

**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 27 FEBRUARY 2013 at 9.30 A.M.**

**PRESENT:** Councillors Black, Buchanan, Carleschi, Chalmers, Mahoney, C Martin, Meiklejohn, McLuckie, Nicol, Paterson and Turner.

**CONVENER:** Councillor Buchanan.

**ATTENDING:** Director of Development Services; Chief Governance Officer; Head of Planning and Transportation; Development Manager; Network Co-ordinator; Transport Planning Co-ordinator; Environmental Health Officer (S Henderson); Legal Services Manager (I Henderson); and Committee Officer (A Sobieraj).

**P192. APOLOGIES**

Apologies were intimated on behalf of Councillor Alexander.

**P193. DECLARATIONS OF INTEREST**

Councillor Paterson declared a non financial interest in Item 4 (minute P198) by virtue of her property ownership in the vicinity of the proposed Order and considered that she required to recuse herself from consideration of the item, having regard to the objective test in the Code of Conduct.

Prior to consideration of business, the Members below made the following statements:-

- Councillor Mahoney informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/12/0566/FUL, P/12/0362/PPP, P/12/0410/FUL, P/12/0588/FUL and P/12/0611/FUL (minute P199, P200, P203, P204 and P205).
- Councillor Nicol informed the Committee that as he had not attended the site visit he would not take part in consideration of planning application P/12/0566/FUL (minute P199) but he would take part in consideration of planning applications P/12/0362/PPP, P/12/0534/LBC and P/12/0533/FUL (minute P200, P201 and P202) as he was sufficiently familiar with the sites.
- Councillor Buchanan informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/12/0566/FUL, P/12/0362/PPP, P/12/0534/LBC and P/12/0533/FUL (minute P199, P200, P201 and P202).

#### **P194. REQUESTS FOR SITE VISITS**

Having heard requests by Members for site visits, the Committee agreed to the continuation of the application for hazardous substances consent P/12/0597/HAZ to allow an inspection of the site by Committee and to consider the application P/12/0827/FUL and a request for a site visit as detailed at minute item P196.

#### **P195. ORDER OF BUSINESS**

In terms of Standing Order 15.2(i), Councillor Buchanan advised of a variation to the order of business from that detailed on the agenda for the meeting. The following items have been recorded in the order that they were taken.

#### **P196. ERECTION OF NEW SOCIAL HOUSING CONSISTING OF 8 VILLAS AND 16 FLATS, ASSOCIATED ROADS, PARKING AND SUDS PROVISION ON LAND TO THE SOUTH OF GLENFUIR COURT, SUMMERFORD, FALKIRK FOR FALKIRK COUNCIL - P/12/0827/FUL**

There was submitted Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for full planning permission for the erection of new social housing consisting of 8 villas and 16 flats, associated roads, parking and suds provision on land to the south of Glenfuir Court, Summerford, Falkirk.

In accordance with Standing Order 33.3 the Committee agreed to suspend Standing Orders to allow a representative from the applicant, who was present as an observer at the meeting, to respond to Members questions.

The Committee thereafter reconvened normal business.

**AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

The Committee, being conscious of time constraints, was willing to meet for a Special meeting of the Committee following the site visit to take a decision on the application.

#### **P197. MINUTES**

There was submitted and **APPROVED:-**

- (a) Minute of Meeting of the Planning Committee held on 30 January 2013;
- (b) Minute of Meeting of the Planning Committee held on On-Site on 11 February 2013;  
and
- (c) Minute of Meeting of the Planning Committee held on On-Site on 15 February 2013.

In accordance with her declaration of interest, Councillor Paterson left the meeting prior to consideration of the following item of business.

**P198. THE FALKIRK COUNCIL (7.5T PART-TIME WEIGHT RESTRICTION) (A905, BEANCROSS ROAD, GRANGEMOUTH) ORDER 2012**

There was submitted Report (circulated) dated 25 January 2013 by the Director of Development Services seeking a decision on the Falkirk Council (7.5T Part-Time Weight Restriction) (A905, Beancross Road, Grangemouth) Order 2012 to prohibit, on a part time basis from 6 p.m. to 8 a.m. 7 days per week, vehicles over 7.5T on the A905 Beancross Road, Grangemouth between Earls Gate Park Roundabout and Beancross Roundabout.

In accordance with Standing Order 35.1 (viii) the Convener gave consent to Councillor Spears to speak in relation to this item of business, the said Member having duly given at least 24 hours notice.

Councillor Carleschi, seconded by Councillor Chalmers, moved that the Traffic Regulation Order not be made and that a Traffic Regulation Order be promoted, promoting a weight restriction 24 hours a day 7 days a week.

By way of an amendment, Councillor Black, seconded by Councillor C Martin, moved that the Traffic Regulation Order be made as detailed in the Report, and as promoted in line with the Committee decision of 28 November 2012, and that Roads officers monitor the impact of the Order and bring a Report back to Committee on its impact.

On a division, 4 Members voted for the motion and 6 voted for the amendment.

Accordingly, **AGREED:-**

- (1) To make the Traffic Regulation Order referred to in the Report, and as promoted in line with the Committee decision of 28 November 2012; and
- (2) That Roads officers monitor the impact of the Order and bring a Report back to Committee on its impact.

Councillor Paterson re-entered the meeting following consideration of the foregoing item of business.

The Convener agreed a 5 minute recess prior to consideration of the following item of business. The meeting reconvened with all Members present as per the sederunt, with the exception of Councillors Buchanan, Mahoney and Nicol.

Councillor Buchanan had left the Chair at the recess and consequently, prior to consideration of the following item of business, Councillor McLuckie assumed the role of Convener.

Councillor Mahoney re-entered the meeting during consideration of the following item of business but would take no part in consideration of this item of business.

**P199. ERECTION OF A SINGLE WIND TURBINE (225KW, 45.9 METRES IN HEIGHT TO TIP) WITH TEMPORARY ACCESS TRACK AND A SUBSTATION AT WEST KELT FARM, DENNY FK6 5NA FOR INTELLIGENT LAND INVESTMENTS LTD - P/12/0566/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P171 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for full planning permission for the erection of a single wind turbine (measuring 225 kilowatts and 45.9 metres in height) with a temporary access track and substation (27 metre blade diameter) at West Kelt Farm, Denny.

Councillor Carleschi, seconded by Councillor Chalmers, moved that the matter be continued to allow consultation to be carried out with residents of Station Road.

By way of an amendment, Councillor McLuckie, seconded by Councillor Paterson, moved that the application be granted in accordance with the recommendations in the Report.

On a division, 4 Members voted for the motion and 4 voted for the amendment.

In accordance with Standing Order 21.6, in the case of equality of votes, the Convener used his casting vote for the amendment.

Accordingly, **AGREED** to **GRANT** planning permission, subject to the following conditions:-

- (1) Before the development commences, the exact details of the colour(s) of the proposed turbine and substation shall be submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (2) Prior to the end of the first planting and seeding season following construction of the proposed turbine (or any alternative timescale that may be agreed in writing by the Planning Authority), any excavated material shall be levelled, soiled and grassed over, and the access track and hardstanding areas shall be partially soiled and grassed over, to ensure that a minimum construction is retained solely for the purposes of maintenance/turning, in accordance with details submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (3) Prior to the end of the first planting and seeding season following construction of the proposed turbine (or any alternative timescale that may be agreed in writing by the Planning Authority), any existing landscape features (e.g. hedges, tracks, fences, trees) required to be removed/altered to enable access by construction vehicles, shall be reinstated in accordance with details approved in writing by the Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

- (4) A micro-siting allowance of 10 metres shall be permissible for the proposed turbine provided that the proposed turbine and access track shall not be sited any closer to Pond 10 (as identified in Great Crested Newt Appraisal prepared by ECOS Countryside Services LLP, dated 18 June 2012) than the respective distances to Pond 10 shown on the approved plans.
- (5) All construction works shall take place outwith the period 1 March to 31 October.
- (6) Before the development commences, a Species Protection Plan for Great Crested Newt shall be submitted to and approved in by the Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (7) Before the development commences, a Construction Method Statement in relation to any required vehicular access crossing of any watercourse shall be submitted to and approved in writing by the Planning Authority. The statement shall include full details of the nature of the proposed crossing. Thereafter, the development shall be carried out in accordance with the approved details.
- (8) An archaeological watching brief shall be carried out during all ground breaking activities in accordance with a scheme approved in writing by the Planning Authority before the development commences.
- (9) At any time upon the direction of the Planning Authority, the wind turbine operator shall, at their own expense, employ an independent consultant, approved by the Planning Authority, to assess the level of noise emissions from the wind turbine in accordance with a scoping to be agreed in writing by the Planning Authority. The report shall be submitted for the written approval of the Planning Authority within one month of the direction of the Planning Authority, and shall include details of any required measures to mitigate noise disturbance.
- (10) Before the development commences, intrusive site investigation works shall be undertaken and the results of those intrusive works shall be submitted to and approved in writing by the Planning Authority in consultation with the Coal Authority. Any necessary remedial works to treat areas of shallow mine workings to ensure the safety and stability of the proposed development, shall be carried out in accordance with an approved remediation strategy before the development commences.
- (11) Before the development commences, the proposed route for any abnormal loads on the trunk road network shall be approved by the Planning Authority in consultation with the Trunk Road Authority and/or operating company. Any accommodation measures required, including the temporary removal of street furniture, junction widening, traffic management shall similarly be approved by this Planning Authority in consultation with the Trunk Road Authority and/or operating company.
- (12) Before the development commences, any need for additional signing or temporary traffic control measures, due to the size and length of the loads being delivered, shall be agreed with the Planning Authority in consultation with the Trunk Roads Authority and/or operating company. Thereafter, the agreed

measures shall be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the Planning Authority in consultation with the Trunk Roads Authority and/or operating company.

- (13) Before the development commences, the following details shall be submitted for the purpose of notification to the Ministry of Defence:-
- (i) The date construction starts and is planned to end;
  - (ii) The maximum height of construction equipment; and
  - (iii) The latitude and longitude of the proposed turbine.
- (14) In the event that the development hereby approved ceases to be used for the purpose for which it was designed, the operator shall inform the Planning Authority, and the wind turbine and related apparatus, access road and hardstanding shall be removed from the site. Within two months of the date on which the use ceases (unless otherwise agreed in writing by the Planning Authority), the site shall be reinstated in accordance with a scheme approved in writing by the Planning Authority.

Reason(s):-

- (1-3) To safeguard the visual amenity of the area.
- (4) To safeguard the visual amenity of the area and the interests of a protected species.
- (5-6) To safeguard the interests of a protected species.
- (7) To safeguard the water environment.
- (8) To safeguard possible archaeological resources in the area.
- (9) To safeguard the residential amenity of the area.
- (10) To ensure the ground is suitable for the proposed development.
- (11) To maintain safety for both Trunk Road traffic and traffic moving to and from the development, and to ensure that the transportation will not have any detrimental effects on structures within the route path.
- (12) To minimise interference with the safety and free flow of traffic on the Trunk Road Network.
- (13) To provide a consultee with the necessary information they require to safeguard aircraft safety.
- (14) To ensure the satisfactory removal of redundant wind turbine installations.

Informative(s):-

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

- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01-10, 11A and 12.
- (3) The applicant is advised to contact Falkirk Council (Roads Services) and Development Services (Structures Section) before the development commences to arrange pre and post construction road surveys. The Falkirk Council contacts are Alistair McEwan (Area Roads Officer), Roads Services, Earls Road, Grangemouth on telephone number 01324 501133 and Ralph Ridley (Bridges and Structure Design Co-ordinator), Abbotsford House, David's Loan, Falkirk on telephone number 01324 504825.
- (4) The applicant is advised to notify Falkirk Council of any abnormal load details through the email address: [abnormalloads@falkirk.gov.uk](mailto:abnormalloads@falkirk.gov.uk).
- (5) The applicant is advised to cease all work on the affected part of the site in the event of any made ground, suspect material or odours being encountered during site works/operations following commencement of the development. In such an event, the applicant is advised to contact the Planning Authority immediately, carry out a Contaminated Land Risk Assessment in accordance with current guidance and legislation, undertake any necessary remediation works and only recommence works with the prior written approval of the Planning Authority.

Councillor C Martin left the meeting prior to consideration of the following item of business.

Councillor Nicol re-entered the meeting prior to consideration of the following item of business.

**P200. DEVELOPMENT OF LAND FOR RESIDENTIAL USE AT SCOUT HALL, GARTCOWS ROAD, FALKIRK FOR FALKIRK DISTRICT SCOUT COUNCIL - P/12/0362/PPP (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P173 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for planning permission in principle for the removal of the Scout Hall and the development of land for residential use on a site running into the adjacent woodland area of Blinkbonny Park at Gartcows Road, Falkirk.

Councillor Chalmers, seconded by Councillor Nicol, moved that the application be refused on the grounds of the development having an adverse effect on road safety and a detrimental effect on the amenity of the neighbouring properties.

By way of an amendment, Councillor McLuckie, seconded by Councillor Black, moved that the application be granted in principle in accordance with the recommendations in the Report.

On a division, 5 Members voted for the motion and 3 voted for the amendment.

Accordingly, **AGREED** to **REFUSE** planning permission in principle on the grounds of the development having an adverse effect on road safety and a detrimental effect on the amenity of the neighbouring properties.

Councillor C Martin re-entered the meeting during consideration of the following item of business.

**P201. FORMATION OF VEHICULAR ACCESS AND DRIVEWAY AND REMOVAL OF WALL AT ROMAN HOUSE, 26 GRANGE TERRACE, BO'NESS EH51 9DS FOR MR V DUPLOYEN - P/12/0534/LBC (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P176 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for listed building consent for the formation of vehicular access/driveway at Roman House, a 'B' listed dwellinghouse and within the Grange Conservation area, at 26 Grange Terrace, Bo'ness.

**AGREED** to **REFUSE** listed building consent on the basis that the proposal is considered contrary to Falkirk Council Local Plan Policies EQ12 - 'Conservation Areas' and EQ14 - 'Listed Buildings' in that the proposal has an adverse effect on the visual amenity of the area and does not preserve or enhance the character and appearance of the application site and the surrounding area.

**P202. SUBDIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND ASSOCIATED WORKS AND FORMATION OF VEHICULAR ACCESS AND DRIVEWAY TO EXISTING DWELLINGHOUSE AT ROMAN HOUSE, 26 GRANGE TERRACE, BO'NESS EH51 9DS FOR MR V DUPLOYEN - P/12/0533/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P177 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for full planning permission for the erection of a single storey dwellinghouse and the formation of a driveway within the garden ground of Roman House, a 'B' listed dwellinghouse and within the Grange Conservation area, at 26 Grange Terrace, Bo'ness.

**AGREED** to **REFUSE** planning permission on the basis that the proposal is considered contrary to Falkirk Council Local Plan Policies EQ12 - 'Conservation Areas' and SC8 - 'Infill Development and Subdivision of Plots' in that the proposal has an adverse effect on the visual amenity, does not preserve or enhance the character of the area in terms of its location, setting, the architectural style and materials of building, is detrimental to the privacy and amenity of neighbouring properties, there are concerns at the height of the property in comparison to neighbouring properties and the backland development nature of the proposal.



The Convener agreed a further 5 minute recess prior to consideration of the following item of business. The meeting reconvened with all Members present as per the sederunt, with the exception of Councillor Mahoney.

Councillor Buchanan resumed the Convenership of the meeting after the recess and prior to consideration of the following item of business.

Councillor Mahoney re-entered the meeting during consideration of the following item of business but would take no part in consideration of this item of business.

**P203. FORMATION OF RAISED DECKING AREA AND DISABLED ACCESS RAMP TO FORM EXTERNAL SEATING AREA (RETROSPECTIVE) AT CRAIGLEE INN, REDDING ROAD, REDDINGMUIRHEAD, FALKIRK FK2 0DP FOR MRS MHARI FRENCH - P/12/0410/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P170 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for full planning permission for the formation of a raised timber decking area and disabled access ramp (in retrospect) to form an external seating area to the front of the Craiglee Inn, Redding Road, Reddingmuirhead, Falkirk.

**AGREED** to **GRANT** temporary planning permission for a period of one year and subject to the condition that the decking area be vacated by 10 p.m. each day and other appropriate conditions as determined by the Director of Development Services.

**P204. EXTENSION TO LOUNGE BAR AT REDDING AND WESTQUARTER UNITY CLUB, REDDING ROAD, REDDING, FALKIRK FK2 9TX FOR REDDING AND WESTQUARTER UNITY CLUB - P/12/0588/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P180 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for full planning permission for the erection of a single storey extension to accommodate an additional lounge/bar and seating area within the Redding and West Quarter Unity Club, Redding, Falkirk.

**AGREED** to **CONTINUE** consideration of the application to allow the applicant an opportunity to provide additional information to seek to address the concerns raised by the Coal Authority.

**P205. CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO HOT FOOD TAKEAWAY (SUI GENERIS) AND INSTALLATION OF FAN AT 6 WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0ES FOR NEW YORK PIZZA CO INC - P/12/0611/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 30 January 2013 (Paragraph P175 refers), Committee gave further consideration to Report (circulated) dated 22 January 2013 by the Director of Development Services and an additional Report (circulated) dated 19 February 2013 by the said Director of Development Services on an application for full planning permission for a change of use from a class 2, (financial, professional and other services) to a sui generis (hot food takeaway use) at 6 Waggon Road, Brightons, Falkirk.

**AGREED** to **CONTINUE** consideration of the application to allow officers to obtain information on the details of the removal of the yellow lining adjacent to the site.

In accordance with the decision taking at the start of the meeting, **NOTED** the following item had been continued to a future meeting to allow an inspection of the site by Committee and agreed that a decision on the application would be taken at a Special meeting of the Committee following the site visit:-

**P206. REMOVAL OF CONDITION ATTACHED TO HAZARDOUS SUBSTANCES CONSENT P/10/0582/HAZ TO ALLOW STORAGE OF ETHANOL IN WAREHOUSES M, N AND S, INCREASING THE OVERALL MAXIMUM STORAGE QUANTITY TO 41,000 TONNES AT STORAGE UK, GRANGE LANE, GRANGEMOUTH FK3 8EG FOR DIAGEO (SCOTLAND) LTD - P/12/0597/HAZ**

**P207. ERECTION OF RECYCLING BUILDING AT KINNEIL KERSE RECYCLING CENTRE, GRANGEMOUTH ROAD, BO'NESS EH51 0PU FOR FALKIRK COUNCIL - P/12/0830/FUL**

There was submitted Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for full planning permission for the erection of a recycling building at Kinneil Recycling Centre, Grangemouth Road, Bo'ness.

**AGREED** to **CONTINUE** consideration of the application to the next meeting to allow officers to obtain further information from the applicant in relation to the specific waste to be recycled.

The Committee was willing to consider the application at a Special meeting of the Committee to take a decision on the application on receipt of the requested information.

**P208. ERECTION OF RECYCLING BUILDING AND FORMATION OF CONCRETE HARDSTANDING AT ROUGHMUTE REFUSE TRANSFER STATION, BONNYBRIDGE FOR FALKIRK COUNCIL - P/12/0831/FUL**

There was submitted Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for full planning permission for the erection of a recycling building and the formation of a concrete hardstanding at Roughmute Refuse Transfer Station, Bonnybridge.

**AGREED** to **CONTINUE** consideration of the application to the next meeting to allow officers to obtain further information from the applicant in relation to the specific waste to be recycled.

The Committee was willing to consider the application at a Special meeting of the Committee to take a decision on the application on receipt of the requested information.

**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held ON SITE on MONDAY 11 MARCH 2013 commencing at 9.30 a.m.**

**PRESENT:** Councillors Black, Buchanan, Carleschi, Chalmers, McLuckie, Mahoney, Meiklejohn, Paterson (for application P/12/0597/HAZ) and Turner.

**CONVENER:** Councillor Buchanan.

**ATTENDING:** Development Manager; Development Management Co-ordinator (B Whittle); Senior Planning Officer (A Finlayson) (for application P/12/0827/FUL); Transport Planning Co-ordinator; Network Co-ordinator; Environmental Health Officer (S Henderson); Solicitor (K Quin); and Committee Officer (A Sobieraj).

**P209. APOLOGIES**

Apologies for absence were intimated on behalf of Councillor Nicol.

**P210. DECLARATIONS OF INTEREST**

No declarations were made.

**P211. ERECTION OF NEW SOCIAL HOUSING CONSISTING OF 8 VILLAS AND 16 FLATS, ASSOCIATED ROADS, PARKING AND SUDS PROVISION AT LAND TO THE SOUTH OF GLENFUIR COURT, SUMMERFORD, FALKIRK FOR FALKIRK COUNCIL - P/12/0827/FUL**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P196 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for full planning permission for the erection of new social housing consisting of 8 villas and 16 flats, associated roads, car parking spaces for 32 cars and 12 visitor spaces and associated SUDS provision on land to the south of Glenfuir Court, Summerford, Falkirk.

The Convener introduced the parties present.

The Senior Planning Officer (A Finlayson) outlined the nature of the application.

Mr Millard, the applicant's agent, was heard in relation to the application.

Mr Gillespie, the applicant's representative, was heard in relation to the application.

Ms Luke, an objector, was heard in relation to the application.

Mr Peden, an objector, was heard in relation to the application.

Mr Smith, an objector, was heard in relation to the application.

Mr Marshall, an objector, was heard in relation to the application.

The objections included the following issues:-

- The proximity of proposed flats to existing housing;
- The potential impacts on privacy and residential amenity; and
- The loss of open space and the traffic generation resulting from the development.

Questions were then asked by Members of the Committee.

Councillor Patrick, as local Member for the area, was heard in relation to the application.

Councillor D Goldie, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined at a Special meeting of the Planning Committee on 11 March 2013 at 2.00 p.m.

**P212. REMOVAL OF CONDITION ATTACHED TO HAZARDOUS SUBSTANCES CONSENT P/10/0582/HAZ TO ALLOW STORAGE OF ETHANOL IN WAREHOUSES M, N AND S, INCREASING THE OVERALL MAXIMUM STORAGE QUANTITY TO 41,000 TONNES AT STORAGE UK, GRANGE LANE, GRANGEMOUTH FK3 8EG FOR DIAGEO (SCOTLAND) LTD - P/12/0597/HAZ**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P206 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for hazardous substances consent for the variation of the terms of hazardous substances consent P/10/0582/HAZ to increase the amount of ethanol stored from 25,000 tonnes to 41,000 tonnes and to permit ethanol to be stored within other parts of the warehouse premises at the site of Storage UK, to the north west of the Town Centre at the junction of Grange Lane and South Bridge Street, Grangemouth.

The Convener introduced the parties present.

The Development Management Co-ordinator (B Whittle) outlined the nature of the application.

Mr Fox, the applicant's representative, was heard in relation to the application.

Mr Buchanan, the site owner, was heard in relation to the application.

Mr McKerral, on behalf of Grangemouth Yacht Club, an objector, was heard in relation to the application.

Councillor Spears, having indicated he had an objection to the application, was heard in relation to the application.

The objections included the following issues:-

- The existing use of the premises to store ethanol which caused a fungus to grow on Yacht Club boat decks, ropes, sails, hatch covers, moorings, pontoons and landing decks;
- The slippery surfaces from fungus and the risk of persons falling on the Yacht Club pontoons;
- The expense incurred by Yacht Club members to remove the fungus; and
- The health and safety concerns associated with black mould fungus.

Questions were then asked by Members of the Committee.

The visit included Members viewing the area of the yard next to the Yacht Club to view the areas experiencing fungal problems.

Councillor Spears, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined at a Special meeting of the Planning Committee on 11 March 2013 at 2.00 p.m.

**FALKIRK COUNCIL**

**MINUTE of SPECIAL MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on MONDAY 11 MARCH 2013 at 2.00 p.m.**

**PRESENT:** Councillors Alexander, Black, Buchanan, Carleschi, Chalmers, Mahoney, C Martin, Meiklejohn, McLuckie, Paterson and Turner.

**CONVENER:** Councillor Buchanan.

**ATTENDING:** Director of Development Services; Chief Governance Officer; Development Manager; Development Management Co-ordinator (B Whittle); Transport Planning Co-ordinator; Network Co-ordinator; Environmental Health Officer (S Henderson); Legal Services Manager (I Henderson); and Committee Officer (A Sobieraj).

**P213. APOLOGIES**

Apologies for absence were intimated on behalf of Councillor Nicol.

**P214. DECLARATIONS OF INTEREST**

No declarations were made.

Prior to consideration of business, the Member below made the following statement:-

- Councillor Alexander informed the Committee that as he had not attended the site visit he would not take part in consideration of hazardous substances consent application P/12/0597/HAZ (minute P216) but he would take part in consideration of planning applications P/12/0827/FUL, P/12/0830/FUL and P/12/0831/FUL (minute P215, P217 and P218) as he was sufficiently familiar with the sites.

**P215. ERECTION OF NEW SOCIAL HOUSING CONSISTING OF 8 VILLAS AND 16 FLATS, ASSOCIATED ROADS, PARKING AND SUDS PROVISION AT LAND TO THE SOUTH OF GLENFUIR COURT, SUMMERFORD, FALKIRK FOR FALKIRK COUNCIL - P/12/0827/FUL**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P196 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for full planning permission for the erection of new social housing consisting of 8 villas and 16 flats, associated roads, car parking spaces for 32 cars and 12 visitor spaces and associated SUDs provision on land to the south of Glenfuir Court, Summerford, Falkirk.

Councillor Chalmers, seconded by Councillor Carleschi, moved that the application be refused on the following grounds:-

- (1) serious concerns regarding road safety;
- (2) the exacerbation of the flooding issues, and
- (3) the loss of amenity to surrounding properties.

By way of an amendment, Councillor Mahoney, seconded by Councillor Black, moved that the application be granted in accordance with the recommendations in the Report together with an addendum that the spend of the sum of £129,280 to mitigate the loss of open space be agreed in consultation with the local community.

On a division, 5 Members voted for the motion and 6 voted for the amendment.

Accordingly, **AGREED** to **GRANT** planning permission, subject to the following conditions and subject to the spend of the sum of £129,280 to mitigate the loss of open space being agreed in consultation with the local community:-

- (1) Unless otherwise agreed in writing with Falkirk Council as Planning Authority prior to the commencement of development, confirmation shall be provided of the arrangements for the provision and phasing of a financial contribution of £21,600 to be made to the Education Service of Falkirk Council to mitigate development impacts on education capacity in the catchment area of the application site and £129,280 to mitigate the loss of open space in the vicinity of the application site.
- (2) Unless otherwise agreed in writing with Falkirk Council as Planning Authority, prior to the commencement of development details shall be provided of proposed open space improvements to the west of the site. Development shall not commence until approval of these details including for amendment as required.
- (3) Development shall not commence until a period of 28 days notice of work starting on site has been provided to the Falkirk Community Trust Keeper of Archaeology.
- (4) Development shall not commence until the following details of measures to protect trees on the site and provide additional planting and boundary enclosures have been submitted for the approval, including amendment as required, of the Planning Authority:
  - (i) Details of all limbing and tree surgery proposals for all tree works demonstrating compliance with current British Standards;
  - (ii) A method statement for all areas where trenching for services is required within tree root protection areas and for vehicular access to the approved SUDs drainage pond and the construction of this access; and
  - (iii) Details of all fence types and boundary treatments.



- (5) Development shall not commence until the temporary protection fencing detailed on the approved Tree Protection Plan has been erected on site. Protective fencing shall remain on site until the completion of all construction and engineering works.
- (6) No level changes, material storage, machinery access, fires or trenching (other than as detailed on the approved landscape plan) shall be located within the Root Protection Area detailed on the approved landscape plan.
- (7) Access to the Root Protection Area as detailed on the approved landscape plan shall only be for construction of the access track to the SUDs drainage pond and for trenching for drainage pipes at the positions shown on the approved landscape plan and shall be undertaken fully in accordance with the method statement required by condition (4) above.
- (8) No trees shall be removed or limbed other than as detailed on the approved landscape plan unless otherwise agreed in writing with the Planning Authority.
- (9) Acoustic glazing with a specification of 6/12/6 or equivalent shall be used in approved fenestration to achieve internal noise levels of 45dB daytime and 35dB night time when measured as LAqT.

Reason(s):-

- (1) To ensure education capacity is unaffected and open space loss is mitigated.
- (2) To provide acceptable mitigation of open space loss.
- (3) To allow for the opportunity to carry out archaeological survey of the site.
- (4-8) To ensure the protection of existing trees to be retained on site.
- (9) To protect residents from transportation noise.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which the permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01, 02, 03, 04A and 05-25.

Councillor Alexander left and re-entered the meeting during consideration of the following item of business but took no part in it.

**P216. REMOVAL OF CONDITION ATTACHED TO HAZARDOUS SUBSTANCES CONSENT P/10/0582/HAZ TO ALLOW STORAGE OF ETHANOL IN WAREHOUSES M, N AND S, INCREASING THE OVERALL MAXIMUM STORAGE QUANTITY TO 41,000 TONNES AT STORAGE UK, GRANGE LANE, GRANGEMOUTH FK3 8EG FOR DIAGEO (SCOTLAND) LTD - P/12/0597/HAZ**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P206 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services on an application for hazardous substances consent for the variation of the terms of hazardous substances consent P/10/0582/HAZ to increase the amount of ethanol stored from 25,000 tonnes to 41,000 tonnes and to permit ethanol to be stored within other parts of the warehouse premises at the site of Storage UK, to the north west of Grangemouth Town Centre at the junction of Grange Lane and South Bridge Street, Grangemouth.

**AGREED** to **GRANT** hazardous substances consent, subject to the following condition:-

- (1) The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the application form, nor outside the areas marked for storage of the substances on the plan which formed part of the application. The storage areas are those shown on the 'ROSSCO properties' untitled/undated plan as included in the consent application which shows locations A through to S.

Reason:-

- (1) To ensure the safe keeping of the substances at all times.

Informative:-

- (1) Please note, the substances covered by the existing consent (reference P/10/0582/HAZ) and that covered by this application (reference P/0597/HAZ) is category B6, which in the case of the existing/proposed activities at this site restricts the substance to ethanol/water mixtures at less than 70% ethanol by volume as confirmed by the applicant (email from the applicant to the Health and Safety Executive (HSE) dated 12/11/12).

Note: The Committee agreed that officers write to the Scottish Ministers asking that a national investigation be undertaken into the effects of black mould on premises in the vicinity of bonded warehouses.

The Committee **AGREED** to hear the following two items together as they related to the similar facilities and by the same applicant and in accordance with Standing Order 33.3 the Committee agreed to suspend Standing Orders to allow a representative from the applicant for both applications, who was present as an observer at the meeting, to respond to Members questions.

**P217. ERECTION OF RECYCLING BUILDING AT KINNEIL KERSE RECYCLING CENTRE, GRANGEMOUTH ROAD, BO'NESS EH51 0PU FOR FALKIRK COUNCIL – P/12/0830/FUL**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P207 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services and an additional Report (circulated) dated 4 March 2013 by the said Director on an application for full planning permission for the erection of a recycling building at Kinneil Recycling Centre, Grangemouth Road, Bo'ness.

**AGREED to GRANT** planning permission, subject to the following conditions:-

- (1) There shall be no commencement of work on site until such time as details of the exterior colour(s) of the proposed development has been submitted to, and approved in writing by, the Planning Authority.
- (2)
  - (i) No development shall commence on site unless otherwise agreed with the Planning Authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.
  - (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
  - (iii) Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
  - (iv) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) The development shall not commence on site until such time as a detailed drainage scheme has been approved in writing by the Planning Authority, the scheme to include the treatment of surface water runoff by Sustainable Urban Drainage (SUDS) methods.

Reason(s):-

- (1) To safeguard the visual amenity of the area.
- (2) To ensure the ground is suitable for the proposed development.
- (3) To ensure adequate drainage.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number 01.

**P218. ERECTION OF RECYCLING BUILDING AND FORMATION OF CONCRETE HARDSTANDING AT ROUGHMUTE REFUSE TRANSFER STATION, BONNYBRIDGE FOR FALKIRK COUNCIL - P/12/0831/FUL**

With reference to Minute of Meeting of the Planning Committee held on 27 February 2013 (Paragraph P208 refers), Committee gave further consideration to Report (circulated) dated 19 February 2013 by the Director of Development Services and an additional Report (circulated) dated 4 March 2013 by the said Director on an application for full planning permission for the erection of a recycling building and the formation of a concrete hardstanding at Roughmute Refuse Transfer Station, Bonnybridge.

**AGREED to GRANT** planning permission, subject to the following conditions:-

- (1) There shall be no commencement of work on site until such time as details of the exterior colour(s) of the proposed development has been submitted to, and approved in writing by, the Planning Authority.
- (2) Notwithstanding details previously submitted, the proposed development shall not commence on site until such time as a detailed drainage scheme has been approved in writing by the planning authority, details to include treatment of surface water runoff by Sustainable Urban Drainage (SUDS) methods.

Reason(s):-

- (1) To safeguard the visual amenity of the area.
- (2) To ensure adequate drainage.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which the permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01A and 02.
- (3) If at any time during the course of the development contamination, as defined in the Part 11A of the Environmental Protection Act 1990 is encountered, the applicant should contact the Council's Environmental Protection Unit.

**FALKIRK COUNCIL**

**Subject:** EXTENSION TO LOUNGE BAR AT REDDING & WEST QUARTER UNITY CLUB, REDDING ROAD, REDDING, FALKIRK FK2 9TX FOR REDDING & WESTQUARTER UNITY CLUB - P/12/0588/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 March 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Lower Braes

Councillor Steven Jackson  
Councillor Malcolm Nicol  
Councillor Alan Nimmo

**Community Council:** Lower Braes

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

**UPDATE REPORT FOLLOWING CONTINUATION**

1. Members will recall that this application was considered at the meeting of the Planning Committee on 30 January 2013 (copy of report appended), when it was agreed to continue the application for a site visit. This visit took place on 15 February 2013. The application was considered at the meeting of the Planning Committee on 27 February 2013 when it was agreed to continue the application to allow the applicant time to gather the requested information.
2. The parking layout that was submitted on site on 15 February has now been assessed by the Roads Development Unit and the Unit has confirmed that they consider the proposed parking layout to be acceptable. The additional information requested from the applicants to seek to address the objection from the Coal Authority has not yet been received.
3. A verbal update will be provided at the Committee meeting on 27 March 2013. On the basis that the applicants have now started to address the matters outlined in the recommended refusal reasons it is suggested that a further continuation would be appropriate to allow the applicants opportunity to resolve the outstanding matters.

#### **4. RECOMMENDATION**

- 4.1 It is therefore recommended that the Committee continue the application to allow the applicant time to gather the requested information.**

#### **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, 12 and 13.**

**Pp**

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**Director of Development Services**

**Date: 19 March 2013**

#### **LIST OF BACKGROUND PAPERS**

- 1. Falkirk Council Structure Plan**
- 2. Falkirk Council Local Plan**
- 3. Letter of representation received from Network Rail, Town Planning, 4<sup>th</sup> Floor, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0LQ on 23 October 2012.**

**Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.**

**FALKIRK COUNCIL**

**Subject:** EXTENSION TO LOUNGE BAR AT REDDING & WEST QUARTER UNITY CLUB, REDDING ROAD, REDDING, FALKIRK FK2 9TX FOR REDDING & WESTQUARTER UNITY CLUB - P/12/0588/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 February 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Lower Braes

Councillor Steven Jackson  
Councillor Malcolm Nicol  
Councillor Alan Nimmo

**Community Council:** Lower Braes

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was considered at the meeting of the Planning Committee on 30 January 2013 (copy of report appended), when it was agreed to continue the application for a site visit. This visit took place on Friday 15 February 2013.
2. The proposal was summarised by the case officer who advised that, despite reminders being sent to the applicant, no details of the parking layout requested by the Roads Development Unit had been submitted. Members were informed by the case officer that the applicant had submitted a Coal Mining Report on 12<sup>th</sup> February 2013. The Coal Authority had been consulted on the new information received and had responded maintaining their objection on the grounds that the information submitted is inadequate.
3. Mr Smith (Club Secretary) was heard in support of the application and advised that Network Rail have been advised with regard to the proposed ground works. Mr Nicol (Club Vice Chairman) was heard in support of the application and advised Members that a Coal Mining Report was submitted to the Council the previous week as well as Parking Layout Plans.
4. The case officer confirmed that a Mining Report had been received on Tuesday 12<sup>th</sup> February 2013 but no parking plan layout had been received.
5. A plan showing a proposed parking layout for 46 vehicles was handed to Members/case officer at the site visit on Friday 15<sup>th</sup> February 2013 by Mr Yanowicz, a club member, who was also heard in support of the application.



6. Following the site visit the Roads Development Unit has been consulted in relation to the proposed parking layout that was submitted by the applicants on site. Also, the applicants have been formally advised of the further comments received from the Coal Authority and their continued objection to the proposal. Additional information has been requested from the applicants to seek to address the concerns raised by the Coal Authority.
7. A verbal update will be provided at the Committee meeting on 27 February. On the basis that the applicants have now started to address the matters outlined in the recommended refusal reasons it is suggested that a further continuation would be appropriate to allow the applicants an opportunity to resolve these matters.

## **6. RECOMMENDATION**

- 6.1 It is therefore recommended that the Committee continue the application to allow the applicant time to gather the requested information.

### **Informatives:**

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, 12 and 13.

**Pp**

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**Director of Development Services**

**Date: 19 February 2013**

### **LIST OF BACKGROUND PAPERS**

4. Falkirk Council Structure Plan
5. Falkirk Council Local Plan
6. Letter of representation received from Network Rail, Town Planning, 4<sup>th</sup> Floor, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0LQ on 23 October 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

**FALKIRK COUNCIL**

**Subject:** EXTENSION TO LOUNGE BAR AT REDDING & WEST QUARTER UNITY CLUB, REDDING ROAD, REDDING, FALKIRK FK2 9TX FOR REDDING & WESTQUARTER UNITY CLUB - P/12/0588/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 30 January 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Lower Braes

Councillor Steven Jackson  
Councillor Malcolm Nicol  
Councillor Alan Nimmo

**Community Council:** Lower Braes

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

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

- 1.1 The Unity Club is a single storey detached premises located on a wedge of land adjacent to the main railway line and below the level of the adjacent Redding Road which is located north of the site.
- 1.2 The proposed development is for the erection of a single storey extension of approximately 89 square metres to accommodate an additional lounge/bar and seating area.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in by Councillor Malcolm Nicol.

**3. SITE HISTORY**

- 3.1 P/10/0214/FUL - Change of use of land to form outside drinking area was granted planning permission on 27th October 2010.
- 3.2 P/09/0285/FUL - Formation of External Smoking Area (Retrospective) was granted planning permission on 28th May 2009.
- 3.3 P/09/0098/FUL - Siting of Snack Van (Retrospective) was granted planning permission on 30th April 2009.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has requested a total of 55 incurtilage parking spaces be provided within the confines of the site and manoeuvring space to serve the existing building and the proposed extension. No details have been received from the applicant.
- 4.2 Scottish Water has no objection to the application.
- 4.3 The Environmental Protection Unit has no objection to the proposal. It has requested that if the application is granted consent, two informatives be attached, one in relation to contaminated land and the other in relation to the hours of construction.
- 4.4 The Coal Authority has requested that the applicant submits a Coal Mining Risk Assessment Report as the site falls within the defined Coal Mining Development Referral Area. No response has been received from the applicant. The Coal Authority objects to the planning application.

#### **5. COMMUNITY COUNCIL**

- 5.1 No comments have been received from the Community Council.

#### **6. PUBLIC REPRESENTATION**

- 6.1 During consideration of the application, one letter of representation was received from Network Rail. The comments raised can be summarised as follows:-
  - Whilst Network Rail has no objection in principle to the proposal, due to its close proximity to the operational railway, construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development. The developer should contact Network Rail's Asset Protection Engineers regarding all changes in ground levels, laying of foundations and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to any works commencing on site.

#### **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 Council Structure Plan***

7a.1 There are no relevant policies within the Falkirk Council Structure Plan.

### ***Falkirk Council Local Plan***

7a.2 Policy SC7 - "Established Residential Areas" states:-

*Within established residential areas, there will be a general presumption against the introduction of uses which would be incompatible with the residential character and amenity of the area. Proposals for appropriate community services (e.g. surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.*

7a.3 The existing social club use has been well established within this residential area. The proposed extension in terms of scale and design is considered to be in keeping with the original building. However, it has not been demonstrated that there is satisfactory parking provided within the site. The applicant has been given advice with regards to what details are required to assess the application, as well as being advised of the comments received from the Roads Development Unit; however the applicant has not made any contact or comment, despite a number of requests and reminders. It therefore has not been demonstrated by the applicant that the proposal is satisfactory in terms of access and parking provision.

7a.4 Policy SC10 - "Existing Community Facilities" states:

- (1) There will be a presumption against the loss of existing community facilities unless the Council is satisfied that there is no longer a need for the facility or an acceptable alternative facility is available; and*
- (2) The provision of new community facilities, including churches and places of worship, will generally be supported provided that:*
  - \*The proposal is compatible in terms of scale, character and design with the surrounding area;*
  - \* There is no adverse impact on local amenity*
  - \* There is good access by public transport, on foot and by cycle; and*
  - \* It complies with other Local Plan policies.*

7a.5 The proposed extensions to the property are considered to be compatible in terms of the scale and design of the proposed extension. It has not been demonstrated that there will be no adverse impact on the local amenity, as sufficient details in respect of parking requirements have not been submitted by the applicant, despite a number of requests and reminders. Therefore it has not been demonstrated that parking and access requirements can be fulfilled.

7a.6 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

- 7b.1 The material considerations in respect of this application are the consultation responses and the public representations received.

### ***Consultation Responses***

- 7b.2 The Roads Development Unit has requested a total of 55 incurtilage parking spaces be provided within the confines of the site and manoeuvring space to serve the existing building and the proposed extension. Despite several requests and reminders being sent to the applicant seeking information, the details requested have not been provided and the applicant has declined to contact officers to discuss these matters.
- 7b.3 The Coal Authority has requested that the applicant submits a Coal Mining Risk Assessment Report because the site falls within an area where their records indicate there are coal mining features and hazards which need to be considered in relation to the determination of this application; specifically likely unrecorded underground coal mining at shallow depth and the presence of a recorded mine entry. No response has been received from the applicant, despite a number of requests and reminders. The Coal Authority has therefore formally objected to the planning application.

### ***Assessment of Public Representations***

- 7b.4 The comments are noted from Network Rail given the close proximity to the operational railway. An informative could be attached to this affect if the application were to be consented.

## **7c Conclusion**

- 7c.1 The proposal is contrary to the Development Plan and insufficient details have been provided to warrant a recommendation to grant planning permission. In the light of the concerns raised by the Roads Development Unit and the Coal Authority, the applicant has been requested to provide further information to address these outstanding issues, but despite a number of requests and reminders has not made contact with officers.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that planning permission be refused for the following reason(s):-

- (1) The applicant has failed to submit a Coal Mining Report as well as details of the proposed parking requirements and, as such, the proposal is therefore contrary to Policy SC 07 'Established Residential Areas' and Policy SC10 'Existing Community Facilities' within the Falkirk Council Local Plan which seek to ensure suitable parking can be provided and there will be no impact on the character of the surrounding area.

**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, 12 and 13.

**Pp**

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**Director of Development Services**

**Date: 22 January 2013**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Representation received from Network Rail, Town Planning, 4th Floor, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0LQ on 23 October 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/12/0588/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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**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO HOT FOOD TAKEAWAY (SUI GENERIS) AND INSTALLATION OF FAN AT 6 WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0ES FOR NEW YORK PIZZA CO. INC - P/12/0611/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 March 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Upper Braes

Councillor Gordon Hughes  
Councillor John McLuckie  
Councillor Rosie Murray

**Community Council:** Brightons

**Case Officer:** Julie Seidel, (Planning Officer), Ext. 4880

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was considered at the meetings of the Planning Committee on 30 January and 27 February 2013 (copy of reports appended), when it was agreed to continue the application to allow further investigation in respect of the removal of yellow lines adjacent to the application site.
2. Following the last meeting of the Planning Committee an additional letter of representation was received from a neighbour. The letter raises concern in relation to the alleged unsolicited use of names and addresses to create false letters of support for the planning application. The letter of representation also raises concern about the removal of the yellow lines only hours before the Planning Committee meeting, the alleged identity of the perpetrator and method of removal.
3. The Council is aware of two separate verbal allegations by members of the public, that the applicant or his representative may have 'painted out' the yellow lines. The Reddingmuirhead and Wallacestone Community Council also contacted the Council following an allegation by one of their constituents, that the applicant removed the yellow lines prior to the Planning Committee site visit.
4. The Service wrote to the applicant on 28 February 2013 giving an opportunity to comment on the removal of the yellow lines. The applicant has not responded to the letter. A further email was sent to the applicant on 19 March 2013 on this matter. To date the applicant has not as yet responded to either communication.



5. Falkirk Council's Network Co-ordinator advises that the removal of the yellow lines is an offence in terms of Section 100 of the Roads (Scotland) Act 1984. Falkirk Council Roads Maintenance have responsibility for the named section of road on behalf of the Council and confirm that no person has been given any authorisation to remove the yellow lines. It should be noted that there is no Traffic Regulation Order for the yellow lines nor any record of when they were first painted. Therefore Roads Maintenance will be taking no further action in relation to their removal. As part of the Council's road maintenance responsibilities any yellow lines not covered by a Traffic Regulation Order, whether marked deliberately or in error, would be removed as resources allow.
6. Falkirk Council's Network Co-ordinator advises that a Traffic Regulation Order for double yellow lines, on both sides of Waggon Road from the extent of the existing lines (approximately 15 metres from the road junction) in a south westerly direction for a distance of 18 metres, will be promoted.
7. It is considered that there are no matters arising that would alter the original recommendation to refuse planning permission.

## **8. RECOMMENDATION**

### **8.1 It is therefore recommended that Committee refuse planning permission for the following reasons:-**

- (1) The proposed hot food takeaway would lead to an unacceptable intensification of the current class 2 use that is considered to have a limited impact on traffic generation and parking demand in the local area. The resulting increase in staff numbers, customers and vehicles visiting the premises associated with the proposal would result in an unacceptable increase in traffic generation and parking demand, to the detriment of road safety. The application site is located in an area which is not served by any public car parks, has extremely limited access to on-street parking and is located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and the use and the increased demand for on-street parking could have an adverse impact on the residential amenity of the surrounding residential area, contrary to the terms of policy EP9 'Food and Drink' of the Falkirk Council Local Plan.**
- (2) The proposed hot food takeaway is unable to achieve any off-street parking, contrary to the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".**

**Informative(s):-**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and Supporting Documents.

**Pp**

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**Director of Development Services**

**Date: 19 March 2013**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.
2. Letter of Objection received from Wholeness Through Christ, 51 Maddiston Road Brightons, Falkirk, FK2 0JR on 15 October 2012.
3. Letter of Representation received from Mr Ian McLuckie, Dunvegan, Park Avenue, Brightons, FK2 0JE on 16 October 2012.
4. 7.Letter of Objection received from Mr Michael Smith, Woodside Cottage, Waggon Road, Brightons, FK2 0ES on 17 October 2012.
5. Letter of Representation received from Mr Ian Mcluckie, Dunvegan, Park Avenue, Brightons, Falkirk, FK2 0JE on 27 October 2012.
6. Letter of Objection received from Ms Fiona Dryburgh, Knirke Cottage, Maddiston Road, Brightons, Falkirk, FK2 0JR on 30 October 2012.
7. Letter of Objection from McLean Bell Consultants Ltd, F.A.O Mr Alastair Bell, 33 Miller Park, Polmont, Falkirk, FK2 0UJ on 30 October 2012.
8. Letter of Objection received from Mr Peter Queen, 1 Comely Park, North Craigs, Rumford, Falkirk, FK2 0RU on 2 November 2012.
9. Letter of Support from June Anderson, The Gables, Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
10. Letter of Support from Claire Stewart, Stewart House, Whiteside Loan, Brightons, Falkirk FK2 0TB on 29 November 2012.
11. Letter of Support from Marion Scott, 10 Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
12. Letter of Support from Stevie Laing, 29 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
13. Letter of Support from David Gardner, Glenview, 33 Main Street, Brightons, Falkirk, FK2 0JS on 29 November 2012.
14. Letter of Support from Craig McCallan, 25 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
15. Letter of Support from Sharon Donnelly, Thorndon, Maddiston Road, Brightons, Falkirk, FK2 0JP on 29 November 2012.
16. Letter of Support from C Ballantyne, 3 Randolph Crescent, Brightons, Falkirk FK2 0HA on 29 November 2012.
17. Letter of Support from Diane Craig, 26 Victoria Place, Brightons, Falkirk, FK2 0NP on 29 November 2012.

18. Letter of Support from M Fairbairn, 54 California Road, Maddiston, Falkirk, FK2 0NP on 29 November.
19. Letter of Support from Mike Pirie, 36 Wallace Brae Drive, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
20. Letter of Support from J Ballantyne, 3 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
21. Letter of Support from Shaun Warden, 19 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
22. Letter of Support from Hannah Scott, 71 Wallace Brae Drive, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
23. Letter of Support from E Scott, 17 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
24. Letter of Support from Amanda Allison, Waterside House 33 Victoria Place Brightons, Falkirk FK2 0UA on 29 November 2012.
25. Letter of Support from Aileen Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
26. Letter of Support from K Ballantyne, 16 Wallace Brae Gardens, Reddingmuirhead, Falkirk, FK2 0GA on 29 November 2012.
27. Letter of Support from William Kelly, Langray, 9 Park Terrace, Brightons, Falkirk, FK2 0HY on 29 November 2012.
28. Letter of Support from Brian Maguire, 22 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
29. Letter of Support from Ian Hennaway, 9 Salmon Inn Park, Polmont, Falkirk, FK2 0JQ on 29 November 2012.
30. Letter of Support from Yvonne Kerry, 4 Glendale, Brightons, Falkirk FK2 0TW on 29 November 2012.
31. Letter of Support from Craig Smith, 17 Polwarth Avenue, Brightons, Falkirk, FK2 0HA on 29 November 2012.
32. Letter of Support from B Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
33. Letter of Support from David Thomson, Beechwood Cottage, Redding Road, Brightons, Falkirk, FK2 0HG on 29 November 2012.
34. Letter of Support from Owner/Occupier, 16 Wallace Brae Rise, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
35. Letter of Support from Owner/Occupier, 47 Slamannan Road, Limerigg, Falkirk, FK1 3BN on 29 November 2012.
36. Letter of Support from Janine Lamont, 15 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
37. Letter of Support from J Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
38. Letter of Support from Sylvia Fiddler, 27 Stanley Gardens, Maddiston, Falkirk, FK2 0LN on 29 November 2012.
39. Letter of Support from Hair and Beauty, Waggon Road, Brightons, Falkirk FK2 0ES, on 29 November 2012.
40. Letter of Support from Stuart and Lee McNeil, The Spar, Maddiston Road, Brightons, Falkirk on 29 November 2012.
41. Letter of Support from David Blelloch, 22 Greenlithe Drive, Rumford, Falkirk on 29 November 2012.
42. Letter of Support from Chris Thom, 52 Sunnyside Road, Brightons, Falkirk on 29 November 2012.

43. Letter of Support from Lisa Hunter, 11 Maddiston Road, Brightons, Falkirk, FK2 0ES on 29 November 2012.
44. Letter of Support from David Simmond, no address, on 29 November 2012.
45. Letter of Representation from Mr Ian McLuckie, Dunvegan, Park Avenue, Brightons Falkirk, FK2 0jPE on 1 March 2013.

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

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO HOT FOOD TAKEAWAY (SUI GENERIS) AND INSTALLATION OF FAN AT 6 WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0ES FOR NEW YORK PIZZA CO. INC - P/12/0611/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 February 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Upper Braes

Councillor Gordon Hughes  
Councillor John McLuckie  
Councillor Rosie Murray

**Community Council:** Brightons

**Case Officer:** Julie Seidel, (Planning Officer), Ext. 4880

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was considered at the meeting of the Planning Committee on 30<sup>th</sup> January 2013 (copy of report appended), when it was agreed to continue the application for a site visit. This visit took place on Friday 15<sup>th</sup> February 2013.
2. The proposal was summarised by the case officer and Members were advised that a number of letters of support that had been received had been withdrawn and allegations made that some of those letters had been submitted without the knowledge of the person named. Discussions on site then focused on the traffic impacts of the proposal and existing problems in the area associated with the movement of vehicles and lack of parking.
3. The applicants advised Members that although hot food sales directly from the premises to the visiting public are proposed it is intended that the majority of sales would be for delivery rather than collection. The applicants intend to encourage the public to use an online system to order hot food for delivery rather than visit the premises. Deliveries would be made by staff working from the premises. The applicant advised that he lived locally and he would encourage staff to park within his driveway or at the local community centre. Staff would use motorcycles to provide the deliveries. In response to questions from Members of the Committee, the applicants advised that it is proposed that the premises would be open for collection and deliveries of hot food between 5pm and 12pm. Staff would enter the premises to start food preparation at approximately 3pm.

4. The Convener read out a letter of objection from Mrs Fiona Dryburgh. The concerns raised included parking problems, smells and litter. A letter of support from Angus MacDonald MSP was read out and the Committee also heard representations from a local Member in support of the proposal with reference to the creation of local employment and regeneration of empty premises.
5. Objections on behalf of the operator of a nearby hot food shop were heard from a planning consultant. The consultant advised Members that his client did not have any concerns regarding potential competition on the grounds that people visiting the premises to buy pizza may also wish to visit his own premises to buy Chinese food but he does have traffic/ parking concerns. The consultant highlighted that if planning permission is granted for the proposal the Council can not prevent the public visiting the premises to collect hot food. Although the applicants have commented that the majority of sales would be for home delivery this can not be controlled by the Council and use of the premises by another hot food takeaway business would not require further planning permission. If this permission is granted any hot food facility could use these premises and not the online business proposal the applicant has before Committee.
6. Supporters who spoke at the site visit raised issues regarding the need to encourage regeneration of the area and commented that a class 1 retail use would generate the same traffic and need for parking as the proposed development.
7. The Council's Roads Officer advised that the proposed use would exacerbate existing parking issues in the area and the Council has no proposals to provide a car park in the area to serve the proposed development. A Member of the Planning Committee queried why double yellow lines directly in front of the application site had recently been removed and noted that vehicles were parking on the pavement restricting pedestrian access. The Council's Roads Officer confirmed that this work had been carried out recently because there is no traffic regulation order in place to allow the police to enforce parking restrictions on this part of the road. The Roads Officer also advised that prevention of parking on the pavement and obstruction of the footway is a matter for the police to enforce.
8. No matters arose at the site visit that would alter the original recommendation to refuse planning permission.

## **9. RECOMMENDATION**

- 9.1 **It is therefore recommended that Committee refuse planning permission for the following reasons:-**

- (1) The proposed hot food takeaway would lead to an unacceptable intensification of the current class 2 use, that is considered to have a limited impact on traffic generation and parking demand in the local area. The resulting increase in staff numbers, customers and vehicles visiting the premises associated with the proposal would result in an unacceptable increase in traffic generation and parking demand, to the detriment of road safety. The application site is located in an area which is not served by any public car parks, has extremely limited access to on-street parking and is located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and the use and the increased demand for on-street parking could have an adverse impact on the residential amenity of the surrounding residential area, contrary to the terms of policy EP9 'Food and Drink' of the Falkirk Council Local Plan.
- (2) The proposed hot food takeaway is unable to achieve any off-street parking, contrary to the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".

**Informatives:**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and Supporting Documents.

**Pp**

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**Director of Development Services**

**Date: 19 February 2013**

**LIST OF BACKGROUND PAPERS**

45. Falkirk Council Local Plan.
46. Letter of Objection received from Wholeness Through Christ, 51 Maddiston Road Brightons, Falkirk, FK2 0JR on 15 October 2012.
47. Letter of Representation received from Mr Ian McLuckie, Dunvegan, Park Avenue, Brightons, FK2 0JE on 16 October 2012.
48. 7.Letter of Objection received from Mr Michael Smith, Woodside Cottage, Waggon Road, Brightons, FK2 0ES on 17 October 2012.
49. Letter of Representation received from Mr Ian Mcluckie, Dunvegan, Park Avenue, Brightons, Falkirk, FK2 0JE on 27 October 2012.
50. Letter of Objection received from Ms Fiona Dryburgh, Knirke Cottage, Maddiston Road, Brightons, Falkirk, FK2 0JR on 30 October 2012.
51. Letter of Objection from McLean Bell Consultants Ltd, F.A.O Mr Alastair Bell, 33 Miller Park, Polmont, Falkirk, FK2 0UJ on 30 October 2012.

52. Letter of Objection received from Mr Peter Queen, 1 Comely Park, North Craigs, Rumford, Falkirk, FK2 0RU on 2 November 2012.
53. Letter of Support from June Anderson, The Gables, Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
54. Letter of Support from Claire Stewart, Stewart House, Whiteside Loan, Brightons, Falkirk FK2 0TB on 29 November 2012.
55. Letter of Support from Marion Scott, 10 Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
56. Letter of Support from Stevie Laing, 29 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
57. Letter of Support from David Gardner, Glenview, 33 Main Street, Brightons, Falkirk, FK2 0JS on 29 November 2012.
58. Letter of Support from Craig McCallan, 25 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
59. Letter of Support from Sharon Donnelly, Thorndon, Maddiston Road, Brightons, Falkirk, FK2 0JP on 29 November 2012.
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75. Letter of Support from Craig Smith, 17 Polwarth Avenue, Brightons, Falkirk, FK2 0HA on 29 November 2012.
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77. Letter of Support from David Thomson, Beechwood Cottage, Redding Road, Brightons, Falkirk, FK2 0HG on 29 November 2012.
78. Letter of Support from Owner/Occupier, 16 Wallace Brae Rise, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
79. Letter of Support from Owner/Occupier, 47 Slamannan Road, Limerigg, Falkirk, FK1 3BN on 29 November 2012.
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86. Letter of Support from Chris Thom, 52 Sunnyside Road, Brightons, Falkirk on 29 November 2012.
87. Letter of Support from Lisa Hunter, 11 Maddiston Road, Brightons, Falkirk, FK2 0ESon 29 November 2012.
88. Letter of Support from David Simmond, no address, on 29 November 2012.

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

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO HOT FOOD TAKEAWAY (SUI GENERIS) AND INSTALLATION OF FAN AT 6 WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0ES FOR NEW YORK PIZZA CO. INC - P/12/0611/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 30 January 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Upper Braes

Councillor Gordon Hughes  
Councillor John McLuckie  
Councillor Rosie Murray

**Community Council:** Brightons

**Case Officer:** Julie Seidel, (Planning Officer), Ext. 4880

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

- 1.1 This application relates to the change of use from a class 2, financial, professional and other services, to a sui generis, hot food takeaway use. The applicant has provided a sketch that shows how the internal layout of the hot food shop could be arranged, the drawing is not to scale and is therefore indicative only. The applicant has also submitted a specification for a proposed extraction fan, although the applicant has not shown where the proposed fan outlet would be located on the building.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application was called to Committee by Councillor John McLuckie.

**3. SITE HISTORY**

- 3.1 P/07/0523/FUL - change of use of shop (class 1) to estate agent (class 2) - granted on 9 August 2007, planning permission implemented. The most recent use of the application site was as a barber shop.

## **4. CONSULTATIONS**

- 4.1 The Roads Development Unit advise that the application site is located on a one-way street with parking restrictions. The application site is also within 25 metres of the junction with Maddiston Road at Brightons Cross, a busy, awkward shaped junction with poor forward visibility and parking restrictions. The proposed shop would have an approximate gross floor area of 33 square metres and as such 3 off-street vehicular parking spaces would be required to serve the proposed change of use. The parking requirements cannot be achieved and on street parking is heavily used. The Unit advise against the proposed development on the basis that the proposal could add to the difficult parking situation and road safety concerns in the overall location.
- 4.2 The Environmental Protection Unit advise that the information submitted in relation to odour and noise control is insufficient to fully consider the proposals. Given the close proximity of the application site to adjacent dwellings, a detailed specification of the proposed cooking odour extraction system, including its proposed location on the building, measures to control odour emissions and noise emissions are required.
- 4.3 Central Scotland Police have not responded to consultation.

## **5. COMMUNITY COUNCIL**

- 5.1 The Brightons Community Council comments that any proposal should be fully investigated to determine and ensure there would be no negative effects on existing business viability, traffic flow, congestion and parking and the storage of bins. The Community Council also recommends the implementation of a robust litter management scheme as a condition of any planning permission. The regeneration of the commercial property is welcomed in the village if a positive well managed plan can be made to enhance the diversity and amenity of the village.

## **6. PUBLIC REPRESENTATION**

- 6.1 43 third party comments were received in relation to the proposed development. This included 5 objections and 2 representations raising the following issues:
- The proposed development would exacerbate current parking, access and traffic generation problems at Waggon Road and impact on road safety;
  - Waggon Road is in a poor state of repair, with pot holes and damage to the pavement;
  - There is already a hot food shop in the area;
  - Submitted plans are poor quality and make it difficult to fully assess the proposals;
  - The applicant has not addressed litter or noise issues;
  - The proposal is in the 'wrong' location; and

- Two representations raised issues in relation to neighbour notification. However, this was clarified with the representee at the application stage to his satisfaction.

6.2 36 letters of support to the proposed development were received, raising the following issues:

- There are no other ‘quality’ food delivery operation in the area and the proposed development would offer a choice;
- The application would be a benefit to the local community;
- Local jobs would be created; and
- The proposal would result in a decrease in traffic generation as it would be primarily a delivery service.

6.3 Members should note that the Service have received letters and phone calls from various parties withdrawing support for the application, claiming that a letter was submitted without permission in their name, or a with different name at their address. To date these letters of support have been formally withdrawn.

## 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 Council Local Plan***

7a.1 Policy EQ13 ‘Areas of Townscape Value’ states:

*“The Council recognises the architectural and historic merit and potential of the additional areas of townscape value identified on the Proposals Map, which do not currently have Conservation Area status. Within these areas:*

- (1) The Council will undertake Character Appraisals to determine whether the areas merit designation as Conservation Areas, either as new Conservation Areas, or as extensions to existing ones; and*
- (2) Development proposals will be required to fit with the distinctive character of the area with particular reference to the historic pattern and density of development; its setting; the architectural style, massing and materials of buildings; landscape treatments; and boundary features.”*

7a.2 The application site is located in an area of townscape value, as identified on the policies and proposals map of the Falkirk Council Local Plan. The proposal relates to the change of use of an existing class 2 use to a hot food takeaway. The application does not include any significant alteration to the external fabric of the building and any proposed advertisements would form a separate application for advertisement consent. It is, therefore, considered that the distinctive character and historic setting of the surrounding area would not be significantly affected by the proposals, in accordance with policy EQ13 'Areas of Townscape Value'.

7a.3 Policy EQ15 'Re-Use of Buildings' states:

*"The Council will generally support the re-use or conversion of existing vacant buildings of architectural and townscape merit, provided that the building is structurally sound and capable of beneficial conversion, and an acceptable internal layout and level of amenity can be provided."*

7a.4 Policy EQ15 'Re-use of Buildings', gives general support for the re-use of the vacant property.

7a.5 Policy POL1 'Local Centres in Polmont' states:

*"The Council will seek to promote the role of Polmont, Brightons, and Laurieston as Local Centres, with a new Local Centre to be established at Redding Road. Changes of use which would reduce the range of shops and services available will not be permitted unless it can be clearly demonstrated that there is no demand for such uses."*

7a.6 The application site is located within the local town centre of Brightons. It is considered that the proposed change of use would reduce the range of services available in the local centre through the loss of a class 2 use. The applicant has not demonstrated that there is no demand for a class 1 or 2 use and as such the application fails to accord with policy POL1 'Local Centres in Polmont'.

7a.7 Policy EP9 'Food and Drink' states:

*"Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in other locations where they are capable of serving a tourism function. It must also be demonstrated that:*

- (1) There will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (2) In the case of proposals within a centre, the proposal is consistent with the specific policies covering the relevant centre, particularly with regard to safeguarding the centre's retail function; and*
- (3) Parking, access and traffic generation requirements are satisfied."*

7a.8 It is considered that the proposal would be unlikely to cause a significant impact on the amenity of surrounding residential properties by virtue of noise, disturbance, litter or odours, given the local town centre designation of the application site and surrounding uses in close proximity to the application site including public house, hot food takeaway, convenience store and shops. The proposal is in accordance with the general thrust of town centre policies. It is considered that the proposed change of use would result in an intensification of the existing building with no off-street parking to serve the proposal and extremely limited on street parking, resulting in an unacceptable increase in traffic generation on a narrow one way street with parking restrictions. On balance the application fails to accord with policy EP9 'Food and Drink'.

7a.9 Accordingly, on balance, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the responses to consultation, information submitted in support of the proposal and the assessment of public representations.

### ***Responses to Consultation***

7b.2 The impact of hot food takeaways on traffic flow and road safety are an important material consideration. These types of establishment tend to attract a high proportion of car borne and short stay customers. Often in the vicinity of hot food takeaways, there is an increased occurrence of obstructed parking and interruption to the flow of traffic on the roads adjacent to these premises. Customers are often tempted to park for short periods to quickly pop in and out of the premises, jeopardising the safety of other road users. Insufficient parking facilities in and around hot food takeaways can also have an adverse impact on the amenity of the immediate and surrounding area. The increased demand for on-street parking, particularly in the evenings and weekends when demand can be highest, often inconveniences adjacent residents.

7b.3 The application site is located within the local town centre of Brightons, but there are no public car parks in the area and extremely limited opportunities to park on street. Waggon Road is accessed off Maddiston Road and is in close proximity to Brightons Cross. The area is very busy with traffic and pedestrians and has parking restrictions, difficult junctions, a traffic crossing and a number of shops, public house and convenience store in close proximity to the site.

7b.4 On Waggon Road, and directly adjacent to the application site, there are parking restrictions in the form of double yellow lines. There is evidence that people generally ignore the parking restrictions and park on the pavement which can cause other road safety concerns. The one way system and restricted width of Waggon Road and Holmlea Avenue exacerbate the situation and reduce even further, opportunities to park or stop a vehicle.

- 7b.5 The application site is a modest building which if used for a class 1 or 2 use, is considered would generate a low number of staff and customers visiting the site (this is considered as a result of the limited floor size and functionality of the building). As such the existing use of the building is considered to have a limited impact on traffic generation and parking demand in the local area. The proposed change of use to a hot food takeaway would result in an unacceptable intensification of use. The increase in staff numbers (the applicant states in his supporting documents that he hopes to employ 10 people) and customers, deliveries and delivery drivers associated with a hot food use would result in an unacceptable level of traffic generation and parking demand to the detriment of road safety in the vicinity.
- 7b.6 The application site is located in an area with no public car parks and extremely limited access to on-street parking. The application site is also located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and as such could lead to an unacceptable impact on road safety and impact on the residential amenity of the wider residential area.
- 7b.7 The Environmental Protection Unit advise that the information submitted in relation to odour and noise emissions is inadequate. It is considered that the submission of a detailed specification could be the subject of a suitably worded planning condition should the Planning Committee decide to grant the application.

### ***Information Submitted in Support of the Proposal***

- 7b.8 The applicant has submitted a supporting statement which was also submitted to Brighton Community Council and a supporting statement in response to third party objections. Where relevant to material planning considerations the applicant raises the following points:
- The premises are a purpose built commercial property built in 1865;
  - The business would be a pizza delivery shop;
  - The opening hours would be 4pm to 12pm. Opening after the busy afternoon period when schools are coming out;
  - The applicant hopes to employ 10 full and part-time local staff;
  - Parking for 2 members of staff could be accommodated at the applicant's home address at Macland Cottage, Maddiston Road (situated adjacent to the Brighton's Inn);
  - The business would primarily offer a delivery service and there would be no increase in the current level of traffic;
  - There are 4 parking spaces beside the application site to serve Waggon Road;
  - The applicant has identified several hot food outlets in the locality with no off-street parking;
  - One or two local residents should not have the influence to prevent an ideal business opportunity;

- The Chinese was only given planning permission on the basis that they moved their door onto Waggon Road;
- Brightons Community Council unanimously agree with the proposal and welcome the opportunity for the new venture; and
- There is considerable support for the application.

7b.9 In relation to the supporting statements provided by the applicant, although the applicant intends at this stage to operate a pizza delivery outlet, planning permission would give the premises a permitted Sui Generis hot food use and as such any type of hot food could be prepared for sale from the premises. The applicant also comments that the majority of his customers would use a home delivery service, again this could not be controlled. The use, if granted, would still allow customers to visit the premises. As such it is considered that the proposed use would result in an intensification of the premises and an increase in traffic generation and parking demand. In particular, it should be noted that the applicant hopes to employ 10 people. The applicant's suggestion that 2 staff members could park at his home address is seen as an acknowledgement of the present parking difficulties at the application site. Again, parking for the proposal remote from the application site is not considered acceptable or enforceable.

7b.10 Letters of support for the application are noted, however it is considered that these do not outweigh the concerns in relation to road safety. The comments of Brightons Community Council are detailed in section 5.1 of this report. Each application is assessed on its own merits and whilst it is acknowledged that there are hot food takeaways throughout the Falkirk Council area without the benefit of off-street parking, this does not outweigh the concerns in relation to road safety at the application site. A planning application for the nearby hot food takeaway (Ref: F/2000/0175) for the change of use from a shop to a hot food takeaway was granted by the Planning Committee on 23 August 2000.

### ***Assessment of Public Representations***

7b.11 Parking, access, traffic generation and road safety are discussed in detail in paragraph 7b.6 of this report. In relation to other issues raised, the following comments are offered:-

- It is considered the quality of road and pavement surface at Waggon Road is similar to that in the surrounding area;
- It is accepted that there is a hot food takeaway in close proximity to the application site, however this is not a material planning consideration;
- It is accepted that the submitted floor plan is poor quality and not to scale, however this drawing is indicative only, the applicant has submitted the required level of information required to assess the proposed change of use;
- The application site is located in a local town centre location, in close proximity to another hot food takeaway and public house, it is therefore considered that noise generation and litter could be managed; and



- It is not accepted that the proposal is in the 'wrong location' being located within a local town centre, however issues in relation to traffic generation and parking demand are identified and acknowledged.

7b.12 The points raised in support of the application are noted.

## **7c Conclusion**

7c.1 The application has been assessed and on balance is considered to be contrary to the terms of the Development Plan in terms of road safety concerns, high traffic generation and congestion and the lack of suitable parking provision. The points raised through third party representation are addressed in the body of the report and the comments from consultees and the Brightons Community Council are noted. There are no material planning consideration that would warrant a departure from the Development Plan and the application is therefore recommended for refusal of planning permission.

## **8. RECOMMENDATION**

8.1 It is therefore recommended that Committee refuse planning permission for the following reasons:-

- (1) The proposed hot food takeaway would lead to an unacceptable intensification of the current class 2 use, that is considered to have a limited impact on traffic generation and parking demand in the local area. The resulting increase in staff numbers, customers and vehicles visiting the premises associated with the proposal would result in an unacceptable increase in traffic generation and parking demand, to the detriment of road safety. The application site is located in an area which is not served by any public car parks, has extremely limited access to on-street parking and is located on a narrow one way street with parking restrictions. It is considered that the surrounding road network could not absorb the proposal and the use and the increased demand for on-street parking could have an adverse impact on the residential amenity of the surrounding residential area, contrary to the terms of policy EP9 'Food and Drink' of the Falkirk Council Local Plan.
- (2) The proposed hot food takeaway is unable to achieve any off-street parking, contrary to the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".

**Informatives:-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and Supporting Documents.

**Pp**

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**Director of Development Services**

**Date: 22 January 2013**

## **LIST OF BACKGROUND PAPERS**

89. Falkirk Council Local Plan.
90. Letter of Objection received from Wholeness Through Christ, 51 Maddiston Road Brightons, Falkirk, FK2 0JR on 15 October 2012.
91. Letter of Representation received from Mr Ian McLuckie, Dunvegan, Park Avenue, Brightons, FK2 0JE on 16 October 2012.
92. 7.Letter of Objection received from Mr Michael Smith, Woodside Cottage, Waggon Road, Brightons, FK2 0ES on 17 October 2012.
93. Letter of Representation received from Mr Ian Mcluckie, Dunvegan, Park Avenue, Brightons, Falkirk, FK2 0JE on 27 October 2012.
94. Letter of Objection received from Ms Fiona Dryburgh, Knirke Cottage, Maddiston Road, Brightons, Falkirk, FK2 0JR on 30 October 2012.
95. Letter of Objection from McLean Bell Consultants Ltd, F.A.O Mr Alastair Bell, 33 Miller Park, Polmont, Falkirk, FK2 0UJ on 30 October 2012.
96. Letter of Objection received from Mr Peter Queen, 1 Comely Park, North Craigs, Rumford, Falkirk, FK2 0RU on 2 November 2012.
97. Letter of Support from June Anderson, The Gables, Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
98. Letter of Support from Claire Stewart, Stewart House, Whiteside Loan, Brightons, Falkirk FK2 0TB on 29 November 2012.
99. Letter of Support from Marion Scott, 10 Whiteside Loan, Brightons, Falkirk, FK2 0TB on 29 November 2012.
100. Letter of Support from Stevie Laing, 29 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
101. Letter of Support from David Gardner, Glenview, 33 Main Street, Brightons, Falkirk, FK2 0JS on 29 November 2012.
102. Letter of Support from Craig McCallan, 25 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
103. Letter of Support from Sharon Donnelly, Thorndon, Maddiston Road, Brightons, Falkirk, FK2 0JP on 29 November 2012.
104. Letter of Support from C Ballantyne, 3 Randolph Crescent, Brightons, Falkirk FK2 0HA on 29 November 2012.
105. Letter of Support from Diane Craig, 26 Victoria Place, Brightons, Falkirk, FK2 0NP on 29 November 2012.
106. Letter of Support from M Fairbairn, 54 California Road, Maddiston, Falkirk, FK2 0NP on 29 November.
107. Letter of Support from Mike Pirie, 36 Wallace Brae Drive, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
108. Letter of Support from J Ballantyne, 3 Randolph Crescent, Brightons, Falkirk, FK2 0HA on 29 November 2012.
109. Letter of Support from Shaun Warden, 19 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
110. Letter of Support from Hannah Scott, 71 Wallace Brae Drive, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
111. Letter of Support from E Scott, 17 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
112. Letter of Support from Amanda Allison, Waterside House 33 Victoria Place Brightons, Falkirk FK2 0UA on 29 November 2012.
113. Letter of Support from Aileen Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.

114. Letter of Support from K Ballantyne, 16 Wallace Brae Gardens, Reddingmuirhead, Falkirk, FK2 0GA on 29 November 2012.
115. Letter of Support from William Kelly, Langray, 9 Park Terrace, Brightons, Falkirk, FK2 0HY on 29 November 2012.
116. Letter of Support from Brian Maguire, 22 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
117. Letter of Support from Ian Hennaway, 9 Salmon Inn Park, Polmont, Falkirk, FK2 0JQ on 29 November 2012.
118. Letter of Support from Yvonne Kerry, 4 Glendale, Brightons, Falkirk FK2 0TW on 29 November 2012.
119. Letter of Support from Craig Smith, 17 Polwarth Avenue, Brightons, Falkirk, FK2 0HA on 29 November 2012.
120. Letter of Support from B Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
121. Letter of Support from David Thomson, Beechwood Cottage, Redding Road, Brightons, Falkirk, FK2 0HG on 29 November 2012.
122. Letter of Support from Owner/Occupier, 16 Wallace Brae Rise, Reddingmuirhead, Falkirk, FK2 0FB on 29 November 2012.
123. Letter of Support from Owner/Occupier, 47 Slamannan Road, Limerigg, Falkirk, FK1 3BN on 29 November 2012.
124. Letter of Support from Janine Lamont, 15 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
125. Letter of Support from J Webster, 24 Douglas Avenue, Brightons, Falkirk, FK2 0HB on 29 November 2012.
126. Letter of Support from Sylvia Fiddler, 27 Stanley Gardens, Maddiston, Falkirk, FK2 0LN on 29 November 2012.
127. Letter of Support from Hair and Beauty, Waggon Road, Brightons, Falkirk FK2 0ES, on 29 November 2012.
128. Letter of Support from Stuart and Lee McNeil , The Spar, Maddiston Road, Brightons, Falkirk on 29 November 2012.
129. Letter of Support from David Blelloch, 22 Greenlithe Drive, Rumford, Falkirk on 29 November 2012.
130. Letter of Support from Chris Thom, 52 Sunnyside Road, Brightons, Falkirk on 29 November 2012.
131. Letter of Support from Lisa Hunter, 11 Maddiston Road, Brightons, Falkirk, FK2 0ESon 29 November 2012.
132. Letter of Support from David Simmond, no address, on 29 November 2012.

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

**P/12/0611/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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**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT  
LAND TO THE SOUTH OF THE STABLES, BRAEFACE ROAD,  
BANKNOCK FOR MR JOHN PENMAN - P/12/0124/PPP  
**Meeting:** PLANNING COMMITTEE  
**Date:** 27 March 2013  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock  
Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Banknock, Haggs and Longcroft

**Case Officer:** Brent Vivian (Senior Planning Officer), ext. 4935

**UPDATE REPORT FOLLOWING COMMITTEE CONTINUATION**

1. Members will recall that this application was originally considered by the Planning Committee on 19 September 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 8 October 2012. The application was then considered by the Planning Committee on 31 October 2012 (copy of previous report appended).
2. The reports dated 19 September and 31 October 2012 recommended refusal of the application for the reasons that (1) it had not been demonstrated that a countryside location is essential for the proposed dwellinghouses and (2) it had not been demonstrated that the proposed dwellinghouses are essential to cross-fund the development of a sustainable rural business. The report dated 31 October 2012 also recommended refusal of the application for the reason that the access to the site is not suitable to accommodate the traffic likely to be generated by the proposed development due to the substandard visibility at the road junction.
3. Members will recall that the basis of the application is to cross-fund the delivery of development works granted under planning permission ref: P/07/0451/FUL, which was for a mixed use development including a dwellinghouse and sporting, leisure and horticultural uses and facilities. An indicative site plan was submitted with the application showing a potential seven house plots.

4. The economic downturn has presented a business opportunity to utilise the estate to provide opportunities for young people who need a supportive and alternative learning environment. The business therefore has two strands: sports and leisure; and training and social enterprise.
5. The Committee decided on 31 October 2012 to continue the application to the January Planning Committee meeting to allow the previously requested additional information to be provided by the applicant and for the applicant to provide details showing how the proposals for engineering works could be completed to the satisfaction of the Council. (The report dated 19 September 2012 detailed the outstanding concerns and the matters the applicant had been invited to make further submissions in relation to, and advised that no further submissions had been forthcoming in relation to those matters at that time).
6. The application was further considered by the Planning Committee on 30 January 2013 (copy of previous report appended), where it was agreed to continue the application to allow the applicant an opportunity to make further submissions regarding the business case and to provide details showing how the proposals for engineering works could be completed to the satisfaction of the Council.
7. The report submitted to the Committee on 30 January 2013 advised that, following the Committee decision on 31 October 2012 to continue the application, the Development Management Unit (DMU) decided to commission Lawrence Gould Partnership Ltd, in order to seek an independent review of the business case for the proposed enabling development. This was in part due to the applicant querying the financial expertise of the officers involved in assessing the business case.
8. The same Committee report advised that a report from Lawrence Gould Partnership Ltd was issued to the applicant's agent on 24 December 2012. The Lawrence Gould report reinforced the concerns raised by Council officers regarding the business case presented to date for the proposal enabling development and the overall sustainability of the business, and set out the issues and further information required.
9. The same Committee report advised that the applicant was involved with Falkirk Council's Growth and Investment Unit, Development Services, to develop a future strategy for the business at Cloybank. At a strategy meeting held on 11 January 2013, the applicant advised that his agent was to revise the Business Plan and resubmit it to the DMU. In order to reflect this advice, it was recommended that the application be further continued with the March Planning Committee meeting being the earliest date likely for further consideration by Committee (the Committee agreed to accept this recommendation – see paragraph 6 above).
10. The revised Business Plan was received on 21 February 2013. The accompanying revised financial model removed the two previously proposed Cloybank self build plots and the estate Manager's house from the investment programme. The revised financial model showed cross-funding from the sale of six house plots rather than seven as originally proposed (see paragraph 3 of this report).
11. Since the Committee last considered this application, the Council's Growth and Investment Unit, Development Services, have provided comments based on their involvement with the applicant in developing a strategy for the business (see paragraph 9 of this report) and their knowledge of the business and the applicant. Their comments include the following: -

- Starting up and running the business at Cloybank over the last 6 years has been a huge undertaking both financially and personally for the applicant and his wife. They have worked hard and with great sacrifice to get the business to where it is today, without any financial support, but now they are facing a critical phase in the long term development at Cloybank;
- The applicant has exhausted all other routes and channels to finance the project. They have approached various banks and building societies to try to obtain funding without success, and a wealthy private investor withdrew his support last year;
- Without the proposed enabling development, the grant aid funding of £90,000 from the Scottish Rural Development Programme would not be able to be accessed and it is clear that the viability of Cloybank would be placed in doubt given the current economic climate;
- The revised business plan was prepared by the applicant's architect and took account of the outcomes of the Strategy Workshop undertaken with the Council's Growth and Investment Unit;
- The applicant is hard working and trying to do the best for the community and build a business in tough economic times. He just needs some support at a crucial time. His commitment has to be admired; and
- The Growth and Investment Unit support the applicant (as their client) and the development of his business, and suggest that any grant of planning permission could be on the condition that the applicant enters into a legally binding agreement whereby the proceeds of the plot sales are reinvested into the development of the site and development is allowed on a phased basis.

12. The Council's Employment and Training Unit, Development Services, have also provided comments since the Committee last considered the application. Their comments include the following:-

- The Training assumptions and projections were thought by them to be too high in the first Business Plan. The revised assumptions reflect their discussions with the applicant about realistic capacity for delivery and related payment rates;
- Cloybank is uniquely placed to meet specific needs for young people who are furthest from the labour market and do require a non-traditional, flexible and innovative learning environment. The estate has specific areas of competency and skills and is accredited by the Scottish Qualifications Authority to deliver Core Skill Units of learning;
- The Employment and Training Unit currently has 24 trainees engaged with Cloybank and Falkirk schools have also commissioned delivery for some senior pupils representing about another 20 trainees, and there are additional social work referrals for bespoke interventions; and

- The current facilities at Cloybank are considered to negatively impact on the potential service that would be delivered and investment would be important to ensure the quality of the learning and the welfare facilities are improved, especially throughout the winter period, when some additional classroom activity may be required.

13. The revised Business Plan and supplementary information supplied by the applicant have been reviewed by Lawrence Gould Partnership Ltd. In their responses they reiterated a number of their previous concerns and advised that the Business Plan is still considered to be weak and still has some way to go before delivering the complete and convincing case that they would like to see. However, they acknowledge that the supplementary information has been helpful, in particular the assumptions which provide an understanding of how the income projections for some (but not all) of the business activities have been arrived at. Their comments include:

- They have difficulty in following the income projections for the Training but the statements from the Council's Employment and Training Unit are useful, as it supports the assumption of increased income based on the number of Training places increasing;
- They are still unconvinced that the projected wages budget is sufficient to cover the salaries of the existing staff and anticipated new positions;
- They accept that a project might involve outcomes other than purely financial goals and applaud such motives. However, such aims are still subject to the over-arching constraints of proving that a viable business model exists which is capable of delivering the stated outcome where 'enabling development' is proposed. The alternative is that if the business fails then development will have taken place which falls outwith planning policy;
- If the Council is to allow enabling development, there has to be a clear link between each and every element of the investment and the business activity generated by that activity;
- They note the letter of support from the Council's Growth and Investment Unit, which they sympathise with and understand fully; and
- If the Council were to look beyond the issues that they have highlighted, then they would propose that the development of the site is phased in such a way that permissions for the enabling development were tied to milestones as set out in the business plan, with new permissions being released as the milestones were achieved. They would also recommend that the business plan be revisited to ensure that the assumptions are realistic and achievable.

14. The application was previously recommended for refusal for the reasons detailed in paragraph 2 above. However, the comments by the Council's Growth and Investment Unit and Employment Training Unit include new information and observations which are material to consideration of the application.



15. Members will recall that the application was also continued by the Planning Committee so that the applicant could show how the proposals for engineering works could be completed to satisfy the visibility requirements at the entrance to the Estate. At the time of writing of this report, the Roads Development Unit had advised that the applicant has carried out work recently to improve visibility but the provision of visibility to meet the condition of the previous planning permission (ref: P/07/0451/FUL) has still not been satisfied. An update regarding this matter will be provided at the Committee meeting on 27 March.
16. In conclusion, it is recognised that the proposed development is contrary to the Development Plan and that objectors have legitimate concerns in relation to this. In addition, there remain strong reservations over whether the Business Plan is achievable, the need for up to seven dwellinghouses to provide cross-funding and the contribution of certain elements of the investment to income generation and sustainability of the business.
17. However, these concerns must be weighed against the individual circumstances of the case. In that regard, the recent comments by the Council's Growth and Investment Unit and Employment and Training Unit add weight in support of the application. In addition, the suggestion by the Council's Rural Business Consultant to phase the enabling development in such a way that permissions would be tied to milestones, mitigates to a degree the strong reservations in relation to the business case.
18. Drawing all these matters together, it is considered that there is sufficient justification to revise the previous recommendation to refuse the application and recommend that planning permission in principle be granted. However, it is recommended that the number of dwellinghouses granted by this permission is restricted to two. This would provide sufficient income from the two plot sales to enable the Scottish Rural Development Programme grant aid funding of £90,000 to be accessed, which together would 'kick-start' the project to provide more than sufficient funding for the proposed phase 1 works, which include the golf driving bays, the workshop/studio and IT training infrastructure.
19. The opportunity would be available for the applicant to apply for planning permission in the future for further enabling development. Any further application would trigger a review of the Business Plan and the case for further enabling development, having regard to factors including the availability of alternative means of funding, operating profit to support further inward investment and the business activity that would be generated by each investment.
20. Alternatively, the Committee could consider the grant of planning permission at this stage for a greater number of dwellinghouses. However, Members should be mindful that a viable business model has yet to be proven and income from plot sales could potentially be used to fund investment (e.g. the estate manager's house and the hydroponicum) where the link between the investment and business activity is far from clear.
21. It should be noted that if the Committee are minded to grant 5 or more dwellinghouses then a financial contribution in the sum of £2,600 per dwellinghouse would be required towards increasing the future capacity of Bankier Primary School. In addition, a financial contribution in the sum of £1,820 per dwellinghouse would be required towards improvements to open space / play facilities in the local area. These matters would need to be covered within the terms of the Section 75 Obligation.

22. RECOMMENDATION

22.1 It is recommended that the Committee indicate that it is minded to grant planning permission in principle subject to:-

- (a) The provision of visibility at the entrance to the Estate to the satisfaction of the Director of Development Services; and
- (b) The satisfactory completion of an obligation, within the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, to secure:-
  - (i) The reinvestment into the business of the income derived from the plot sales/house building; and
  - (ii) The phased development of the housing linked to the phasing of completion of elements of the investment programme for the business.

And thereafter, on the conclusion of the foregoing matter, remit to the Director of Development Services to grant planning permission in principle subject to the inclusion of such conditions as the Director of Development Services deems appropriate, to include a condition restricting the maximum number of dwellinghouses granted by this planning permission in principle to two.

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Director of Development Services

Date: 19<sup>th</sup> March 2013

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Letter of Objection from Angela Kerr, angela.kerr@sky.com, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
10. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT  
LAND TO THE SOUTH OF THE STABLES, BRAEFACE ROAD,  
BANKNOCK FOR MR JOHN PENMAN - P/12/0124/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 30 January 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock  
Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Banknock, Haggs and Longcroft

**Case Officer:** Brent Vivian (Senior Planning Officer), ext. 4935

**UPDATE REPORT FOLLOWING COMMITTEE CONTINUATION**

1. Members will recall that this application was considered by the Planning Committee on 31 October 2012 (copy of report appended), where it was agreed to continue the application to the January Planning Committee to allow the previously requested additional information to be provided by the applicant and for the applicant to provide details showing how the proposals for engineering works could be completed to the satisfaction of the Council.
2. The application had originally been considered by the Planning Committee on 19 September 2012 (copy of report appended), where it was agreed to continue the application for a site visit. This visit took place on 8 October 2012.
3. The previous officer reports considered by the Committee recommended refusal of the application and the officer's report dated 19 September 2012 detailed the outstanding concerns and the matters the applicant had been invited to make further submission in relation to. However, as detailed in the report, no further submission had been forthcoming from the applicant at the time of writing the report.
4. Following the Committee decision on 31 October 2012 to continue the application the Development Management Unit decided to seek an independent review of the business use for the proposed enabling development. This was in part due to the applicant querying the financial expertise of the officers involved in assessing the business case.

5. The Development Management Unit (DMU) subsequently commissioned Laurence Gould Partnership Ltd to review the business case. Laurence Gould Partnership Ltd are a rural business consultancy company specialising in dealing with all business operating in the rural sector. Laurence Gould Partnership Ltd reviewed the original planning application at Cloybank (ref: P/07/0451/FUL) for the Council.
6. A finalised report from Laurence Gould Partnership Ltd was issued to the applicant's agent on 24 December 2012. This report reinforced the concerns raised by Council's officers regarding the business case presented to date for the proposed enabling development and the overall sustainability of the business, and set out the issues and further information required.
7. The applicant is currently involved with Falkirk Council's Growth and Investment Unit, Development Services, to develop a future strategy for the business. The most recent meeting of the parties involved in this strategy was held on 11 January 2013. The Council's Growth and Investment Unit have advised that the applicant indicated at the meeting that his agent is to revise the Business Plan, and resubmit it to DMU. In order to reflect this advice, it is recommended that the application be continued for consideration with the March Planning Committee meeting the earliest date likely for consideration.
8. In addition, it should be noted that, at the time of writing this report, no information had been submitted by the applicant in relation to the engineering works to improve visibility at the site entrance.

**9. RECOMMENDATION**

- 9.1 **It is therefore recommended that the application be continued to allow the applicant an opportunity to make further submissions regarding the business case and to provide details showing how the proposals for engineering works would be completed to the satisfaction of the Council.**

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**Director of Development Services**

**Date: 22 January 2013**

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Letter of Objection from Angela Kerr, angela.kerr@sky.com, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
10. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT  
LAND TO THE SOUTH OF THE STABLES, BRAEFACE ROAD,  
BANKNOCK FOR MR JOHN PENMAN - P/12/0124/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 31 October 2012

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock  
Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Banknock, Haggs and Longcroft

**Case Officer:** Brent Vivian (Senior Planning Officer), ext. 4935

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was originally considered by the Planning Committee on 19 September 2012 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 8 October 2012.
2. At the site meeting, the case officer summarised the report, the applicant and his agent spoke in support of the application, objectors were heard and Members asked questions.
3. The applicant explained his original vision for the facility but highlighted that he has had to make changes to adapt to economic conditions which have constrained the availability of finance. He sees the current application, for house plots, as the only way to fund completion of the development works.
4. The objectors present reiterated and expanded on the concerns raised in their representations. They raised concerns that the development is not being run as a private estate, there is advertising e.g. of the coffee shop, and free visits by school children as was originally promised by the applicant did not take place. It was questioned what assurances could be given that funding from the proposed houses would be used to develop the business as it was originally intended. Concerns were raised that the estate essentially runs as a training facility. If this is the case, then an objector thought that presumably this could continue without the need for funding from the proposed houses. The viability of the business was queried and some objectors presumed that the banks would not lend because the current business plan does not work. Concerns were raised about a precedent being set for further housing, amenity impacts, the original planning permission not being complied with, the unsuitability of Braeface Road to take additional traffic, including construction traffic, poor drainage and arrangements for water supply.

5. Local Members present on the site visit spoke in support of the application. They considered that the facilities and training opportunities at Cloybank provide a valuable local asset. They acknowledged the applicant's aspiration to replace existing temporary buildings with permanent facilities to grow and enhance the business. The emphasis placed on the business plan and financial considerations in the planning assessment, and who scrutinised the financial information, were queried. A Local Member observed that the visual impact of the proposed dwellinghouses could be considered in the context of the visual impact of wind turbine proposals in the area and the Banknock SIRR development on the other side of Braeface Road. The same Local Member also observed that planning conditions could be attached to deal with road access and drainage problems.
6. The case officer advised that the application is to cross-fund the delivery of the development works granted by the original planning permission. In order to justify the seven house plots indicated in the application, the applicant submitted a Business Plan and financial modelling. Acceptance of the business case is fundamental to the principle of this application.
7. The case officer advised that the site lies within the countryside and that the boundary of the Banknock SIRR is Braeface Road. Housing development in the countryside is permissible under the Development Plan in limited circumstances but the application does not satisfy any of these circumstances. The application has therefore been assessed as contrary to the Development Plan.
8. The case officer highlighted that concerns were previously raised with the applicant regarding the detail within the business case and the applicant was invited to make further submissions but requested that the application be determined. The case officer at the site meeting advised that the financial information was assessed as failing to demonstrate (a) the need for the seven proposed dwellinghouses (to cross-fund the essential development works of the business); and (b) the prospect of a longer term sustainable rural business. The case officer advised that it had been suggested to the applicant that the financial model should be re-visited on a number of fronts. These for example included, the model could be revised so that the estate manager's house is not funded by enabling development, as it would be the private residence of the applicant rather than an essential development work for the business. Its removal from the model could, alone, question whether there is a case to justify seven dwellinghouses. The overall concerns raised with the applicant are summarised in Section 7b.9 of the previous report.
9. Since the site visit, three additional items of correspondence have been received. They can be summarised as follows:-
  - A letter of support received on 8 October 2012 (see the List of Background Papers). The reason given in support is that Cloybank is an important social enterprise as a source of local employment and in satisfying a training need for young people in the area who struggle within the conventional education system.
  - An e-mail from one of the objectors, who was unable to attend the site visit. In the e-mail, the objector reiterated the concerns raised in his objection, most of which were voiced by the objectors attending the site visit. The objector suggested that the case for enabling development is weak from a financial perspective and the source of income in the new business model, from Falkirk Council, is not guaranteed, therefore the continued viability of the business model is in doubt.



- An e-mail from one of the objectors who attended the site visit, raising additional concerns. In the e-mail, the objector queried whether any schools other than Bankier Primary School would be subject to future capacity issues which should be addressed by developer contributions.
10. Falkirk Council's Education Training Unit have confirmed that they have a 3 year Joint Working Agreement with Cloybank, which is put in place with all providers as it covers the standard contractual terms and conditions applicable to all programme delivery. The Agreement at Cloybank runs from 1 April 2011 to 31 March 2014. Within the terms of the Agreement, operational programmes are considered for approval but the Education Training Unit would not normally contract more than 3 programmes per year with the provider, at an overall value for the 3 programmes of £70,000 as a maximum spend. Cloybank is currently commissioned to deliver a Landscaping Programme. As detailed in the previous report, there is no long term contractual agreement between the Education Training Unit and Cloybank.
  11. Falkirk Council's Education Services considered the impact of the proposed development on Bankier Primary School, St Patrick's RC Primary School and Denny High School. As detailed in the previous report, a financial contribution would be required towards resolving anticipated capacity issues at Bankier Primary School. In relation to St Patrick's RC Primary School and Denny High School, Education Services advised that the size of the proposed development is below the threshold of consideration for these schools. St Modan's RC High School is within the Stirling Council area.
  12. As detailed in the previous report, compliance with the conditions of the previous permissions is currently being pursued with the applicant. This includes a potential breach of the condition which prohibits roadside advertising of the coffee shop. The coffee shop was granted on the basis that it operate as a welfare facility for staff and clients.
  13. Further to the Committee site visit the Roads Development Unit have surveyed the existing visibility at the junction of the Cloybank Estate access and Braeface Road. Condition 13 of planning permission ref: P/07/0451/FUL requires there to be no obstruction above 1 metre in height within 4-5 metres x 60 metres splay at this junction. Following the survey undertaken the Roads Development Unit advise that visibility at the junction falls short of the required dimensions and does not comply with condition 13 of planning permission P/07/0451/FUL. This issue is being raised with the applicant. The Roads Development Unit advise that subject to engineering measures being carried out (retaining walls etc) the required splays can be achieved. The poor visibility at this junction is a safety concern in respect of the current partially implemented planning permission and also the residential development now proposed. There is no proposal within the current application to improve the visibility at this junction. The poor visibility at the junction is an additional reason for refusal.
  14. It is considered that no matters were raised at the site visit which would alter the two refusal reasons recommended. In the light of the further assessment of visibility splays by the Roads Development Unit a third, additional, refusal is recommended.
  15. **RECOMMENDATION**
    - 14.1 It is therefore recommended that Committee refuse planning permission for the following reason(s):-

- (1) The application is considered to be contrary to Policy SC3 of the adopted Falkirk Council Local Plan as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouses.
- (2) It has not been demonstrated that the proposed dwellinghouses are essential to cross-fund the development of a sustainable rural business. The proposed dwellinghouses are therefore considered to represent unjustified development in the countryside.
- (3) The access to the site is not suitable to accommodate the traffic likely to be generated by the proposed development by reason of the substandard visibility at the junction of the Cloybank Estate access road and Braeface Road and this would cause danger and inconvenience to users of the adjacent road.

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**Director of Development Services**

**Date:** 23 October 2012

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Email of Objection from Angela Kerr, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
13. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.
14. Letter of Support from Aggregate Industries, Central Belt and Borders Area Office, Duntiland Quarry, Salsburgh, Shotts, North Lanarkshire, ML7 4NZ on 8 October 2012.
15. Email of Objection from Graham Wright on 9 October 2012.
16. Email of objection from Isobel Craib on 10 October 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.



**FALKIRK COUNCIL**

**Subject:** **DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT LAND TO THE SOUTH OF THE STABLES, BRAEFACE ROAD, BANKNOCK FOR MR JOHN PENMAN - P/12/0124/PPP**

**Meeting:** **PLANNING COMMITTEE**

**Date:** **19 September 2012**

**Author:** **DIRECTOR OF DEVELOPMENT SERVICES**

**Local Members:** **Ward - Denny and Banknock**  
**Councillor Jim Blackwood**  
**Councillor Brian McCabe**  
**Councillor John McNally**  
**Councillor Martin David Oliver**

**Community Council:** **Banknock, Haggs and Longcroft**

**Case Officer:** **Brent Vivian (Senior Planning Officer), ext. 4935**

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

- 1.1 The application seeks planning permission in principle for the development of land for housing purposes at Cloybank Estate, Banknock. An indicative site plan has been submitted with the application which shows seven dwelling plots. The development is described in the application as 'eco-friendly'. The basis of the application is to cross-fund the delivery of the development works granted under planning permission P/07/0451/FUL (see paragraph 3.1 of this report). Two of the proposed dwellinghouses would be built by Cloybank whilst the other five would be plot sales.
- 1.2 The application site mainly consists of grass enclosed by post and wire fencing. There is some new planting along the site boundaries and extensive new woodland planting to the south. The site is part of the eastern portion of Cloybank Estate, adjacent to Braeface Road.
- 1.3 The indicative site plan shows new hard and softwood perimeter planting to delineate the site and tie in with existing woodland planting. The indicative site plan shows the proposed dwellinghouses served by a new cul-de-sac, formed off the existing Cloybank Estate access road. The drainage strategy accompanying the application proposes discharge of the foul water to the existing sewer where the Doups Burn is culverted under Braeface Road. Alternatively, the strategy suggests that a private system with suitable maintenance arrangements could be considered.

- 1.4 A Business Plan and financial model have been submitted in support of the application. The financial model indicates that youth vocational training has been and is projected to continue to be the main source of Estate income by a significant margin. This represents a fundamental shift from the business plan accompanying the original application (P/07/0451/FUL), which proposed a private estate with a golf academy as a central aspect of the project, and the majority of income from golf membership, corporate membership and corporate days.
- 1.5 The information accompanying the application indicates that the youth training opportunities at Cloybank cover basic civil engineering, dry stone dyking, estate maintenance, woodland management, groundwork, joinery, plumbing and steelwork. Falkirk Council's Education Training Unit have had a working relationship in the placement and funding of trainees at Cloybank (see paragraph 4.7 of this report).
- 1.6 The information accompanying the application indicates that 10 full-time and 8 part-time jobs would be created by the Estate activities including the youth vocational training. This includes four trainers/supervisors to work with young people directed to them by Falkirk Council, four staff employed in the proposed hospitality suite, two part-time staff employed in the golf academy, and opportunities to place young people in employment at the Estate after they complete their training. In addition, the information states that the proposed dwellinghouses would provide an opportunity to train four modern apprentices in joinery, plumbing, bricklaying and electrical work.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires consideration by the Planning Committee as it has been called in by Councillor Oliver and Councillor McNally.

## **3. SITE HISTORY**

- 3.1 Planning application ref: P/07/0451/FUL for a mixed use development was granted in January 2009. The development granted by the permission comprised: a dwellinghouse, estate office, staff facilities, produce handling area, golf academy (indoor), artists studio/workshop and a hydroponicum; the use of land for fruit production, woodland, archery, clay pigeon shooting, soft fruit production (polytunnels) and a bee/honey farm; and the formation of a fishery pond and golf academy (outdoor). The application was subject to a Section 75 Planning Agreement (Planning Obligation), which committed the landowner to making the development available free of charge for visits by children attending schools within the Falkirk Council area, in accordance with a visit protocol attached to the Agreement. Education Services have advised that Bankier Primary School and other local schools have visited the site but compliance with the terms of the visit protocol is not monitored at present.
- 3.2 Development of the Estate is ongoing with the overall layout and a number of the various land uses largely established. These include the fishery pond, the golf facility, the archery and shooting areas and new woodland planting. However, the permanent estate buildings have not yet been constructed apart from a building approved as a private garage and golf academy office which is presently being used to administer the Estate's activities.

- 3.3 The proposed dwellinghouses would displace part of the soft fruit farm (partly polytunnels) granted under the original permission (ref. P/07/0451/FUL). To compensate for this, the applicant has advised that an area to the south, approved under the original planning permission for woodland, would be used for soft fruit production. This may be acceptable subject to a suitable woodland buffer being maintained along the Doups Burn to provide effective visual screening, protect the burn and ensure there is a continuous wildlife corridor.
- 3.4 There would appear to be a number of outstanding issues with respect to the conditions of the previous planning permission (ref. P/07/0451/FUL). Most notably, a programme of completion for the various approved habitats (e.g. wetland, moorland and wildflower meadow) and a Biodiversity Management Plan have not been submitted. In addition, it is understood that the intrusive site investigations recommended in the Geo-Environmental Desk Study have not been undertaken.
- 3.5 Planning application ref: P/10/0524/FUL for the erection of a timber cabin for residential purposes and use of a temporary building as a coffee shop (retrospective) was granted in August 2012. The coffee shop was granted on the basis of it operating as a welfare facility for staff and clients. A condition of the permission prohibits roadside signs advertising the coffee shop. This condition is in breach as there is a sign at the Estate entrance advertising the coffee shop. Conditions of the permission require removal of the temporary buildings following completion of the approved hospitality facilities and estate manager's house.
- 3.6 Compliance with the conditions of the previous permissions is currently being pursued with the applicant.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have advised that the section of the existing access road to serve the proposed dwellinghouses would need to be upgraded to adoptable standards, in accordance with the Falkirk Council Design Guidelines and Construction Standards (DGCS). In addition, the internal road layout (cul-de-sac) would need to comply with the DGCS. They are satisfied with the Flood Risk statement accompanying the application. They have reviewed the Drainage Strategy accompanying the application and advise that the options for stormwater (discharge into the ground through infiltration or directly into a watercourse) would require further consideration at detailed planning stage.
- 4.2 Scottish Water have no objection to the application, and have advised that there are no public sewers or public water mains in the vicinity of the proposed development.
- 4.3 The Environmental Protection Unit have reviewed a Phase 1 Geo-Environmental Desk Study submitted for planning permission ref: P/07/0451/FUL. They are satisfied that this report provides an adequate preliminary risk assessment to satisfy current legislation and statutory guidance. This report covers the site subject to the current application. They agree with the recommendations of the report to carry out further limited intrusive investigations at the site.
- 4.4 SEPA have referred the Council to their standing advice which is applicable to this type of small scale local development. This advice covers a range of matters, including waste water drainage, surface water drainage and their regulatory functions.
- 4.5 The Transport Planning Unit have not made any comments.

- 4.6 Education Services have advised that there are currently no capacity issues at Bankier Primary School but the collective impact of current housing permission and further allocated housing areas will require the school to be extended. They request the payment of a pro-rata financial contribution towards resolving anticipated capacity pressures at this school, at the rate of £2600 per dwellinghouse. They have not identified any other school capacity issues within the Falkirk Council area.
- 4.7 The Education Training Unit (ETU) have advised that they have a good working relationship with Cloybank which has supported many trainees in work placements whilst the business has been developing. To date, 3 Modern Apprentices have been employed to undertake landscaping/greenkeeping qualifications (with funding support from ETU). They are confident that Cloybank would work closely with them to maximise opportunities for young people in all aspects of their business should this application be successful. However, they advise that there is no long term contractual agreement between ETU and Cloybank (nor are they aware of any similar arrangement with other Falkirk Council Services), so the references (in the Business Case) to the employment of four supervisors based on referrals from Falkirk Council is based on a projection (which is by no means guaranteed) that the current level of business from the Council as a whole would be maintained or increased over time. If the applicant has other contractual agreements with other parties, they would have expected this to have been mentioned in the business forecast. They have reviewed the financial model accompanying the application and consider the level of projected training income is high taking into account the total contract spend between Cloybank and ETU over the last two years. They have not had any detailed discussions with Cloybank in regard to training delivery related to this application, other than an indication that Cloybank would be keen to offer relevant Modern Apprenticeship opportunities if the proposed development is approved.
- 4.8 The Coal Authority have reviewed the submitted mining information and are satisfied with the broad conclusions that there are no significant coal mining legacy issues at the application site. They advise that no specific mitigation measures are required as part of the development to address coal mining legacy issues.

## **5. COMMUNITY COUNCIL**

- 5.1 The Banknock, Haggs and Longcroft Community Council has not made any representations.

## **6. PUBLIC REPRESENTATION**

- 6.1 Seven objections to the application have been received. The main grounds for objection are:
- The proposal is contrary to the local plan;
  - The land is Green Belt;
  - The existing use was only granted based on it being a private estate, with only estate working buildings permitted;
  - Despite previous assurances by the application, the Estate does not operate by 'invitation only' e.g. there is a coffee shop;

- There is no guarantee that the profit/cash realised from the proposed development would be used to sustain the Estate as a going concern, let alone preserve a rural business/jobs;
- An independent chartered accountant should be engaged to assess whether the proposed development can overwhelmingly satisfy a sustainability argument or wider economic benefit;
- Granting the application would lead to a precedent for further housing development of the land;
- Disruption/loss of privacy, views and peace and tranquility;
- Loss of trees as a consequence of the proposal;
- Braeface Road is unsuitable to serve the proposed development due to its condition, narrow width and restrictions;
- The existing entrance does not support two vehicle widths; and
- Poor water pressure in the area.

6.2 One letter of support has been received. The reasons in support are:

- The self worth and achievement afforded to the children/young people who use the facility; and
- Granting the application would go some way to ease the financial constraints which no doubt hinder the expansion and continuing success of this much need facility.

## **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 Council Structure Plan***

7a.1 The proposed development is not considered to have any strategic implications therefore the policies of the approved Falkirk Council Structure Plan are not relevant.



## ***Falkirk Council Local Plan***

7a.2 The application site lies outwith the urban limits, within the countryside, as defined in the adopted Falkirk Council Local Plan. Adjacent to the application site, on the other side of Braeface Road, is land included within the Banknock and Haggs Special Initiative of Residential Led Regeneration (SIRR). In time, Braeface Road would therefore define the boundary of an expanded Banknock settlement.

7a.3 Policy SC3 - 'Housing Development In 'The Countryside' states:

*"Housing development in the countryside will only be permitted in the following circumstances:*

- (1) Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
  - *The operational need for the additional house in association with the business*
  - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
  - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
  - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
  - *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
  - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
  - *The restored or converted building is of comparable scale and character to the original building*
  - *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8."*

7a.4 This policy only permits housing development in the countryside in limited circumstances. These circumstances are where the housing is essential for the pursuance of a business requiring a countryside location, where the proposal involves the rehabilitation of former residential properties or the conversion of farm buildings to residential use, or where the proposal represents an appropriate infill opportunity. The proposed development is not considered to reflect any of these circumstances. Accommodation for the estate manager is currently catered for by a timber cabin and a permanent dwellinghouse was approved in grant of planning permission ref: P/07/0451/FUL. There is no suggestion that additional accommodation is required on the site to meet an operational need. The proposed development is therefore contrary to this policy.

7a.5 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 be informed by 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) Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*

*(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 indicated in Table 4.2, 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’.*

*(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.”*

7a.6 This policy requires new development to contribute to public open space and play provision. In this instance, the policy supports the payment of a financial contribution towards off-site provision, upgrading and maintenance as an alternative to on-site provision, as the proposed development falls below 10 dwellinghouses. The required amount of the contribution, as detailed in the Council's Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development is £1820 per dwellinghouse. Options for use of the contribution include improvements to Hollandbush Park in Banknock, or improvements to the nearest play park at Viewfield Road. This matter would be subject to a Section 75 Planning Obligation if planning permission were to be granted. Satisfactory conclusion of this matter in the Planning Obligation would ensure compliance with this policy.

7a.7 Policy SC14 'Education and New Housing Development' states:

*“Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council’s education policies. The contribution will be a proportionate one, the basis of which will be set out in the SPG Note on ‘Developer Contributions; Education and New Housing Development’. In cases where the school cannot be improved in a manner consistent with the Council’s education policies, the development will not be permitted.”*

7a.8 This policy indicates that developer contributions will be sought where there is insufficient capacity within the catchment school to accommodate children from the proposed development. In this instance, as detailed in paragraph 4.6 of this report, Education Services have identified a future capacity issue at Bankier Primary School. A pro-rata contribution at the rate of £2,600 per dwellinghouse would be required in accordance with the Council's Supplementary Planning Guidance Note for Education and New Housing Development. This matter would be the subject of a Section 75 Planning Obligation if planning permission were to be granted. Satisfactory conclusion of this matter in the Planning Obligation would ensure compliance with this policy.

7a.9 In light of the fundamental conflict with Policy SC3 of the adopted Falkirk Council Local Plan, the application does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations in respect of this application are National Planning Policy Guidance, the case for enabling development, landscape and visual impacts, the consultation responses and the representations received.

### ***National Planning Policy Guidance***

7b.2 Paragraph 94 of Scottish Planning Policy (February 2010) states that:

*“Development plans should support more opportunities for small scale housing development in rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing plots in which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding”.*

7b.3 A review of the Council's current policy on housing development in the countryside is currently taking place as part of the preparation process for the new Local Development Plan.

- 7b.4 As can be seen, Paragraph 94 of Scottish Planning Policy (SPP) supports opportunities for new housing in rural areas to fund rural businesses. The context is to ensure that the planning system supports sustainable economic growth in rural areas. It is important to note that SPP sets national policy for the whole of Scotland and therefore the reference to ‘rural areas’ needs to be taken in context. It is a matter for the new Local Development Plan to translate national policy within SPP into a local context. It is arguable whether the Falkirk Council area contains any rural areas in a national context. In this particular case, the application site is an accessible urban fringe location in a populated area and this can be distinguished from less populated areas where SPP recognises that *“new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal”*. The relevance of Paragraph 94 of SPP to the application is therefore arguable and is not considered to be a strong material consideration in support of this application.

### ***The Case For Enabling Development***

- 7b.5 The case for the application is to cross-fund the delivery of the development works granted under the previous planning permission (ref: P/07/0451/FUL). The applicant has stated that all other avenues of raising capital to move forward with completion of the works have been exhausted, although no evidence has been submitted to substantiate this statement.
- 7b.6 Notwithstanding the relevance of SPP, it is considered that there may be a case in principle for cross-funding the essential development works by enabling development if this can be justified in the circumstances and in order to support a sustainable rural business. The essential development works are the permanent Estate working buildings and the golf tuition station. The Estate working buildings provide for a range of facilities including offices, a private hospitality suite, an artist's studio/workshop, a machine and tool shed, store rooms, a fresh produce preparation area and a hydroponicum. The approved estate manager's house is not considered to be an essential development work as it is a private residence rather than development essential to the business (in the interim, there is an approved timber cabin on the site providing residential accommodation to meet any security or operational need).
- 7b.7 The financial model accompanying the application projects revenue to 2015, which coincides with the timescale for completion of the development works (including the proposed dwellinghouses). As youth vocational training is projected to be the main source of Estate income by a significant margin, and the future training opportunity would appear to be strongly linked to construction related trades, the longer term sustainability of youth training opportunities beyond the construction period, and the sustainability of the private estate, as originally envisaged, are questioned.
- 7b.8 A review of the financial model has revealed that there may be an opportunity to sustain the development programme for the essential works without the need for enabling development. This takes into account a number of factors and assumptions. These include funding by grants from the Scottish Rural Development Programme, reinvestment of operating profit back into the business, an assumed opportunity to significantly reduce some of the projected overhead costs, and changes to the phasing of the essential development works (and exclusion of the estate manager's house as an essential work). If this is the case, the benefits to the community in terms of the projected employment and training opportunities could be sustained without the need for enabling development.

- 7b.9 It is therefore considered that the essential need for the proposed dwellinghouses, to cross-fund the development of a sustainable rural business has not been demonstrated. The applicant has been advised of the concerns as detailed above, and invited to make further submissions. In particular, we have queried:-
- The long-term sustainability of youth training opportunities once construction work is completed i.e. after 2015;
  - The projected income from youth training and the nature of youth training opportunities beyond the projected build period i.e. after 2015;
  - The long-term sustainability of the private estate as originally envisaged;
  - Whether the development programme for the essential works could be sustained without the need for enabling development, by modifying the financial model; and
  - Whether the projected revenue from youth training could be sustained without the training opportunity that would be provided by construction of the proposed dwellinghouses.
- 7b.10 No response from the applicant has been received on the above matters and the applicant has requested that the application be determined.

### ***Landscape and Visual Impacts***

- 7b.11 The application site is elevated and visually exposed from the south, so that the proposed development would be visible from the south side of Banknock, the Kelvin Valley and higher ground further to the south in the environs of Castlecary and Cumbernauld. The site is also higher than the adjacent SIRR housing part of the site to the east. However, there is established young woodland on the sloping land to the south which could mitigate the visual impact of the proposed dwellinghouses once the trees have gained sufficient height in 15 to 20 years' time.
- 7b.12 The visual impact of the proposed development has been raised as a concern with the applicant. It has been suggested to the applicant that single storey dwellinghouses may be appropriate and that the site may not have the capacity to accommodate seven dwellinghouses due to concerns with the visual massing of built form. The proposed perimeter planting is supported, although the width of the planting may need to increase (to provide at least 3 to 4 lines of trees at 3 metre spacing), and a strengthening of the woodland screening on the south side may be required.
- 7b.13 The applicant has not responded to these concerns or provided any indication of the design of the proposed dwellinghouses. If planning permission were to be granted, a condition could be imposed to limit the height of the proposed dwellinghouses and specify the roof finishes, whilst the implementation and retention of suitable landscaping screening would be integral to mitigating landscape and visual impacts.

## ***Consultation Responses***

7b.14 The consultation responses are summarised in section 4 of this report and have been referred to, as appropriate, in other parts of this report. The requirements of the Roads Development Unit could be subject to conditions of any grant of planning permission. The financial contribution sought by Education Services would be the subject of a Section 75 Planning Obligation. The comments of the Education Training Unit are noted, and are important to understanding a fundamental aspect of the current business (youth vocational training) and the situation with regard to the contractual arrangement.

## ***Representations Received***

7b.15 The representations to the application are summarised in section 6 of this report. In response, the following comments are considered to be relevant:-

- The application is considered to be contrary to the adopted Local Plan for the reasons detailed in this report;
- The site lies within the countryside but is not designated as Green Belt;
- It is acknowledged that the previous planning permission was granted based on the development being a private estate;
- Planning permission has been granted for the use of a temporary building as a coffee shop. The coffee shop was granted based on it operating as a welfare facility for staff and clients;
- This report has assessed in detail the case for enabling development and the sustainability of the business as a source of employment and training opportunities;
- Every application is considered on its individual merits so it is not anticipated that granting the application would set a precedent;
- The proposed development is relatively small scale and no material impacts on amenity are anticipated. Perimeter planting, to provide visual screening, is proposed.
- Some young tree planting may be lost as a consequence of the proposed dwellinghouses. This would be more than compensated for by the proposed new planting;
- The Transport Planning Unit has not raised any safety or capacity issues in the use of Braeface Road to serve the proposed development;
- The existing Cloybank Estate access road to serve the proposed dwellinghouses would need to be upgraded to adoptable standards. This would include a requirement for widening the entrance;
- The benefits afforded through the training opportunities at the Estate are acknowledged.

**7c Conclusion**

- 7c.1 The proposed development is considered to be contrary to the Development Plan for the reasons detailed in this report. There are not considered to be any material considerations to justify setting aside the terms of the Development Plan. Whilst the applicant's case for the proposed dwellinghouses is to cross-fund the delivery of the development works granted by planning permission ref: P/07/0451/FUL, the determining issues of whether there is an essential need for the proposed dwellinghouses to fund the essential development works and the longer term sustainability of a rural business at this location have not been demonstrated. Importantly, the applicant has failed to respond to a number of queries in relation to these fundamental concerns as detailed in paragraph 7b.9 of the report. In conclusion, the application is recommended for refusal.

**8. RECOMMENDATION**

- 8.1 It is therefore recommended that Committee refuse to grant planning permission for the following reason(s):-
- (1) The application is considered to be contrary to Policy SC3 of the adopted Falkirk Council Local Plan as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouses.
  - (2) It has not been demonstrated that the proposed dwellinghouses are essential to cross-fund the development of a sustainable rural business. The proposed dwellinghouses are therefore considered to represent unjustified development in the countryside.

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**Director of Development Services**

**Date:** 12 September 2012



### **LIST OF BACKGROUND PAPERS**

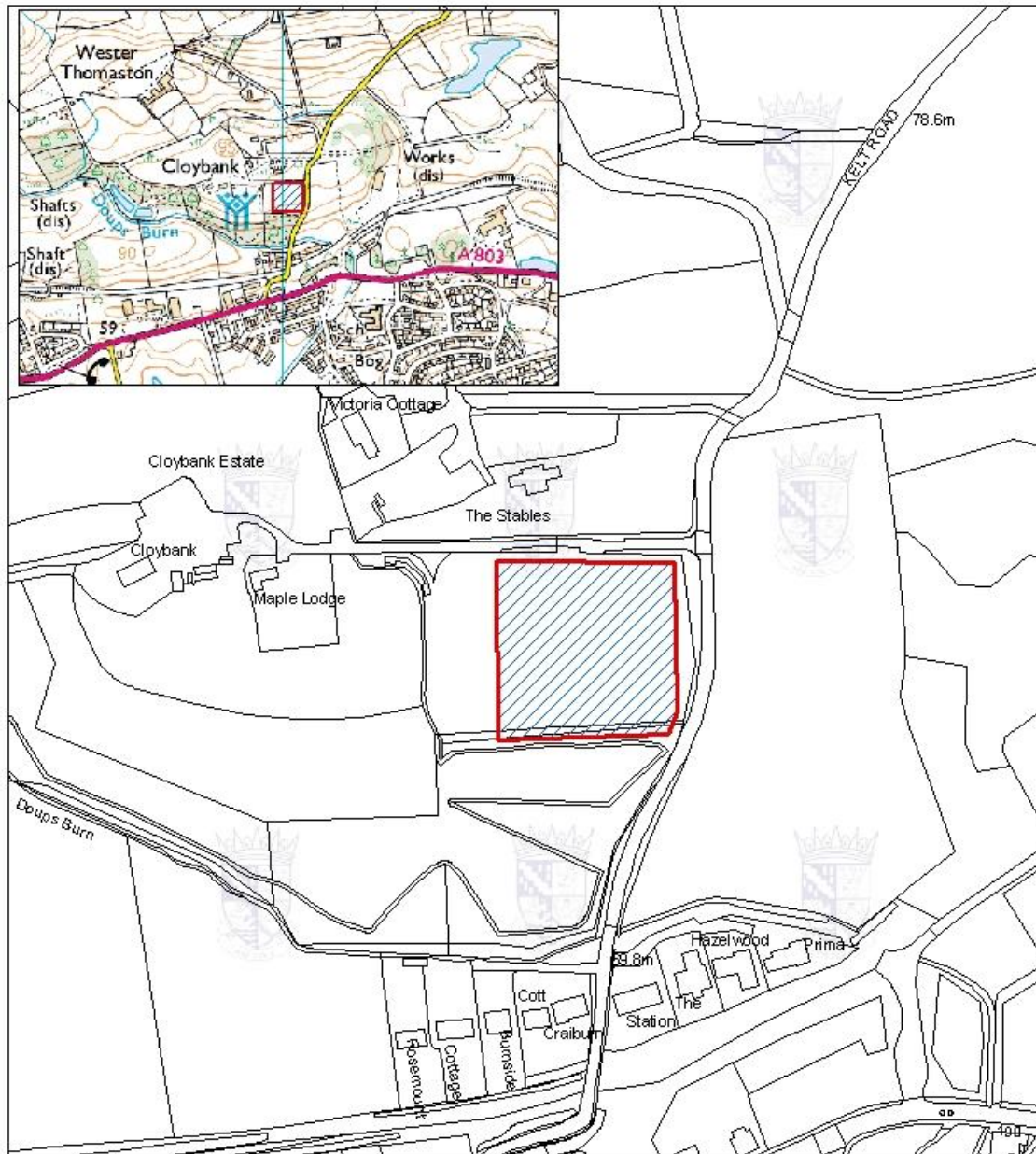
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
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5. Scottish Planning Policy, February 2010.
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11. Letter of Objection from Angela Kerr, angela.kerr@sky.com, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
10. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/12/0124/PPP**

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



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**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM SHOP (CLASS 1) TO FINANCIAL, PROFESSIONAL AND OTHER SERVICES (CLASS 2) AT 7 YORK LANE, GRANGEMOUTH FK3 8BD FOR THE LETTING CO – P/13/0034/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 March 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Grangemouth

Councillor David Balfour  
Councillor Allyson Black  
Councillor Joan Paterson  
Councillor Robert Spears

**Community Council:** Grangemouth

**Case Officer:** Julie Seidel (Planning Officer), Ext. 4880

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

- 1.1 This application relates to the change of use from a shop (Class 1) to a financial, professional and other services (Class 2) use. The applicant intends to use the shop as a property letting agency. The application site is located within La Porte Precinct, Grangemouth adjacent to York Square.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application is referred to the Planning Committee as Falkirk Council own the application site.

**3. SITE HISTORY**

- 3.1 None of relevance to the application.

**4. CONSULTATIONS**

- 4.1 The Roads Development Unit advise that the proposal would have no impact on the local road infrastructure and as such do not object to the application.

4.2 The Environmental Protection Unit do not object to the application.

## **5. COMMUNITY COUNCIL**

5.1 Grangemouth Community Council did not make comment.

## **6. PUBLIC REPRESENTATION**

6.1 No letters nor third party representations were received as a result of neighbour notification or advertisement in the local press.

## **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 Council Local Plan***

7a.1 Policy EP6 – "Hierarchy of Centres"

*"The Council will promote and enhance the hierarchy of centres as set out in Table 5.2 as the continuing focus of retail, leisure and major community uses in the Council area. The boundaries of centres are identified on the Proposals Map and the detailed policies in respect of each centre are set out under the relevant Settlement Statement".*

7a.2 The above policy promotes the hierarchy of town centers within Falkirk District. The relevant detailed policy in respect of this application is Policy GRA1 'Grangemouth Town Centre'.

7a.3 Policy GRA1 – "Grangemouth Town Centre"

- (1) *The Council will promote the role of Grangemouth Town Centre as a District Centre;*
- (2) *Within the core area, the Council will promote a balance of Class 1 retail, leisure, food and drink and Class 2 business uses. Changes of use will be permitted provided this balance is maintained, an active frontage is provided, and the proposal is satisfactory in amenity terms. Within upper storeys, the reuse of vacant floorspace for residential use will be supported; and*
- (3) *Within the secondary area, commercial, residential, or community uses will be supported. Redevelopment designed to improve and reinforce the link between the existing shopping precinct and the proposed new food store will particularly be encouraged.*

7a.4 The application site is located within Grangemouth Town Centre. It is considered that the proposed Class 2 use would maintain a good balance of Class 1 and 2 uses within the core town centre area. It is considered that an active shop frontage would be provided and the proposal is satisfactory in terms of amenity. The application accords with the terms of Policy GRA1 'Grangemouth Town Centre'.

7a.5 Accordingly, the proposal accords with the Development Plan.

**7b Material Considerations**

7b.1 There are no material considerations that require to be addressed.

**7c Conclusion**

7c.1 The application has been assessed as being in accordance with the Development Plan and there are no material planning considerations that require to be addressed.

**8. RECOMMENDATION**

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as planning authority.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.

**Informative(s):-**

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A.

**Pp**

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**Director of Development Services**

**Date: 19 March 2013**

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.

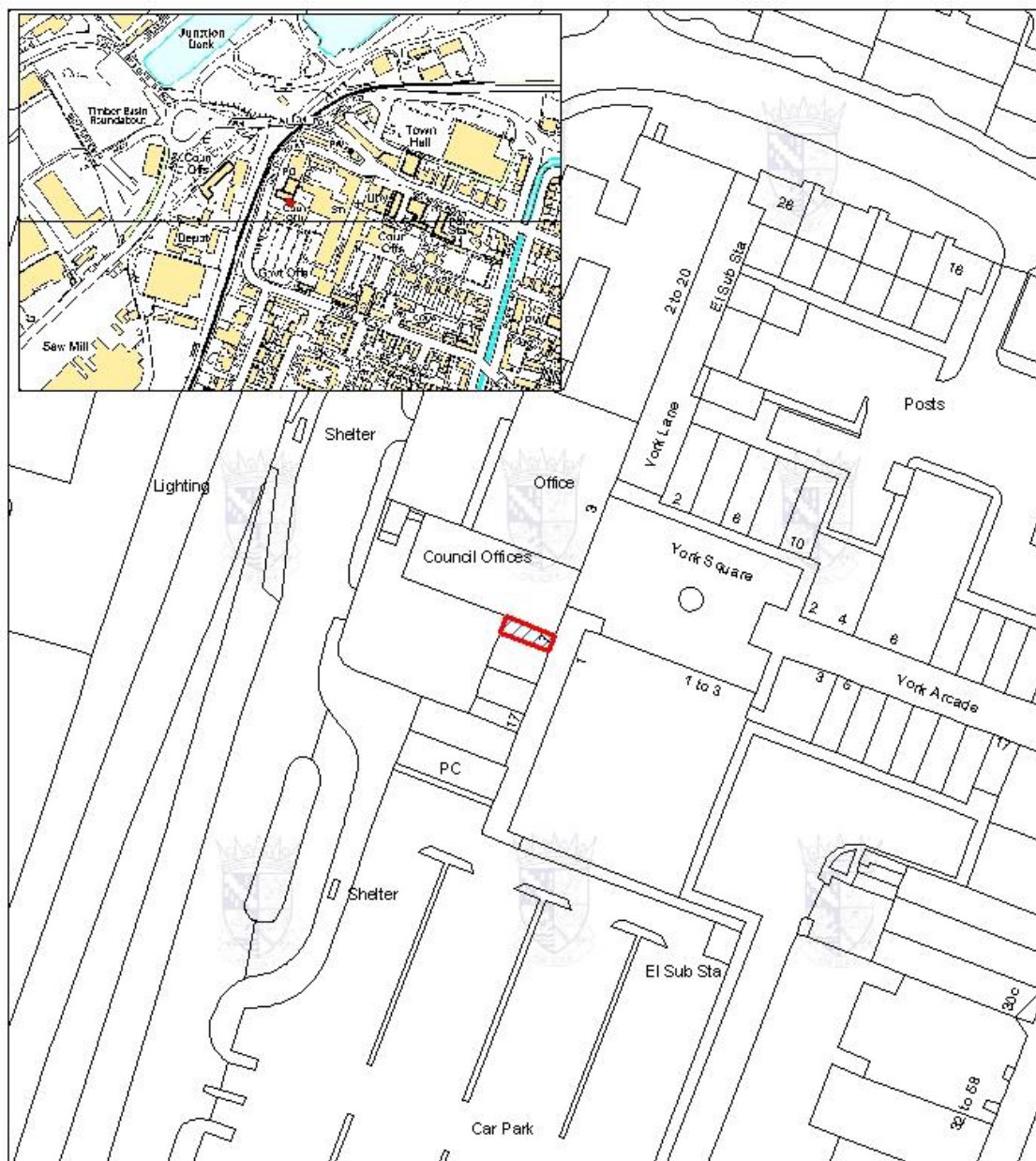
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/13/0034/FUL**

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FALKIRK COUNCIL

**Subject:** CONSULTATION ON PLANNING APPLICATION -  
MIXED USE DEVELOPMENT PROPOSAL AT BURGHMUIR,  
LINLITHGOW (0095/P/12)  
**Meeting:** PLANNING COMMITTEE  
**Date:** 27 MARCH 2013  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**1. INTRODUCTION**

1.1 In February 2012, West Lothian Council received a planning application for a mixed use development at Burghmuir, Linlithgow, adjacent to Junction 3 of the M9, comprising housing, retail, tourism, community use, and infrastructure works (see location plan). The infrastructure works include upgrading of M9 Junction 3 to a full 4 way interchange by the addition of west facing slip roads. The northern of these lies within the Falkirk Council area and was subject to a separate application for planning permission in principle (Ref: P/12/0058/PPP) which was granted by this Council on 14<sup>th</sup> January 2013.

1.2 Falkirk Council was consulted on the main planning application as a neighbouring authority and, on 4<sup>th</sup> April 2012, the Planning Committee approved a consultation response to West Lothian Council which stated:-

*“That, in its response to West Lothian Council on the application for mixed use development at Burghmuir, Linlithgow, the Council:*

- (i) Supports and welcomes in principle the proposal to upgrade Junction 3 of the M9 to a 4 way interchange; and*
- (ii) Objects to the proposed supermarket, on the basis that there is a risk of significant impact on vitality and viability of Bo’ness Town Centre, which has not been adequately addressed in the retail impact assessment.”*

1.3 A revised retail statement has recently been submitted by the applicant, Wallace Land, and West Lothian Council has sought Falkirk Council’s comments on this document. Clearly, the retail aspects of the proposal, and the potential implications for Bo’ness town centre, were a key concern for this Council in its original response. This report considers the amended retail statement, particularly in relation to Bo’ness town centre, and assesses whether any change is warranted to the Council’s views in the light of the new information. Account is also taken of the review of the retail statement carried out by consultants on behalf of West Lothian.



## **2. REVISED RETAIL STATEMENT**

- 2.1 It is noted from the revised retail statement that the size of the proposed foodstore has been reduced from 60,000 square feet to 40,000 square feet gross floorspace. The reduced scale of store is comparable in size to the Asda store in Stenhousemuir. Around 75% of the net floorspace would be for convenience goods, with 25% given over to comparison goods.
- 2.2 The original retail statement gave relatively little attention to the implications of the proposed store for Bo'ness town centre. Bo'ness was not included in the primary catchment of the store, in spite of the fact that the site is located only some 2.3 miles (3.7 km) from the eastern edge of the town. There was no analysis of Bo'ness town centre, and no attempt to quantify the trade which would be diverted from it.
- 2.3 These deficiencies have been addressed in the revised retail statement. Bo'ness is now included within the proposed store's primary catchment, and indeed provides some 47% of the catchment population. There is an assessment of the town centre's character, vitality and viability, which concludes that it is "a reasonable healthy town centre that attracts moderate levels of footfall throughout the centre, but provides limited variety and choice in terms of retail goods and services". A 13% vacancy rate is noted.
- 2.4 In terms of retail impact, the convenience turnover of the proposed store is estimated as £18m (compared with £23m for the previous larger store proposal). As previously, the retail statement argues that, although substantial trade will be attracted from Bo'ness residents, most of this will be trade which is already leaving the town for stores in Grangemouth and Falkirk. The estimate of convenience trade which will be diverted from Bo'ness town centre is £1.65m (some 9% of the town centre's current convenience turnover), of which the majority (£1.29m) is from the Tesco store. Comparison trade diversion is estimated at £0.3m (some 5% of the town centre's comparison turnover).
- 2.5 The amended retail statement concludes that these levels of trade diversion will not have a significant effect on the performance of the town centre as a whole, or undermine its vitality or viability. It suggests that the Tesco store will be able to withstand the levels of impact predicted, and points out that, in any case, the town centre's vitality and viability does not rely solely on convenience retailing.

## **3. ASSESSMENT**

- 3.1 The additional information and analysis on Bo'ness in the revised retail statement is welcomed.
- 3.2 The assessment of Bo'ness town centre's vitality and viability as 'fair' is noted. However, whilst there has been an improvement in its physical condition as a result of the THI, the level of convenience expenditure leakage remains a concern, the proportion of Bo'ness residents doing their main food shopping in Tesco having declined from 68% in 1998 to 39% in 2009. There is evidence that the Tesco store is under-trading (i.e. trading at levels significantly lower than company averages). The need for improved food shopping is highlighted in the Proposed Falkirk Local Development Plan, approved by the Council on 6 March 2013.

- 3.3 The level of convenience trade diversion from Bo'ness town centre predicted by the retail statement (£1.65m) appears a reasonable estimate. The review of the retail statement carried out by consultants on behalf of West Lothian Council gives a slightly higher figure of £1.9m. In either case, percentage impact will be of the order of 10%. However, contrary to the conclusions of the retail statement, this is considered to represent a significant degree of impact, bearing in mind that the convenience retailing function of Bo'ness town centre is critical to its future vitality and viability and its role as a District Centre. A new out of centre store at Burghmuir would accelerate expenditure leakage, reduce levels of activity in the town centre, and reduce the prospect of new food shopping investment in the town centre. This would undermine recent efforts to enhance its commercial attractiveness through the THI and other initiatives, and conflict with the Council's stated aspirations to improve food shopping and increase local expenditure retention in the town.
- 3.4 Consequently, although the scale of the proposed store has been reduced since the original submission, concerns about the impact on Bo'ness town centre remain. The level of impact predicted by the revised retail statement is not considered acceptable, in the context of the proposed store's out of centre location, and the policy support for existing centres expressed in Scottish Planning Policy, and the development plans of Falkirk and West Lothian Councils. It is therefore considered that the objection to the supermarket element of the Burghmuir proposals expressed in the Council's original consultation response should be maintained.

#### **4. RECOMMENDATION**

- 4.1 That West Lothian Council is advised that, in relation to the application for mixed use development at Burghmuir, Linlithgow, the Council maintains its objection to the proposed supermarket on the grounds that it would have a significant impact on the vitality and viability of Bo'ness town centre and undermine the Council's aspirations to improve it.

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**Director of Development Services**

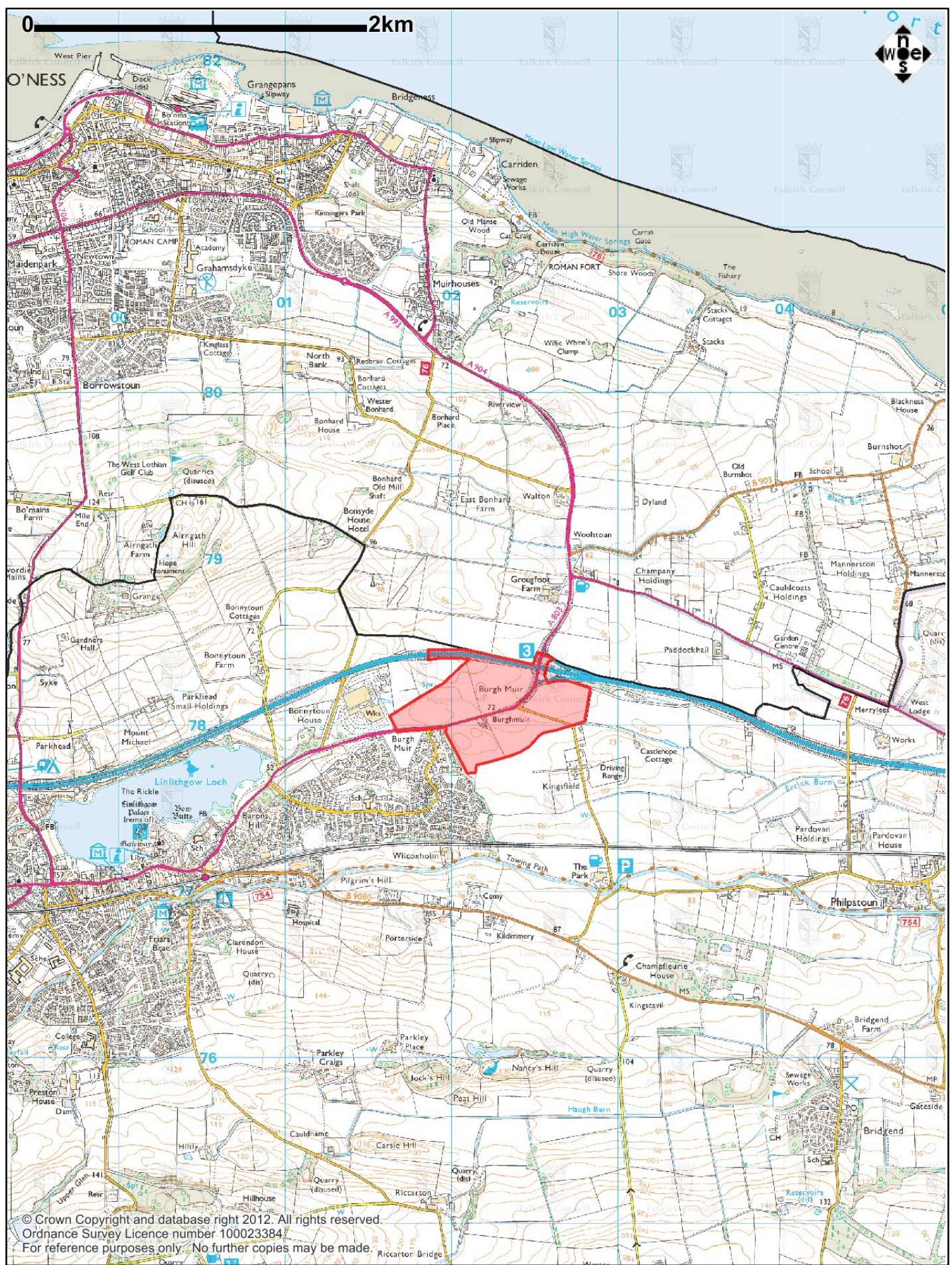
Date: 19 March 2013

Contact officer: Alistair Shaw, Development Plan Co-ordinator, ext 4739

#### **LIST OF BACKGROUND PAPERS**

None





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Planning Application 0095/P/12  
Burghmuir, Linlithgow

Location Plan

