- 4.10 Scottish Natural Heritage (SNH) has expressed no objections to the proposed development but have advised of further protected species investigations that the applicant would have to conduct.
- 4.11 The Scottish Rights of Way Society has no objections.
- 4.12 Central Scotland Police has no objections.
- 4.13 Scottish Power has no objections.
- 4.14 Scottish Gas Networks has no objections.
- 4.15 Ineos Manufacturing has no objections.
- 4.16 BP (Grangemouth) has no objections.
- 4.17 Shell (Grangemouth) has no objections.
- 4.18 Assessment of the proposed development under the HSE PADHI+ consultation process has resulted in a “do not advise against” the proposed development.

5. COMMUNITY COUNCIL

- 5.1 The Grangemouth Community Council has not made representation.

6. PUBLIC REPRESENTATION

6.1 No representation has been received.

7. DETAILED APPRAISAL

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

Accordingly,

7a The Development Plan

Falkirk Structure Plan

7a.1 Policy ECON.7 'Tourism' states:

"The Council will support the development of sustainable tourism in the Council area, through the provision of an improved range and quality of attractions and supporting infrastructure. Accordingly:

- (1) the key locations for development will be the Millennium Canals, Falkirk Town Centre/Callendar Park and Bo'ness;*
- (2) development which supports and expands the main target markets of day trips, short breaks, visiting friends and family and business tourism will be particularly encouraged; and*
- (3) tourism development must be environmentally sustainable, in terms of its location and design. In particular, any development outwith the urban areas must demonstrate that a countryside location is essential."*

7a.2 Policy ECON 7 is supportive of the proposal in that the purpose of the road is to access the Forth and Clyde Canal which is a strategic location for tourism.

7a.3 Policy ENV.1 'Countryside and Protected Areas' states:

- "(1) There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans."*

7a.4 The access road requires a location in the countryside in order to access the existing and proposed Canal hub.

7a.5 Policy ENV.2 ‘Green Belt’ states:

“There will be a system of Green Belts in the areas generally described in Schedule ENV.1 and indicated on the Key Diagram. Within these there will be a long term presumption against development in order to prevent the coalescence of settlements, protect their landscape setting, and avoid prejudicing future proposals for landscape enhancement and countryside recreation.

The detailed boundaries will be defined in Local Plans, having regard, where appropriate, to the Strategic Development Opportunities set out in Policy Econ.1 and Schedule Econ.1 and other structure plan policies.”

7s.6 The proposed access road does not compromise the aims of Policy ENV 2 with regards to the coalescence of settlements, their landscape setting or future landscape enhancement.

7a.7 Policy ENV.3 ‘Nature Conservation’ states:

“The protection and promotion of nature conservation interests will be an important consideration in assessing all development proposals. Accordingly:

- (1) Any development likely to have a significant effect on a designated or potential European Site under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or on a Ramsar or Site of Special Scientific Interest (see Schedule Env.3), must be subject to an appropriate assessment of the implications for the sites conservation objectives. The development will only be permitted where the appropriate assessment demonstrates that:
 - (a) it will not adversely affect the integrity of the site, or;*
 - (b) there are no alternative solutions and there are imperative reasons of overriding national public interest.**
- (2) Sites of local or regional importance, including Wildlife Sites and Sites of Importance for Nature Conservation, will be defined in Local Plans. The designation of Sites will be based on Scottish Wildlife Trust criteria. Development likely to have an adverse impact on any such site or feature will not be granted planning permission unless it can be clearly demonstrated that there are reasons which outweigh the need to safeguard the site or feature. Until such areas are defined in Local Plans, identified or potential sites will be afforded the same protection.*
- (3) Local Plans will identify opportunities for enhancing the natural heritage including new habitat creation, the identification of ‘wildlife corridors’ and measures to ensure the protection of priority local habitats and species as identified in the forthcoming Falkirk Local Biodiversity Action Plan.*
- (4) The aims and objectives of the forthcoming Falkirk Local Biodiversity Action Plan and any associated Species Action Plans and Habitat Action Plans will be a material consideration in assessing any development proposal likely to impact on local priority species and habitats.”*

- 7a.8 The application is submitted with a supporting Environmental Statement and survey information. The submitted statement and information provides details on;
- Impact on and mitigation for loss of woodland.
 - Soil re-use or disposal.
 - Location and capacity of SUDs ponds to accept surface water.
 - Information on the water source to existing ponds and how the new road may affect this source.
 - Proposals for future landscaping works such as woodland planting, tree planting along the road edge, embankment planting, restoration proposals and a maintenance schedule.
- 7a.9 In addition, impacts on existing ecological qualities of the West Mains Wildlife Site have been considered. Information has been provided in relation to:-
- Justification of the assessment of the magnitude and significance of environmental impacts and detailed survey information on any protected species.
 - Detailed quantification of the extent of potential negative impacts on existing wildlife habitats.
 - Anticipated timing of habitat removal or disturbance.
 - Protected mammal species surveys outwith the application site boundary and how potential construction or post construction activity will impact on the wider habitat area.
 - Analysis of potential impacts of noise, pollution, contaminated water run off, litter, increased human activity, traffic and light pollution on the wildlife site and how construction work will be managed to limit or avoid impacts.
- 7a.10 In view of the above submitted information the proposal has adequately demonstrated that no impact or a minor manageable impact will occur on the West Mains Wildlife Site and the proposal is considered to comply with Policy ENV. 3 of the Falkirk Structure Plan. Planning conditions requiring environmental risk assessment, construction method statement and restoration proposals will however be required.

Falkirk Local Plan

- 7a.11 Policy FAL 2.2 'Urban Limit' states:

"The Urban Limit, as indicated on the Policies, Proposals and Opportunities Map, is regarded as the desirable limit to the growth of Falkirk for the period of the Plan. Accordingly, there will be a general presumption against development proposals which would extend the urban area beyond this limit."

7a.12 The application site lies outwith the defined urban limit of Falkirk. The new road requires such a location, however, given the need to serve the existing Canal. The proposed road will not result in an extension to the urban limit.

7a.13 Policy FAL 3.2 ‘Design and Landscaping’ states:

“Development proposals should incorporate appropriate hard and soft landscaping which enhances the character of the development and the local area. The landscaping scheme should:

- (i) respect the setting and character of the development site;*
- (ii) retain, where practical, existing vegetation and natural features such as ponds, wildflower meadows/verges, and scrub;*
- (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.”*

7a.14 Hard and soft landscaping details have not been provided. The only area within the site which would be landscaped is the grassed verge of the proposed road. Specification of this grass seeding and compensatory landscaping outwith the site can be required by planning condition.

7a.15 Policy FAL 3.3 ‘Design and Accessibility’ states:

“Development proposals should incorporate, where appropriate, safe and attractive access for all users, particularly pedestrians, cyclists and public transport users. In particular, they should ensure:

- (i) the provision and protection of pedestrian/cycle routes through the site, linking into the wider strategic network of routes beyond, and particularly to public transport stops and community facilities; and*
- (ii) the provision, as far as possible, of a barrier-free environment for those with access difficulties such as disabled persons and the elderly.”*

7a.16 The proposed road incorporates a two metre footpath.

7a.17 Policy FAL 3.9 ‘Environmental Improvements’ states:

“The Council will seek to promote programmes of environmental improvement in the following priority areas, as resources permit:

- (i) Falkirk Town Centre and the local shopping centres;*
- (ii) major transport routes;*
- (iii) the Green Belt and other urban fringe areas;*
- (iv) the canal network in association with the Millennium Link;*
- (v) public parks and open spaces;*
- (vi) areas of need under the Community Urban Regeneration Programme; and*
- (vii) existing industrial areas.”*

7a.18 The proposal will assist in the future regeneration and environmental improvement of the Canal as part of the wider Helix project.

7a.19 Policy FAL 3.14 ‘Sites of Archaeological Interest’ states:

“In order to protect and conserve archaeological and historic features of significance and their settings:

- (i) there will be a presumption against development which would destroy or adversely affect Scheduled Ancient Monuments and other sites of archaeological or historic interest and their settings;*
- (ii) archaeological sites where development is permitted will be excavated and recorded. The Council supports Historic Scotland’s policy to seek developer funding for any necessary excavation, recording and publication works; and*
- (iii) the Council endorses the provisions of the British Archaeologists and Developers Liaison Group Code of Practice. ”*

7a.20 The proposed development will not affect the Forth and Clyde Canal as a Scheduled Ancient Monument. On this basis, Historic Scotland has no objections to the proposed development.

7a.21 Policy FAL 4.1 ‘Green Belt’ states:

“There will be a presumption against new development in the areas of designated Green Belt indicated on the Policies, Proposals and Opportunities Map, with the exception of development required for farming and forestry, and appropriate recreation and tourism purposes that require a countryside location. Other types of development such as telecommunications and temporary uses, including mineral and landfill activity, may be acceptable provided that:

- (i) a Green Belt location is essential; and*
- (ii) there is no serious detrimental impact on the character of the Green Belt.*

Temporary uses will only be permitted where these operate within a clearly limited timescale, and where landscape improvements are obtained. In general proposals which strengthen the function of the Green Belt and enhance its character and landscape qualities will be encouraged. In accordance with the provisions of S.D.D Circular 25/1985 “Development in the Countryside and Green Belts”, the Council strongly supports the principle of the Green Belt:

- a. To separate the main settlements of the Council area;*
- b. To provide areas for countryside recreation (excluding such urban forms as hotels, time-share and holiday villages);*
- c. To provide a clear segregation of urban and rural uses;*
- d. To enhance the landscape adjacent to built up areas; and*
- e. To provide a corridor for essential services.”*

7a.22 A Green Belt location is essential given the requirement to access the existing canal.

7a.23 Policy FAL 4.3 'Nature Conservation' states:

"In order to protect and conserve species, habitats and other natural features of importance:

- (i) there will be an overriding presumption against development which would be likely to adversely affect Natura 2000 sites, designated or proposed under the EC Habitats and Wild Birds Directives, wetlands of international importance designated under the Ramsar Convention, existing or proposed Sites of Special Scientific Interest, or sites which support species protected by specific legislation;*
- (ii) development likely to affect Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation, wildlife corridors and other sites considered to be of regional or local nature conservation value will not be permitted unless it can be demonstrated that there will be no damaging impact upon the habitats and species concerned;*
- (iii) where development is to be approved which could affect any site of significant nature conservation value, appropriate measures will be required to conserve, as far as possible, the site's nature conservation interest and to provide for replacement habitats or features where damage is unavoidable;*
- (iv) in partnership with relevant interests, the Council will develop management proposals to conserve the nature conservation interest and enhance the biodiversity of sites of local value; and*
- (v) the Council will designate Local Nature Reserves as appropriate, in consultation with communities, local wildlife groups and statutory bodies.*

Where necessary the Council will require applicants to submit supplementary information to assist in the determination of planning applications."

7a.24 For the reasons outlined in paragraph 7a.9 on this report in assessment of Structure Plan Policy ENV.3 'Nature Conservation', the applicants supporting Environmental Statement provides acceptable information on the, assessment and mitigation of potential impacts on flora and fauna. On this basis the application is considered to comply with policy FAL 4.3.

7a.25 Policy FAL 4.4 'Trees, Woodland and Hedgerows' states:

"The Council recognises the landscape, recreational and nature conservation value of trees, woodland and hedgerows, and accordingly will:

- (i) protect ancient, long established and semi-natural woodlands as a habitat resource of irreplaceable value;*
- (ii) safeguard trees, woodland and hedgerows of landscape, nature conservation or recreational value. Where necessary, endangered trees and woodlands will be protected through the designation of Tree Preservation Orders and introduction of Management Agreements. Within an area covered by a TPO there will be a presumption against development unless it can be proven that the proposal would not adversely affect the stability, vitality or appearance of protected trees. Where felling of protected trees is permitted for safety or other reasons, the Council will require appropriate replacement planting;*
- (iii) continue to support through partnerships and other initiatives, proposals for community woodlands and amenity planting, particularly through the Falkirk Greenspace and Central Scotland Forest Initiatives. Tree planting proposals will be particularly encouraged within the urban fringe, along transport corridors, in wildlife corridors and to enhance open space; and*
- (iv) require the use of native species of trees and shrubs in all new planting proposals."*

7a.26 The proposed road will result in a loss of trees that contribute to the existing West Mains Wildlife Area. The accompanying Environmental Supporting Statement and further information quantifies the loss and provides details of mitigation measures. For this reason the proposed development is considered to comply with Policy FAL 4.4. Hard and soft landscaping details have not been provided. The only area within the site which would be landscaped is the grassed verge of the proposed road. Specification of this grass seeding and compensatory landscaping outwith the site can be required by planning condition.

7a.27 Policy FAL 4.7 'Footpaths and Rights of Way' states:

"The Council will seek to protect, improve and signpost rights of way and other recognised footpaths. The Council will also seek to encourage the creation of new access routes into the countryside, in co-operation with landowners and other funding agencies."

7a.28 The proposed development does not affect any asserted rights of way. The proposal severs, however, an existing informal footpath along a disused railway embankment. Planning conditions can require the implementation of path links to address this severance and to provide additional footpath links.

7a.29 Policy FAL 4.8 'Watercourses' states:

"The Council recognises the importance of Falkirk's rivers, burns and canals and their banks in terms of landscape, recreation and nature conservation, and will seek to improve the recreational usage and overall quality of these watercourses. Accordingly:

- (i) there will be a general presumption against development where it is likely to increase pollution or have a detrimental impact upon the water quality, aquatic and riparian ecosystems or recreational amenity of watercourses. Development likely to adversely affect groundwater or major aquifers will not normally be permitted;*
- (ii) in new developments, innovative methods of surface water disposal and treatment will be encouraged in consultation with the Scottish Environment Protection Agency (SEPA). The Council supports the source control and passive treatment measures recommended by SEPA, and outlined in its 'Guide to Surface Water Best Management Practices'; and*
- (iii) there will be a general presumption in favour of proposals to improve the use of water courses and their banks for appropriate recreation or to enhance their habitat value.*

Where necessary the Council will require applicants to submit supplementary information to assist in the determination of planning applications."

7a.30 The submitted Environmental Supporting Statement provides sufficient detail on the potential impacts on wetland ponds within the adjacent West Mains Wildlife Area. On this basis the proposal is considered to comply with Policy FAL 4.8.

7a.31 Policy FAL 4.9 'Flooding' states:

"In areas where there is a recognised 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 measures to mitigate the effects of flooding both within and outwith the site. "

7a.32 There is no recognised risk of flooding at the site. SEPA and Falkirk Council's Roads Development Unit have no objections in this regard.

7a.33 Policy FAL 6.7 'Major Hazard Consultation Zones' states:

"Within Major Hazard Consultation Zones, as identified on the Policies, Proposals and Opportunities Map, there will be a general presumption against development where future users or occupants would significantly add to the number of people exposed to the existing risks in the area."

7a.34 The proposed development has resulted in a 'do not advise against' response from the HSE PADHI+ consultation process. Consultation responses from Ineos, Shell and B.P. who have infrastructure in the vicinity of the site have confirmed no objections to the proposal.

7a.35 Policy FAL 8.2 'Roads and New Development' states:

"Road layout, access and parking provision in new developments should generally conform to Falkirk Council's 'Design Guidelines and Construction Standards for Roads'. Major development proposals likely to generate significant traffic volumes will require a multi-modal Transport Impact Assessment."

7a.36 The proposed access road is not proposed to be adopted by Falkirk Council. In this respect construction to adoptable standards is not required. The access road is for construction of canal hub improvements as part of the wider Helix project and maintenance of the existing canal hub. A Transport Assessment has not been considered necessary given the purpose for which the road is required.

7a.37 Policy FAL 9.2 'Tourism' states:

"The Council will encourage tourism-related development in Falkirk and will support proposals which enhance the quality and diversity of tourism infrastructure and attractions, subject to other Local Plan policies and proposals. Particular emphasis will be placed on the development of the following key themes and attractions:

- (i) the Town Centre;*
- (ii) Callendar House, Park and Wood;*
- (iii) the Canal Network/Millennium Link;*
- (iv) Roman heritage at Roughcastle/Tamfourhill; and*
- (v) industrial heritage."*

7a.38 The proposed road will enable the construction of Canal hub improvements in the Helix project and these improvements will encourage tourism at the Forth and Clyde Canal.

7a.39 Policy FAL 9.3 'Canals' states:

"In recognition of the significant recreational, tourism, and ecological potential of the Forth and Clyde Canal and the Union Canal, the Council will:

- (i) support the Millennium Link proposals to open up the canals to through navigation, including the removal of existing obstructions (Proposal LT 8), the restoration of a link between the two canals at Roughcastle (Proposal LT 9) and the extension of the Forth & Clyde Canal to the River Carron (Proposal LT 10); and*

- (ii) *support proposals for appropriate canal-related development, particularly for recreation and tourism, where it accords with the Council's 'Canal Corridor Development Framework', there is no adverse impact on the amenity, setting or nature conservation value of the canals, and other Local Plan policies (including those of the Forth & Clyde Canal Local Plan) are satisfied."*

7a.40 The proposed road will allow future construction of Helix improvements to the Canal and facilitate associated recreational and tourism benefits.

7a.41 In general terms the Development Plan is supportive of the proposed access improvements to the canal hub. The principle of the proposed development is generally compliant with the Development Plan. Further information is however required in relation to environmental risk assessment, construction methodology, restoration proposals and path linkages. The submission of this information can be required by planning conditions.

7a.42 The proposed development therefore fully accords with Structure Plan and Local Plan policies.

7a.43 Accordingly, the proposal accords with the development plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Falkirk Local Plan Finalised Draft (Deposit Version), the relevant responses to consultation and the applicant's submitted Environmental Supporting Statement and associated information.

7b.2 The proposed development has been assessed in terms of the following policies of the Falkirk Local Plan Finalised Draft (Deposit Version).

7b.3 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.4 Policy EQ16 ‘Sites of Archaeological Interest’ states:

- “(1) Scheduled ancient monuments and other identified nationally important archaeological resources shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances;*
- (2) all other archaeological resources shall be preserved in situ wherever feasible. The Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications; and*
- (3) Developers may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development.”*

7b.5 Policy EQ19 - ‘Countryside’ states:

- “(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*
 - it can be demonstrated that they require a countryside location;*
 - they constitute appropriate infill development; or*
 - they utilise suitable existing buildings.*
- (2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*
 - the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
 - building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council’s ‘Design Guide for Buildings in the Rural Areas’; and*
 - boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7b.6 Policy EQ20 - ‘Green Belt’ states:

“There will be a strong presumption against development in the Green Belt except where it can be demonstrated that:

- (1) The proposal satisfies Policy EQ19 and any relevant countryside policies as set out in Table 3.3;*
- (2) The proposal will not undermine the role of the Green Belt by*
 - detracting from its existing landscape character;*
 - reducing the visual separation between settlements; or*
 - compromising its existing or potential future use for countryside recreation.*

Where proposals satisfy these criteria, developer contributions to landscape improvement, access and countryside recreation will be sought in accordance with Policy EQ21.”

7b.7 Policy EQ24 ‘Ecological Sites and Features’ states:

- “(1) Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers)..*
- (2) Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) Development likely to have an adverse effect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*
- (5) Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site’s natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future management.*
- (6) The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.”*

7b.8 Policy EQ25 ‘Biodiversity’ states:

“The Council will promote the biodiversity of the Council area and ensure that the aims and objectives of the Falkirk Area Biodiversity Action Plan are promoted through the planning process. Accordingly:

- (1) Developments which would have an adverse effect on the national and local priority habitats and species identified in the Falkirk Area Biodiversity Action Plan will not be permitted unless it can be demonstrated that there are overriding national or local circumstances;*
- (2) The safeguarding, enhancement and extension of the broad and key habitats and the species of conservation concern identified in ‘The Biodiversity of Falkirk’ will be given particular attention in the consideration of development proposals;*

- (3) *Development proposals should incorporate measures to promote, enhance and add to biodiversity, through overall site planning, and infrastructure, landscape and building design, having reference to the Supplementary Planning Guidance Note on 'Biodiversity and Development'; and*
- (4) *Priority will be given to securing appropriate access to and interpretation of areas of local nature conservation interest. The designation of Local Nature Reserves, in consultation with communities, local wildlife groups and statutory bodies will be pursued."*

7b.9 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

"The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:

- (1) *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7b.10 Policy EQ27 - 'Watercourses' states:

"The Council recognises the importance of watercourses within the Council area in terms of their landscape, ecological, recreational and land drainage functions. Accordingly:

- (1) *There will be a general presumption against development which would have a detrimental effect on the landscape integrity, water quality, aquatic and riparian ecosystems, or recreational amenity of watercourses. Development proposals adjacent to a watercourse should provide for a substantial undeveloped and suitably landscaped riparian corridor to avoid such impacts;*
- (2) *Watercourses will be promoted as recreational corridors, with existing riparian access safeguarded and additional opportunities for ecological enhancement, access and recreation encouraged where compatible with nature conservation objectives; and*
- (3) *There will be a general presumption against the culverting of watercourses."*

7b.11 Policy EQ29 'Outdoor Access' states:

- (1) *The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network once it is defined.*
- (2) *In promoting new routes particular emphasis will be placed on*
 - *opportunities specified on the Proposals Map*

- *other opportunities which support and provide linkages in respect of the Falkirk Greenspace Initiative, the recreational use of the major river corridors, including the Forth Estuary, and sustainable travel within and between settlements;*
 - *other areas of proven demand as identified through community consultation; and*
 - *the need to safeguard protected habitats and species in accordance with Policies EQ24 and EQ25.*
 - *the need to safeguard protected buildings and archaeological sites in accordance with Policies EQ16 and EQ17.*
- (3) *When considering planning applications, the Council will*
- *Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed.*
 - *Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development, particularly where they relate to the priority areas identified in sub-section (2) above.*
 - *Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.”*

7b.12 Policy EP15 ‘Tourism Development’ states:

“Proposals for tourism development will be supported where:

- (1) *they will support the strategic tourism priorities set out in Policy ECON.7 of the Structure Plan, and the tourism strategies of the Council and VisitScotland;*
- (2) *they will complement the existing pattern of provision;*
- (3) *the quality of development will be such as to enhance the image and tourism profile of the area; and*
- (4) *they comply with other Local Plan policies.”*

7b.13 Policy EP16 - ‘Leisure And Tourism Development In The Countryside’ states:

“Leisure and tourism development within the countryside will only be permitted where the use demonstrates a particular need for a countryside location and could not more appropriately be located within the Urban or Village Limits, or where existing buildings are to be utilised. In particular:

- (1) *Proposals for small-scale self-catering chalet developments, caravan and camping sites may be acceptable, subject to appropriate siting and compliance with Policy EP15. Proposals for new hotels, B&Bs, guest houses and pubs / restaurants will generally only be permitted where existing buildings are being utilised or where a specific opportunity is identified in the Local Plan;*
- (2) *Proposals for outdoor sport and recreation which require a countryside location may be acceptable, subject to appropriate siting. Associated built development will be limited to that which is directly ancillary to the activity (e.g. clubhouses, changing facilities, parking);*
- (3) *Proposals for new visitor attractions, heritage and interpretative centres may be acceptable, subject to appropriate siting and compliance with Policy EP15. The nature and theme of the facility must provide a clear rationale for the countryside location chosen; and*
- (4) *Proposals for new roadside facilities will not be permitted unless it is demonstrated that there is a clear need for additional services. Proposals for facilities on motorways and the trunk road network should comply with the guidance in NPPG9.*

Proposals will be subject to rigorous assessment of their impact on the rural environment, having particular regard to Local Plan policies protecting natural heritage (EQ19-EQ30) and built heritage (EQ12-EQ16), and of the adequacy of access and car parking arrangements must be satisfactory.”

7b.14 Policy EP17 - ‘Canals’ states:

“The Council, in conjunction with British Waterways and other key partners, will seek to promote the sustainable development of the Forth & Clyde and Union Canals as a major recreational, tourism and heritage asset. Accordingly, the Council will support:

- (1) The protection and enhancement of the ecology, archaeology, built heritage, visual amenity and water quality of the canals and their immediate environs, having regard to the detailed policies on these matters contained in the Local Plan;*
- (2) The protection and enhancement of the operational capacity of the canals*
 - for recreational use, including the maintenance of navigation and the provision of infrastructure and amenities for a wide range of canal users;*
 - for freight use, including the development of any necessary freight transfer facilities;*
- (3) The improvement of access, signage and interpretation associated with the canals, with particular emphasis on linkages to and from adjacent communities, tourist attractions, public transport facilities and the wider countryside access network, whilst generally continuing to restrict access to the off-side bank (except for approved mooring areas, where access already exists and in urban areas) for nature conservation reasons; and*
- (4) Appropriate canal-side development which*
 - is compatible with the broad objectives, policies and key development opportunities set out in the Council’s ‘Canal Corridor Development Framework’;*
 - is compatible with the operational requirements of the canals and contributes to their recreational amenity through the provision, where appropriate, of public access, amenity areas, mooring points and slipways;*
 - achieves high design standards, particular attention being paid to the relationship of layout and form to the canal and to the sympathetic use of materials and detailing in buildings and canal-side landscaping;*
 - incorporates measures to ensure that there is no detriment to the canal water environment; and*
 - accords with other Local Plan policies including Policy ST12 (Flooding;*
 - ensures there is no detriment to the structural stability of the canal.”*

7b.15 Policy EP18 - ‘Major Hazards’ states:

“Within the Major Hazard and Pipeline Consultation Zones identified on the Proposals Map, proposals will be judged in relation to the following criteria:

- (1) The increase in the number of people exposed to risk in the area, taking into account the advice of the Health and Safety Executive, any local information pertaining to the hazard, and the existing permitted use of the site or buildings; and*
- (2) The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means.”*

7b.16 Policy ST1 - 'Core Path Network' states:

"The Council will safeguard and promote the development of the core path network as and when this is defined. Where appropriate, developer contributions to the implementation of the network will be sought."

7b.17 Policy ST11 - 'Sustainable Urban Drainage' states:

"Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation. A drainage strategy, as set out in PAN 61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment."

7b.18 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.19 The above policies of the Falkirk Local Plan Finalised Draft (Deposit version) affirm the policies of the Falkirk Local Plan and support the principle of the proposed development.

7b.20 The proposed development is considered to comply with all relevant policies. As noted in paragraph 7a.41 of this report further information is required to ensure satisfactory implementation of the proposal development.

7b.21 The assessment of consultation responses has identified the need for the formation of path links between the A9 Distribution Road and the retained railway embankment, and between the A9 and the proposed car park along the desire line formed from the southern end of the existing canal bridge to the Helix site.

7b.22 Conditions are required to ensure appropriate environmental risk assessments, construction methodology, restoration proposals, detailed landscaping proposals, contaminated land assessment and the restriction of public access from the site.

7c Conclusion

7c.1 The Development Plan supports the proposed development on the basis that it is an integral and necessary component of the canal hub and the Helix project which are themselves appropriate developments in the Green Belt and consistent with the Development Plan's objectives for Falkirk and the Canal corridor.

7c.2 Additional information can be required by planning condition to ensure the acceptable implementation of the development in the context of the adjacent West mains Wildlife Site.

7c.3 there are no material considerations which would outweigh the Development Plan and justify the refusal of planning permission.

8. RECOMMENDATION

8.1 It is recommended that Planning Committee 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) Prior to the commencement of any works on site, an environmental risk assessment shall be submitted for the assessment and written approval of the Planning Authority. The assessment shall provide task specific analysis and management of environmental risks to the West Mains Wildlife Site including control and/or mitigation measures for any risk identified.**
- (3) Prior to the commencement of any works on site, a detailed restoration plan for the application site and adjacent West Mains Wildlife Site shall be submitted for the assessment and written approval of the Planning Authority.**
- (4) Prior to the commencement of any works on site, a construction methodology statement detailing the prevention of silt and surface water contaminants from entering the West Mains Wildlife Site ponds and protection of natural habitats during construction shall be submitted for the assessment and written approval of the Planning Authority.**
- (5) Prior to the commencement of any works on site, the findings of a survey of bird breeding and nesting sites and the assessment of potential construction impacts and, if necessary, mitigation measures shall be submitted for the assessment and written approval of the Planning Authority.**
- (6) Prior to the commencement of any works on site, details of the location, design and specification of a path link from the A9 distributor road to the existing southern Forth and Clyde Canal towpath shall be submitted for the assessment and written approval of the Planning Authority.**
- (7) Prior to the commencement of any works on site, details of physical measures to restrict public pedestrian and vehicular access to the approved Canal construction and maintenance access road shall be submitted for the assessment and written approval of the Planning Authority.**
- (8) a. Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere and also identify any potential risks to human health, property, the water environment or designated ecological sites.**

- b. Where contamination (as defined by Part 11A of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
- c. Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- d. In the event that unexpected contamination is encountered following the commencement of development. All work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not commence without the prior written approval of the Planning Authority.

Reason(s)

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that the West Mains Wildlife Site is not adversely affected by the proposed road.
- (3) To ensure that any environmental impacts on the West Mains Wildlife Site are restored to an acceptable standard.
- (4) To protect and control construction impacts on the West mains Wildlife Area.
- (5) To ensure that impact on bird nesting and breeding sites is avoided.
- (6) To allow improved pedestrian access to the canalside.
- (7) To prevent public access to the site.
- (8) To ensure that potential ground contamination is assessed and mitigated.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11 and 12.

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Director of Development Services

Date: 8 June 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Local Plan Finalised Draft (Deposit Version)

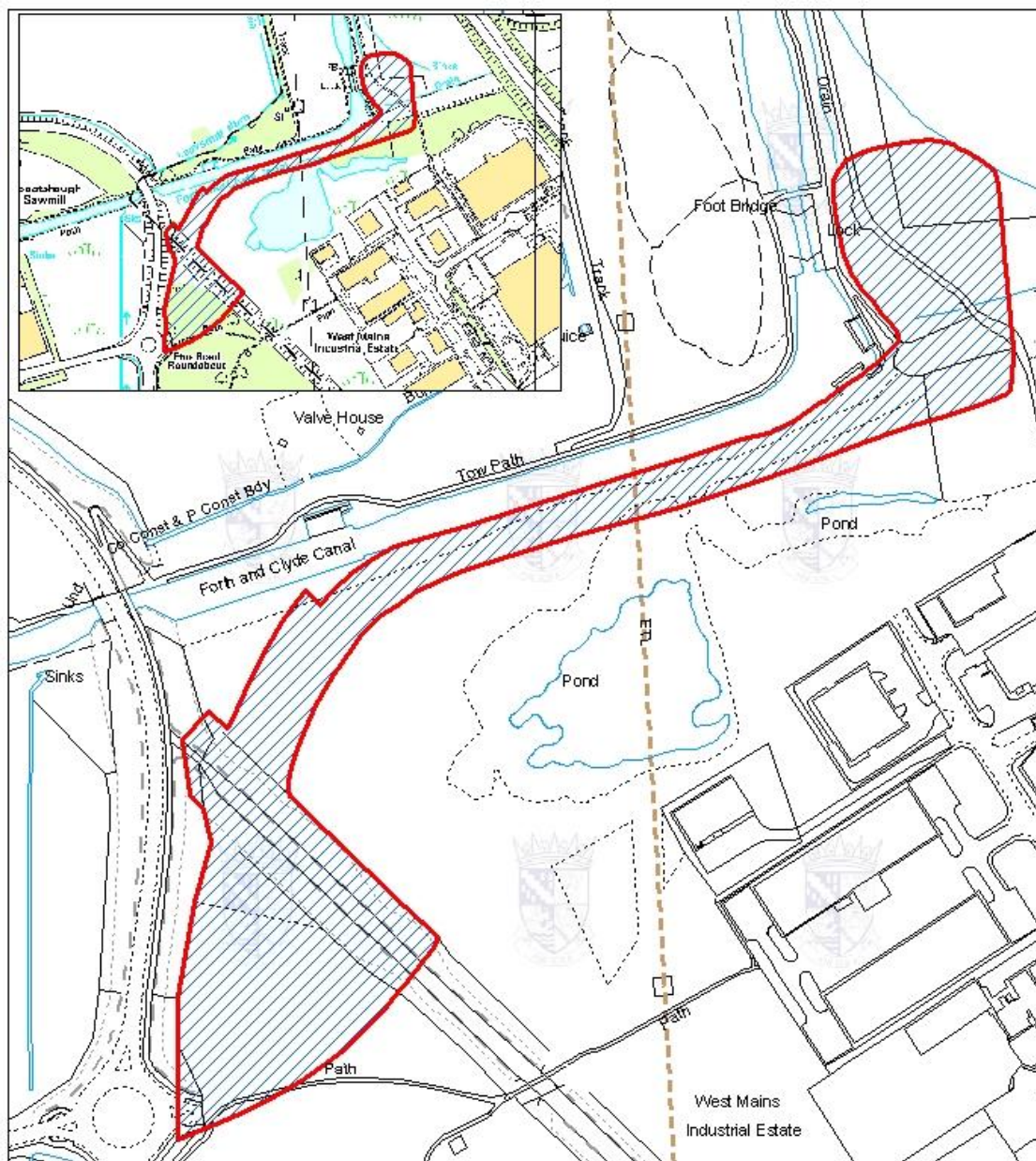
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson (Planning Officer).

Planning Committee

Planning Application Location Plan

P/10/0293/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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