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## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)  
ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS



THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

Falkirk Council

**IMPORTANT:** Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review. Please note that the guidance notes are issued by the Scottish Government. They apply to planning authorities generally and not specifically to Falkirk Council

In terms of the Act and regulations referred to above, Falkirk Council's Planning Review Committee sits as the "local review body".

Please use BLOCK CAPITALS if completing by hand.

## Applicant(s)

Name MISS LYN CAMPBELL  
Address 27 AVONBANK GARDENS  
DUNIPACE  
Postcode: FK6 6LH  
Tel [REDACTED]  
Mobile [REDACTED]  
Fax [REDACTED]  
e-mail [REDACTED]

## Agent

Name ROBERT MOYES  
Address 10 LABURNUM GROVE  
STIRLING  
Postcode: FK9 2PS  
Tel [REDACTED]  
Mobile [REDACTED]  
Fax [REDACTED]  
e-mail [REDACTED]

Mark this box to confirm all contact should be through your agent or representative: ☒

\* Do you agree to correspondence regarding your review being sent by e-mail? Yes ☐ No ☐

Planning authority's application reference number

P/12/0585/FUA

Site address

Description of proposed development

27 AVONBANK GARDENS, DUNIPACE  
CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED  
GARDEN GROUND, ERECTION OF RAISED DECKING AND ERECTION  
OF BOUNDARY FENCE

Date planning application declared  
valid by Planning Authority

26.10.2012

Date of Decision (Leave blank if  
appeal against non-determination)

25.3.2013

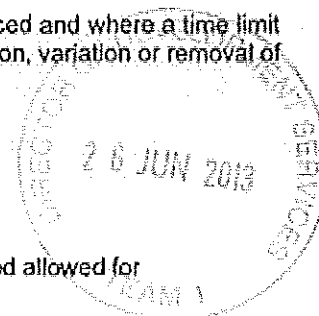
Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

## Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

## Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐



### Review procedure

The Planning Review Committee will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you consider that the review should be conducted by a combination of procedures. Please note, however, that the final decision as to procedure will rest with the Planning Review Committee.

1. Further written submissions
2. One or more hearing sessions
3. Site inspection
4. Assessment of review documents only, with no further procedure

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

AS THERE WERE NO FORMAL MEETINGS WITH OFFICERS TO DISCUSS THE CONCERNS ABOUT THE PROPOSALS IT IS APPROPRIATE TO RESERVE THE POSITION TO ALLOW A RESPONSE TO BE MADE TO ANY FURTHER ISSUES RAISED DURING THE REVIEW PROCESS.

### Site inspection

In the event that the Planning Review Committee decides to inspect the review site, in your opinion:

1. Can the site be viewed entirely from public land?
2. Is it possible for the site to be accessed safely, and without barriers to entry?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If there are reasons why you think the Planning Review Committee would be unable to undertake an unaccompanied site inspection, please explain here:

THE SITE OF THE PROPOSED DEVELOPMENT IS IN THE REAR GARDEN AREA OF THE PROPERTY.

### Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Planning Review Committee to consider as part of your review.

If the Planning Review Committee issues a notice requesting further information from any other person or body, copies of any such information received will be sent to you and you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State in the space provided the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Are you submitting a statement of reasons for review in a separate document?

Yes ☒ No ☐

#### Reasons for Notice of Review

SEE SEPARATE SHEET.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

Are you submitting additional documentation?

☒ ☐

If you answer yes to either or both of the above questions, you should explain in the box below, why you are raising new material and/or introducing additional documentation, why it was not raised with or made available to the appointed officer before your application was determined and why you think it should now be considered in your review. Please note that it will be for the Planning Review Committee to decide whether or not all or any of the new material/additional documentation will be considered in the review.

THE ISSUE OF "OWNERSHIP" OF THE SITE IS, IN CONJUNCTION WITH THE PLANNING HISTORY OF THE ASSOCIATED DEVELOPMENT, IMPORTANT TO THE CASE. THE PLANNING AUTHORITY DID NOT, DURING THE ASSESSMENT OF THE APPLICATION, ENTER INTO DISCUSSIONS ABOUT THEIR CONCERNS SUCH THAT THE APPLICANT HAD AN OPPORTUNITY TO PROVIDE FURTHER BACKGROUND INFORMATION.

#### List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1.	LITTER FROM ENFORCEMENT OFFICER 4.7.2012.
2.	COPY OF FEN PLAN FOR THE APPLICANT'S PROPERTY
3.	COPY OF "DEED OF CONDITIONS" PLAN FOR HOUSING ESTATE.
4.	APPROVED LANDSCAPE PLAN FOR HOUSING ESTATE. 22.10.99
5.	APPROVED HOUSING ESTATE PLAN 10.9.98
6.	FOUR NO. PHOTOGRAPHS.
7.	
8.	
9.	
10.	

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

### Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

Statement of your reasons for requiring a review

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



**Note.** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

### Declaration

I the ~~applicant~~/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

25/6/13

This form and other documents should be returned to:

The Development Manager,  
Development Services,  
Abbotsford House,  
Davids Loan,  
Falkirk FK2 7YZ

MISS LYN CAMPBELL, 27 AVONBANK GARDENS, DUNIPACE, FK6 6LH  
PLANNING AUTHORITY REFERENCE P/12/0585/FUL

#### REASONS FOR NOTICE OF REVIEW

The Applicant is seeking a Review as she considers that the Decision taken in relation to her Planning Application is unreasonable in so far as her proposal is proportionate to the scale of her residential property and located within the curtilage of her house.

As advised in the details submitted with the Planning Application, works associated with the proposal, for which Consent is being sought, have already commenced. The Applicant apologises to the Council for this situation but stresses that this arose following advice from a third party who was not fully aware of the recently revised planning legislation and in particular the relevant changes to the Development Order which outlines "permitted development rights" for householders.

The Applicant first became aware of the need to seek planning permission in the letter of 4<sup>th</sup> July 2012 from the Council's Enforcement Officer in which he stated "it has come to my notice that you have carried out works which seem to indicate an intended relocation of your boundary fence thus enclosing open space within your private garden ground." (Document 1) The letter further recommended that works be desisted and a suitable application for planning permission made. The Applicant stopped works immediately and instructed preparation of suitable plans which were submitted to the Council, dated 21<sup>st</sup> September 2012. The development description utilised in the Application Form was based on the comments made in the Enforcement Officer's letter namely "proposed change of use from private open space to enclosed gardening ground and erection of raised decking structure and relocation of boundary fence".

Following receipt of the Notice Intimating Refusal of Planning Permission, the Applicant sought further advice, including from her Solicitor and researched items relating to the "planning history" of the housing development within which the application site is located. Having undertaken the appropriate research, it is now recognised that the "description of development" utilised in the Planning Application is incorrect. There should in fact have been no reference to the "proposed change of use from private open space" as the area involved is part of the feued boundary to the rear of the house and therefore part of the legal curtilage and garden area. It is acknowledged that the southern area of the feu has not been maintained in a "manicured form" but is an informal naturalised area reflected in the housing developer's original approved landscaping plan. The informal landscape area, in common with the other houses on the southside of Avonbank Gardens which is adjacent to the Avon Burn, is beyond the line of an original low chainlink fence which was presumably installed by the developers to differentiate the two landscape treatments within each garden area and provide a measure of security for children playing perhaps tempted to access the area around the Burn. The chainlink fence has been replaced over time with a timber screen fence. The following documents are offered as evidence:-

Document 2 – the Feu Plan for the Applicant's house clearly indicating the plot boundaries, including to the middle of the Avon Burn.

Document 3 – is an extract from the Plan attached to the Deed of Conditions which clearly indicates all adjacent properties having similar feu boundaries to the middle of the Avon Burn.

Document 4 – a letter and landscape plan of 22<sup>nd</sup> October 1999 from Falkirk Council approving a landscape layout for the site. Looking in particular at the properties adjacent to Avon Burn the feu boundaries can be seen together with the "line of the chainlink fence" and the existing vegetation which was to be retained. Reference to the Council's encouragement to retain existing trees and the like is contained within Condition No. 11 of the original planning consent from the 10<sup>th</sup> September 1998, Planning Authority Reference F/98/0180. The relevant Condition states "within one month of the date of this Permission, a detailed landscaping plan showing those trees and shrubs to be retained, together with species and densities of all new trees, density of shrub planting, contours and hard landscaping detail, shall be submitted to and approved by the Planning Authority".

Document 5 – is the original approved layout plan for the housing development again supporting the position that the curtilage boundary is the middle of the Burn and that each plot included the informal landscape area on a part of which the Applicant wishes to include as part of the Application for the erection of the decking.

Furthermore, the Land Certificate for 27 Avonbank Gardens includes a "Burden Section" and within that Para fourth is relevant to the Applicant's case. This states that "the ground appertaining to the house shall be laid out as garden ground or shrubbery and maintained as such in a neat and tidy condition in all time coming to the satisfaction of us and our foresaids and vegetables shall not be grown in said ground in front of the house; only grass, flowers and shrubs and trees shall be planted in any public or mutual open spaces, amenity areas and play areas and these areas would be maintained and kept in a neat and tidy condition to the satisfaction of the Local Authority Director of Planning; tress, hedges and plants of any kind (except so far as already existing or replacements thereof) shall not at any time without the consent of us or our foresaids exceed one metre in height, existing trees or shrubs or bushes growing on a subjects at the date of granting of the Feu Disposition, Disposition or conveyance by us or our foresaids shall be maintained to the satisfaction of us or our foresaids and of the Local Authority Director of Planning and shall not be cut down, lopped, topped, pruned, removed or in any way damage except without the written prior consent of us or our foresaids and the Local Authority Director of Planning." In other words there is a legal restriction on the removal of existing vegetation in the informal landscaped areas of each garden in Avonbank Gardens and this is clearly a situation that has been respected by the residents. However, it in no way implies that the relevant areas are not gardens.

The Applicant acknowledges that in hindsight the references in her Planning Application to "Change of Use from Private Open Space to Enclosed Garden Ground" where ill-advised but that the situation only came to light following the Refusal of the Application. The legal position is of course of vital importance as it impacts on whether or not the Council's Reasons for Refusal are reasonable.

Turning to the Reason for Refusal No. 1 it is clear that the area involved in the proposal is not a narrow greenspace corridor which can be sustained given its multi ownership characteristics and inclusion in the legal and planning curtilages of individual dwelling houses. In relation to Policy SC12 – Urban Open Space of the Adopted Falkirk Local Plan, the area involved with the Application cannot reasonably be considered to be Urban Open Space. In hindsight the Applicant may have challenged the identified boundaries in the Local Plan at the appropriate time. The Applicant's following comments relate to the specific criteria included within the Policy:-

1. The proposed development will not adversely affect the character or appearance of the area given its sheltered location to the rear of a dwelling house and in a general area not visited by the public. The four photographs included as Document 6 illustrate the proposed extent and line of the decking and hence the minimal intrusions into the naturalised area. The main significant trees would be retained as per the original planning consent and at worst there would be some loss of ground cover.
2. The area involved in the application is not recreational open space.
3. The Council have not demonstrated that there is any significant ecological value in the plot of land involved. Indeed, it is interesting to note that in the Appointed Officer's Report of Handling dated 25<sup>th</sup> March 2013, that there were no objections from the Environmental Protection Unit of the Council nor the Scottish Environment Protection Agency. The Applicant does not deny that there may be some ecological value associated with the adjacent Burn but fails to understand how the proposed decking which is a cantilevered structure over the informal landscape garden area would provide any obstruction to the movement of any mammals or interfere with the breeding practices of species that require a waterside location.
4. There is no threatened connectivity within the overall open space network as the area involved in common with all the adjacent gardens is fenced off and there is no public access available.

Turning to the Second Reason for Refusal references have been made above to the legal status of the alleged "green corridor". The Applicant wishes the Council to note that the deck area which due to a change in levels

has a cantilevered structure would only "utilise" circa 30% of the informal garden area attached to the property and no existing vegetation would be removed. No evidence whatsoever has been offered by the Council that the development would have any negative impact on the riparian eco system in this area. Any "functioning wildlife corridor" will be maintained and referring to the references in the "Report of Handling", there will be no impact whatsoever on spawning salmon as the decking involved would be located up to 4 metres away from the water's edge.

Referring to Policy EQ27 of the Adopted Local Plan, there are three criteria stated. In relation to No. 1 the Council have not set out how the development would have a material impact on the riparian setting and it must be in some doubt how the concerns of the Council could be measured in a qualitative manner. It is reasonable to assume that when the Policy was being formulated by the Council, the application of such specific ecological standards were not formulated with private gardens in mind. In relation to Item 2 of the Policy as demonstrated elsewhere there is no possibility of the area involved becoming use for public recreation. As for item 3, there is no proposal for the culverting of a water course.

The Applicant has demonstrated that the development is proposed in an area of private garden within the curtilage of the dwelling house. The Council have not advanced any reasons for Refusing the Application based on the scale, design or proportion of the proposed decking area. Rather the Reasons for Refusal are poorly founded and overly general as evidenced by the quoting of 2 no. Policies from the Local Plan which in themselves have significant items of criteria which clearly do not apply to the current development proposal. Following the submission of the Application no formal discussions took place with Officers of the Council to examine their concerns and provide an opportunity to gather further information or conduct appropriate surveys. Rather extensive information has had to be provided at this stage to illustrate the Officer's misunderstanding of the situation, particularly in relation to the previous planning history and the ownership of the site. The Applicant accepts that the "description of the proposed development" could have been more accurately stated but that in itself is not a justification for a Refusal of the Application.

For all the reasons above and the information supplied by the Applicant, the Council is respectfully suggested to overturn the Refusal of Detailed Planning Permission and award the necessary consent to the Applicant.



**PLANNING AND TRANSPORTATION**

Enquiries to : Mr R McCall  
 Direct Dial : 01324 504814  
 Fax No. : 01324 504747  
 e-mail : ronald.mccall@falkirk.gov.uk



D1.

**Falkirk Council**  
*Development Services*

Our Ref: ENF/2012/0079/RM  
 Please quote in all correspondence

Mr S Morton & Ms L Campbell  
 27 Avonbank Gardens  
 Dunipace  
 Denny  
 FK6 6LH

4 July 2012

Dear Sir &amp; Madam

**Proposal** : Extension of Garden Ground  
**Location** : 27 Avonbank Gardens, Dunipace, Denny  
**Reference No.** : ENF/2012/0079

It has come to my notice that you have carried out works which seem to indicate an intended relocation of your boundary fence thus enclosing open space within your private garden ground.

I must advise that such a change of use of land requires planning permission as may the boundary treatment itself, consequently, it is recommended that you desist from further works and submit an application for planning permission

Planning Permission is not always granted in such circumstances therefore I would suggest that you initially complete the enclosed form for consideration as to what permissions are required and how you should proceed.

If you have any questions on this issue please contact me.

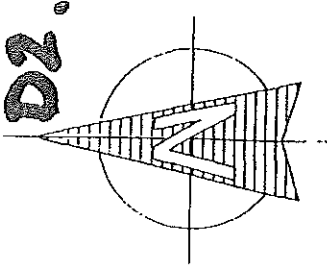
Yours faithfully



**Ronnie McCall**  
 Enforcement Officer

Enc. As above

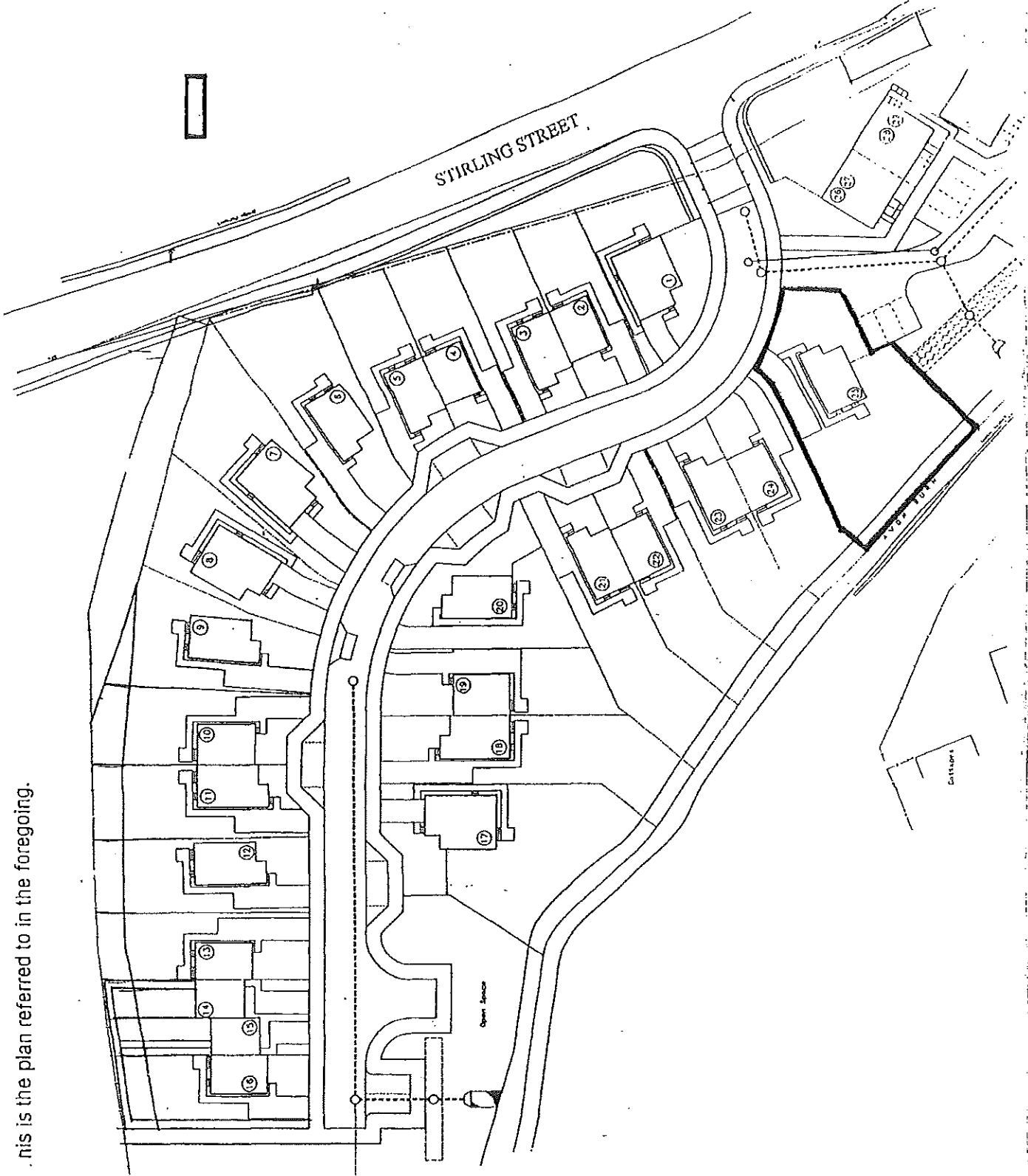
*Director: Rhona Geisler*  
 Abbotsford House,  
 David's Loan, Falkirk FK2 7YZ  
 LP 3 Falkirk-2.  
 Telephone: 01324 504950  
[www.falkirk.gov.uk](http://www.falkirk.gov.uk)



Denotes plot no 25

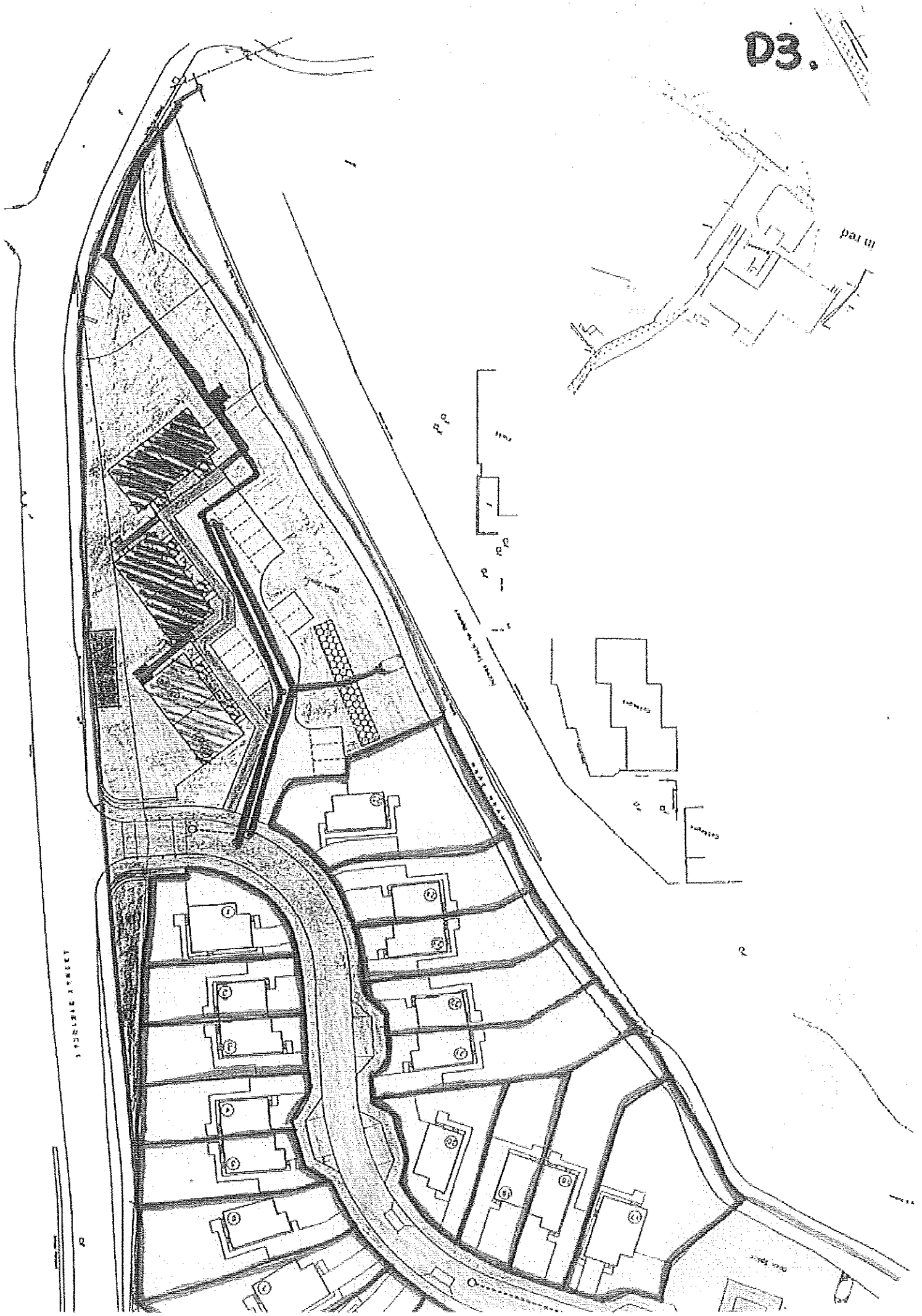


pt from estate plan approved by the keeper on.  
his is the plan referred to in the foregoing.



<b>ogilvie</b> <b>HOMES</b> Ogilvie Homes Ltd, PO Box 811, Stirling FK7 0LE Tel: 01786 811811 Fax: 01786 816935		Project	
		Stirling St, Dunipace	
Drawing		Estate Plan (EXCERPT)	
Scale 1:500			
Date	Drawn by	Checked by	Rev

D3.



D4.

## PLANNING &amp; TRANSPORTATION SERVICES

Enquiries to: Mr R Jackson (Tel No. 01324 504756)  
 Fax No: 01324 504747



**Falkirk Council**  
*Strategic Services*

Ogilvie Homes Limited  
 PO Box 811  
 STIRLING  
 FK7 0LE

Our Ref: F/98/0180/RJ/MJA  
 Your Ref:

22 October 1999

Dear Sirs

**Proposal : Erection of 25 Dwellinghouses and 12 Flats (Detailed)**  
**Location : Stirling Street, Dunipace.**  
**Applicant : Ogilvie Homes Limited**  
**Application No. : F/98/0180**

I refer to your letter, received in this office on 15 October 1999, regarding landscaping at the above development. I can confirm that the amended landscape layout is acceptable and the appropriate plans are returned for your records.

With regard to the proposed changes to roof tiling discussed with Mr Jackson by telephone on 21 October 1999, these are considered as acceptable non-material variations to the original material specification.

Yours faithfully

*W* Director of Strategic Services

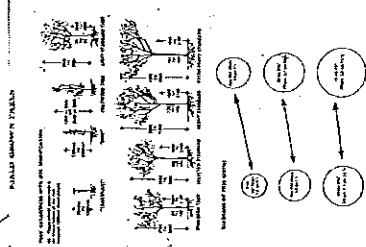
26 Oct 1999

Enclosure

25 | 26  
 X box file

Director: Geoff Peart

Abbotsford House,  
 David's Loan, Falkirk FK2 7YZ.  
 DX 512822.  
 Telephone: 01324 504950



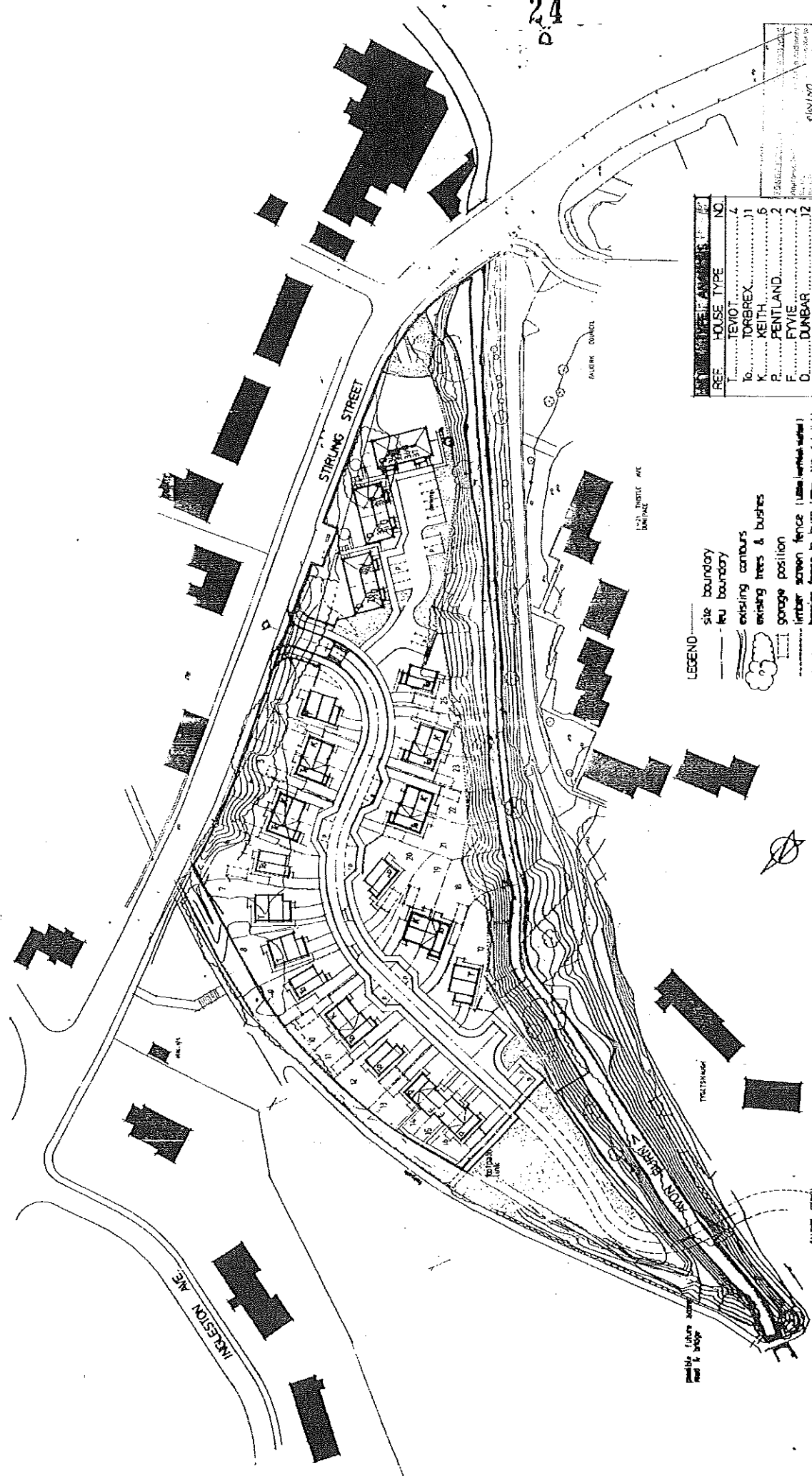
Name: *M. J. J.*  
 Address: *1000 1st St. N.E.*  
 City: *Atlanta, Ga.*  
 State: *GA*  
 Zip: *30309*  
 Date: *24 SEP 1963*  
 Page No.: *1*

**LEGEND** ——— site  
———— boundary  
———— fence  
———— existing contours  
———— existing trees & bushes  
———— garage position  
———— timber screen fence (1.8m high/6ft tall)  
———— barrier fence to burn (3m high/10ft tall)  
———— gas  
○ car  
○ emergency drying area  
———— 500mm (20in) wide torpedoes to front, rear door  
———— 200mm (8in) wide torpedoes to side

LIST OF TRIBES -	DESCRIPTION.	SIZE	
1.	ALBA FLANDRICA	3,600 - 4,650m	(Heavy standard)
2.	SABANA ARVA	_____	"
3.	SABANA ALCAHUA	_____	"
4.	MALVA FLORIBUNDA	2,750 - 3,000m	(standard)
5.	CONCESSIONS FIELDS ACACIA	_____	"
6.	FRAMING ARVA	_____	"

ALL TRIBES to be well formed with chimney  
defined leader,  
suitable trees, path & back-slope with top level longest  
minimise slope ratio. 75m down pre-treatment lower  
slope & 2 no. plastic tree files.

GRASS to be well formed with many  
defined leaves.  
suitable tree pit x base 10m with top soil/compst  
material 50/50 ratio. 75m dia pre-treated area  
about 2 no. plastic tree pits.



REF	HOUSE TYPE	NO
T	TEVIOT	4
To	TORBREX	11
K	KEITH	6
P	PENTLAND	2
F	FYVIE	2
D	DUNBAR	12
		37

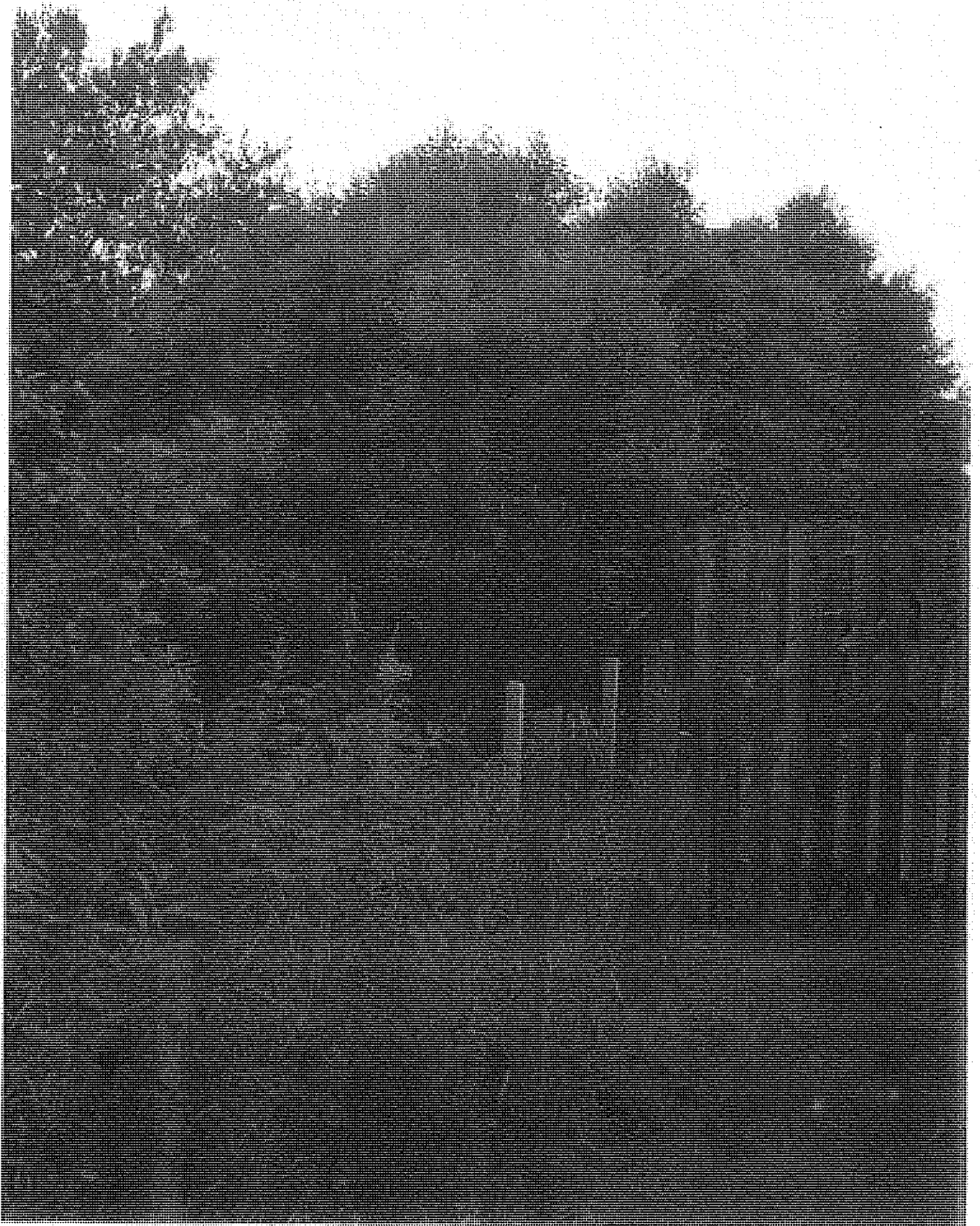
- LEGEND
- site boundary
  - lev boundary
  - existing contours
  - existing trees & bushes
  - garage position
  - timber screen fence (shown as dashed line)
  - barrier fence to burn (shown as high chain link)
  - ref denotes refuse bin stores
  - denotes emergency drying area

STIRLING ST.  
DUNIPACE.

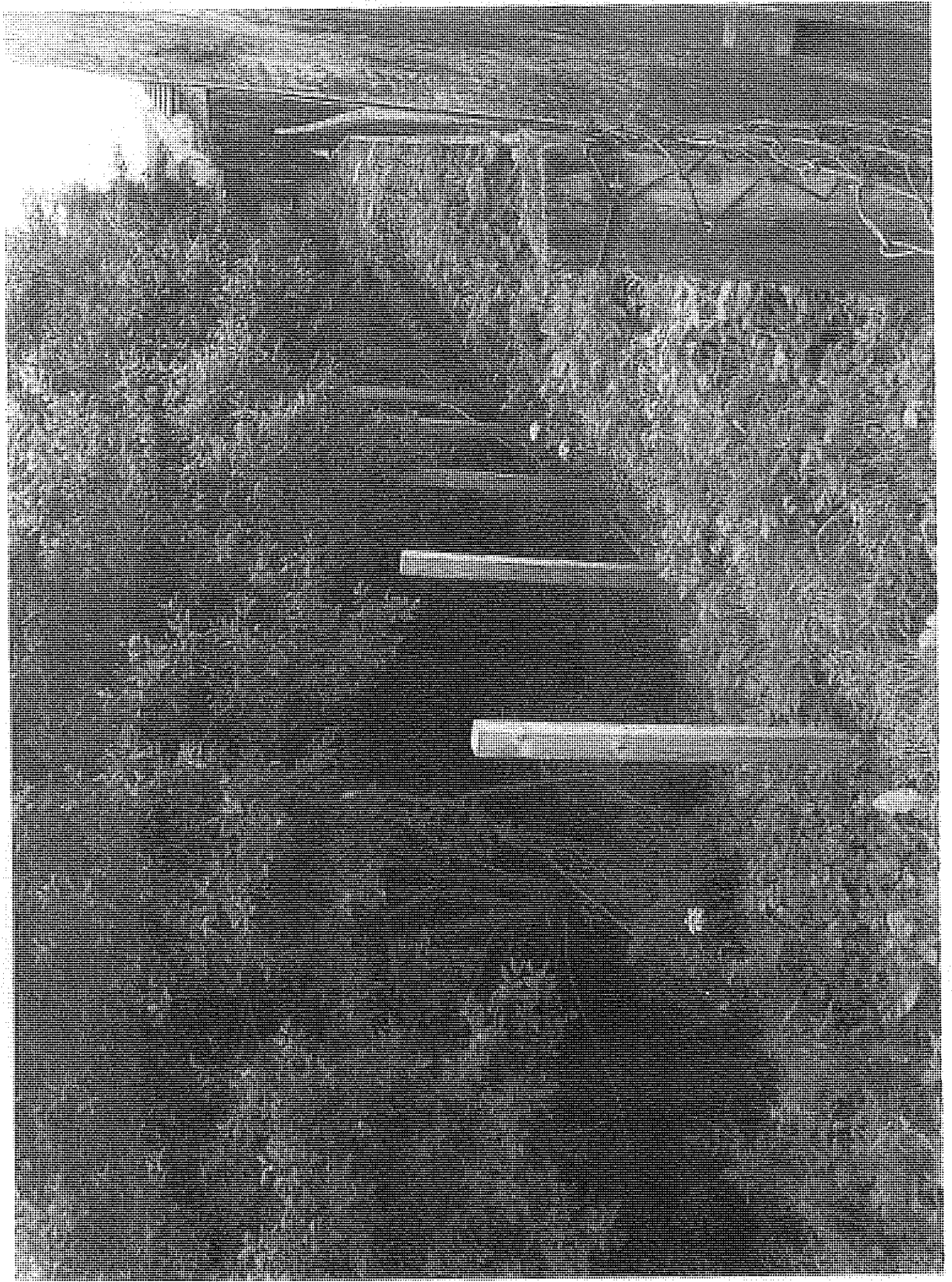
For the Local Authority  
10/10/2023  
10/10/2023

<b>ogilvie HOMES</b>	
Ogilvie Homes Ltd, PO Box 811, Broomfield, Glasgow, G6 6 8UL Tel: 01793 811111 Fax: 01793 811111	
Drawn by	DEVELOPMENT DESIGN
Scale	1:500
Sheet	3 of 3
Date	10/10/2023
Project Name	STIRLING ST DUNIPACE
Client	OGILVIE HOMES
Ref	25 / 502

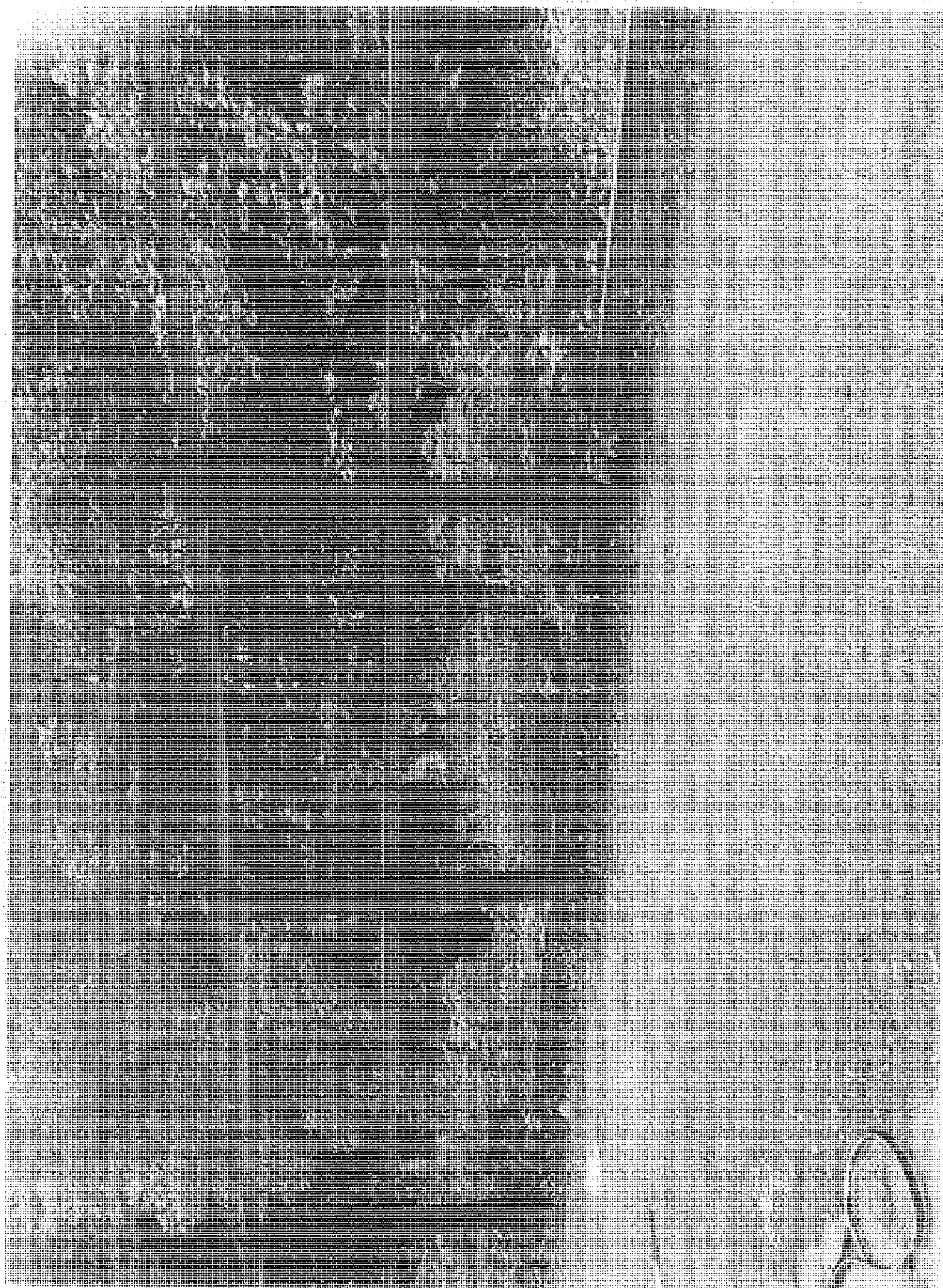
PLANNING PERMISSION	10/10/2023
DATE	10/10/2023
BY	10/10/2023

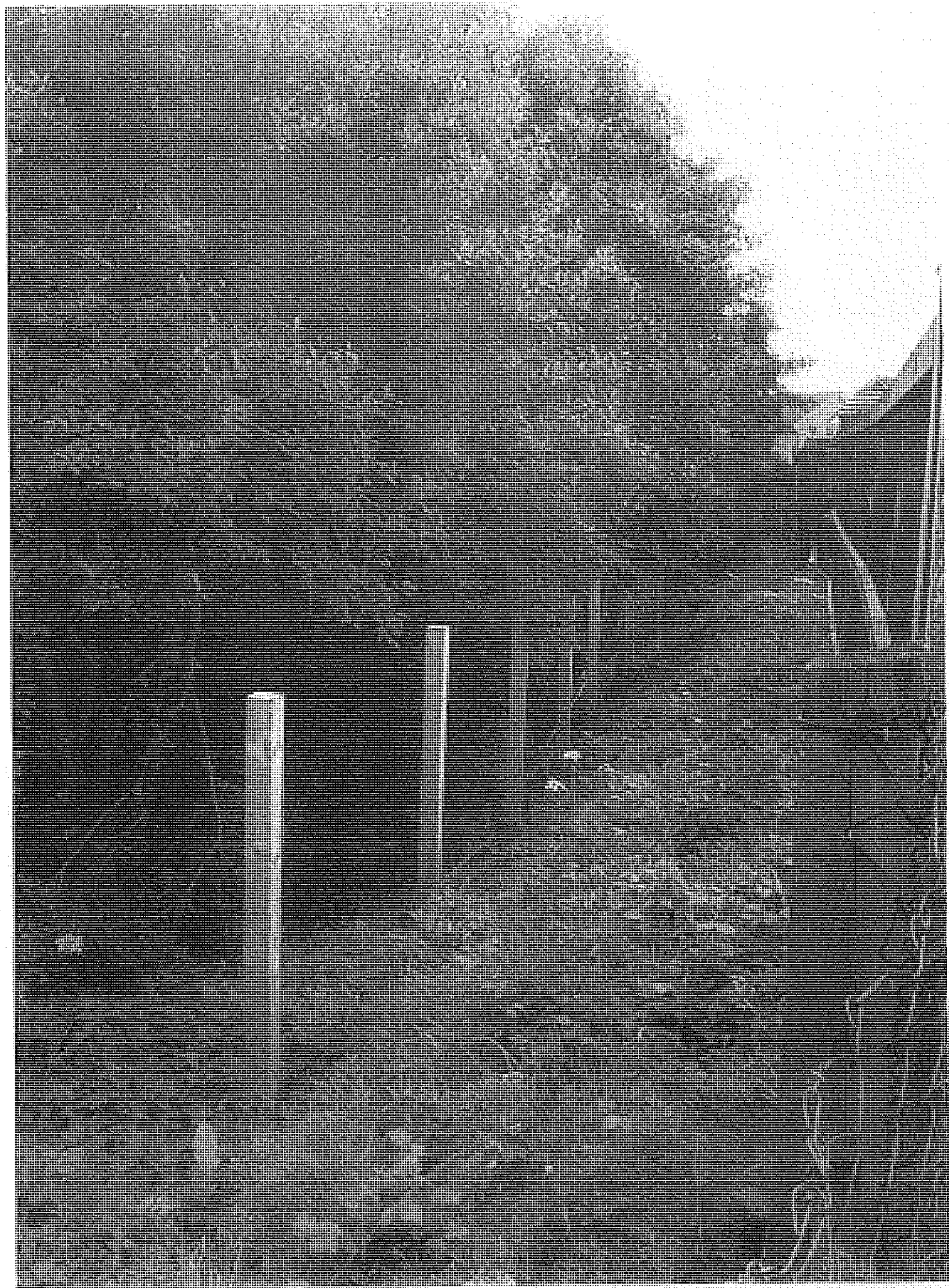












P/12/0585/FUL

# HOUSEHOLDER APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (SCOTLAND) ACT 1997  
The Town and Country Planning (Development Management Procedure) (SCOTLAND) REGULATIONS 2008

Please refer to the accompanying Guidance Notes when completing this application  
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS  
ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	<div>Miss</div>	Ref No.	<div>N/A.</div>
Forename	<div>LYN</div>	Forename	
Surname	<div>CAMPBELL</div>	Surname	
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City		Town/City	
Postcode		Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
<b>3. Address or Location of Proposed Development (please include postcode)</b>			
27 AVONBANK GARDENS, DUNPACE, DENNY, FK6 6LH			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
<b>4. Describe the Proposed Works</b>			
Please describe accurately the work proposed:			
<div>PROPOSED CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED GARDEN GROUND &amp; ERECTION OF RAISED DECKING STRUCTURE AND RE-LOCATION OF BOUNDARY FENCE</div>			
Have the works already been started or completed      Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
If yes, please state date of completion, or if not completed, the start date:			
Date started: <div>JULY 2012</div>		Date completed: <div></div>	

If yes, please explain why work has already taken place in advance of making this application.

WORKS WERE NOT THOUGHT TO REQUIRE PLANNING PERMISSION  
WORKS WERE STOPPED AS SOON AS IT WAS KNOWN THIS WAS  
NOT THE CASE

### 5. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal? Yes ☒ No ☐

If yes, please provide details about the advice below:

In what format was the advice given? Meeting ☒ Telephone call ☒ Letter ☐ Email ☒

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☒

Please provide a description of the advice you were given and who you received the advice from:

Name:  Date:  Ref No.:

VARIOUS DISCUSSIONS WERE HAD TO ULTIMATELY AGREE PLANNING  
PERMISSION WAS REQUIRED AND SUBSEQUENTLY THE WAY IN WHICH  
THE APPLICATION / DESCRIPTION SHOULD BE PRESENTED

### 6. Trees

Are there any trees on or adjacent to the application site? Yes ☐ No ☒

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

### 7. Changes to Vehicle Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes ☐ No ☒

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangement for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total of existing and any new spaces or reduced number of spaces)

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc).

**8. Planning Service Employee/Elected Member Interest.**

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes ☐ No ☒

If you have answered yes please provide details:

**DECLARATION**

I, the applicant / ~~agent~~ certify that this is an application for planning permission and that accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant / ~~agent~~ hereby certify that the attached Land Ownership Certificate has been completed ☒

I, the applicant / ~~agent~~ hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes ☐ No ☐ N/A ☒

Signature:

Name:

Len Campbell

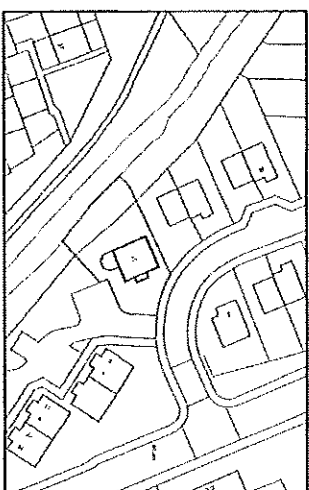
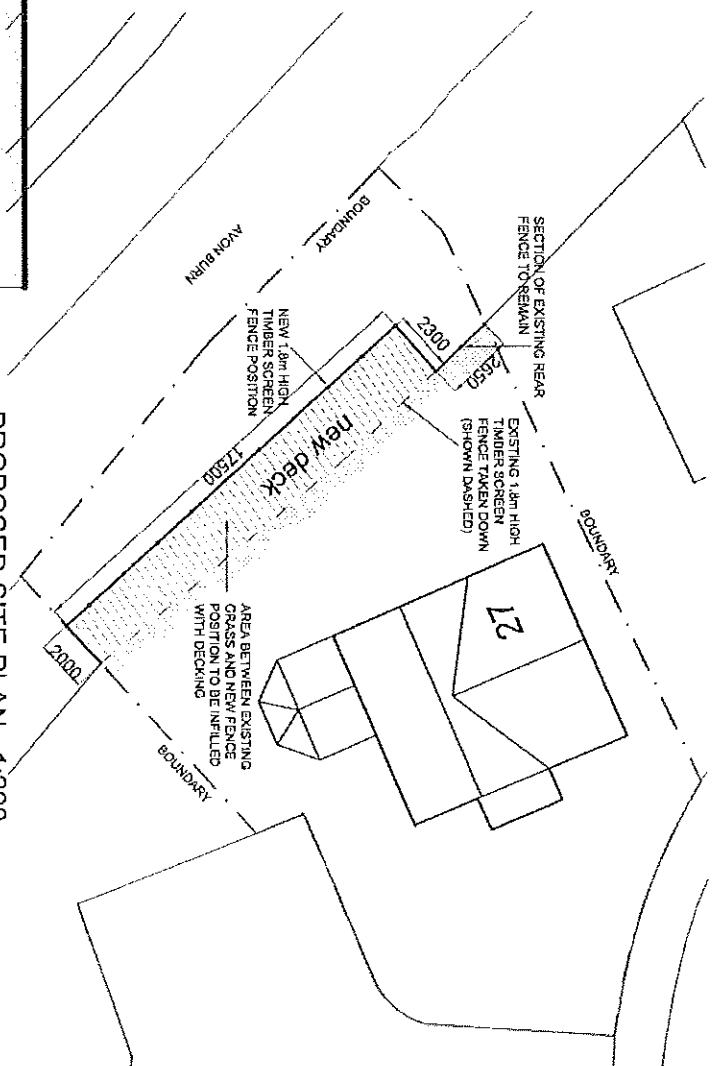
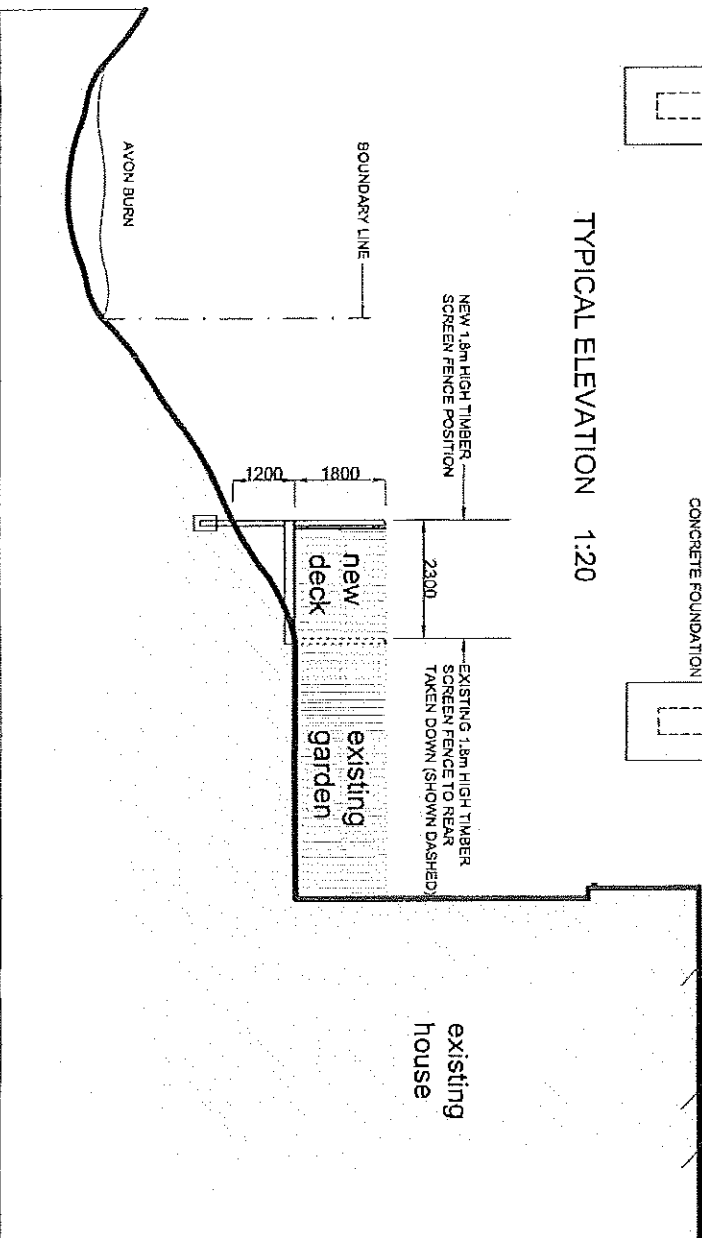
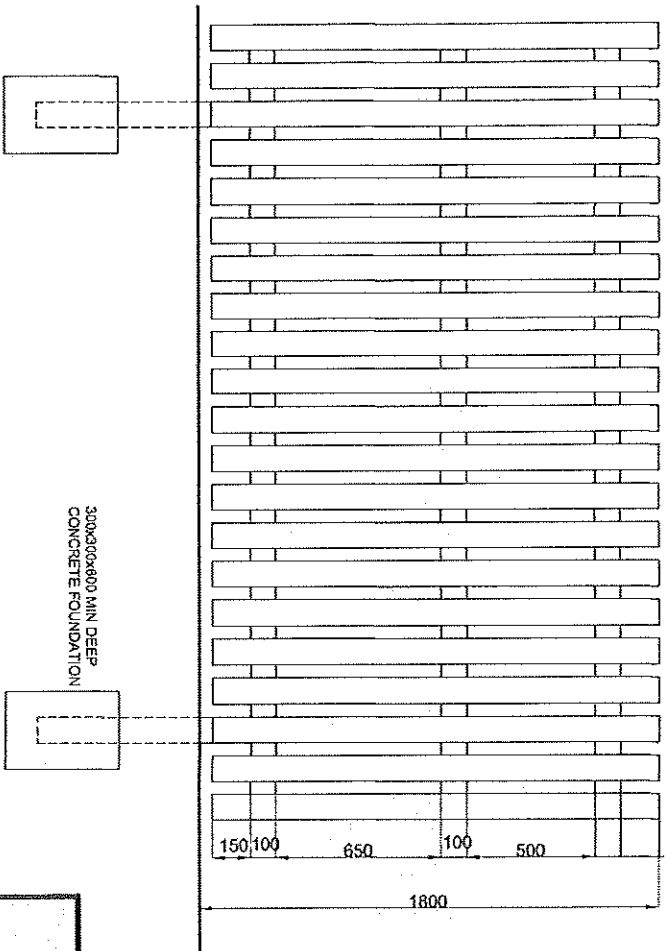
Date:

21/9/12

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.



ALL TIMBERS TO BE REDWOOD PRESSURE IMPREGNATED WITH PRESERVATIVE  
AND ALL CUT FACES ON SITE TO BE LIBERALLY TREATED WITH SAME  
ALL NAIL FIXINGS TO BE DOUBLE GALVANISED AND  
EVERY PALASIDE TO BE NAILED TO EACH BAR



DRAWING NO. 1

CERTIFIED TRUE COPY SIGNED

DATED

21/9/12

client: LYN CAMPBELL

project: PROPOSED RELOCATION OF BOUNDARY FENCE & ERECTION OF NEW DECKING PLATFORM AT 27 AVONBANK GARDENS, DUNIPACE, DENNY, FK6 6LH

date: SEPTEMBER 2012 scale: AS SHOWN

# LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997  
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

## CERTIFICATE A, B, C OR CERTIFICATE D MUST BE COMPLETED BY ALL APPLICANTS

### CERTIFICATE A

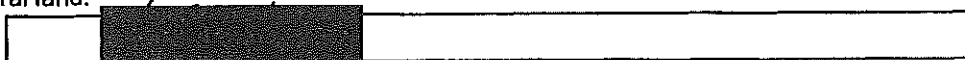
Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than myself was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application. ☒
- (2) None of the land to which the application relates constitutes or forms part of agricultural land. ☒



Signed:



On behalf of:





Date:

21/9/12

### CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land ☐
- or
- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

### CERTIFICATE C

Certificate C is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where it has not been possible to identify ALL or ANY owners/agricultural tenants.

- (1) I have been unable to serve notice on **every** person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. ☐
- or
- (2) I have been unable to serve notice on **any** person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates. ☐
- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding. ☐
- or
- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have been unable to serve notice on any person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. ☐
- or
- (5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

- (6) I have taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have been unable to do so.

Steps taken:

--



# **CERTIFICATE D** **Certificate D**

Certificate D is for use where the application is for mineral development.

- (1) No person other than myself ☐ was an owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

or

- (2) I have ☐ served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding. ☐

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have ☐ served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant.

- (5) Notice of the application as set out below has been published and displayed by public notice ☐

Signed:

On behalf of:\*

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act

## PLANNING APPLICATION DETERMINED BY DIRECTOR OF DEVELOPMENT SERVICES UNDER DELEGATED POWERS – REPORT OF HANDLING

**PROPOSAL** : Change of use From Private Open Space to Enclosed Garden Ground, Erection of Raised Decking and Erection of Boundary Fence (Part Retrospective)  
**LOCATION** : 27 Avonbank Gardens, Dunipace, Denny, FK6 6LH  
**APPLICANT** : Mrs Lyn Campbell  
**APPN. NO.** : P/12/0585/FUL  
**REGISTRATION DATE** : 8 October 2012

### 1. SITE LOCATION / DESCRIPTION OF PROPOSAL

This detailed application proposes the change of use of a burn embankment from open space to garden ground, the construction of a raised deck and the erection of new boundary fencing. The structural posts for the raised deck have already been installed at the site. The site is located to the rear of existing dwellinghouses within a predominantly residential area of Dunipace.

### 2. SITE HISTORY

None relevant to this application.

### 3. CONSULTATIONS

The following responses to consultation were received:

Environmental Protection Unit	No objection.
Scottish Environment Protection Agency	No objection.

Where the local Community Council requested consultation, their comments appear above.

### 4. PUBLIC REPRESENTATION

In the course of the application, contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

Loss of privacy.  
 Erosion of riverbank.  
 Structural stability of decking.

### 5. THE DEVELOPMENT PLAN

The proposed development was assessed against the undernoted Development Plan(s):

Falkirk Council Structure Plan.

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

Falkirk Council Local Plan

The proposed development was assessed against the following policy or policies:

EQ27 - Watercourses

SC12 - Urban Open Space

## **5A. MATERIAL CONSIDERATIONS**

Falkirk Council Supplementary Guidance

Responses to Consultation

Assessment of Public Representations

## **6. PLANNING ASSESSMENT**

### **The Development Plan**

The proposal raises no strategic issues and was therefore assessed against the Falkirk Council Local Plan alone.

### **Local Plan Policies**

The burn bank in this location is within the private ownership of the applicants but has been maintained as open space since the original houses at the site were developed. The embankment is considered to have ecological value as the Avon Burn is known to support spawning salmon and the corridor along the burn may well also allow for the movement of species such as otter. The proposed development would have an adverse effect on this ecological value and as a result the proposal is contrary to Policy SC12 of the Falkirk Council Local Plan.

The proposed development would represent a narrowing of an already narrow burn corridor along the Avon Burn and would have an unacceptable negative impact on the riparian ecosystem in this area. The proposal is contrary to the terms of Policy EQ27 - Watercourses of the Falkirk Council Local Plan.

### **Falkirk Council Supplementary Guidance**

Falkirk Council Supplementary Planning Guidance Note - Biodiversity and Development sets out general advice for developers on how to protect biodiversity interests during construction work. The guidance places a large emphasis on carrying out survey work prior to starting work on a site. As the current proposal is part retrospective, this option is not possible in this instance. The guidance does however advise that development adjacent to a watercourse should maintain a 10m wide buffer strip to protect species such as water voles. The development site in question is so constrained in terms of width that a 10m wide buffer strip would not be achievable. The proposed development is not considered to accord with the guidance and best practice advice set out in this document.

### **Responses to Consultation**

Comments from Falkirk Council's biodiversity officer have confirmed that this development would further constrict what is already a relatively narrow burn corridor along the Avon Burn. New developments require to retain a habitat corridor of at least 10m along a watercourse like the Avon Burn to ensure that the burn is protected from undue disturbance and that a functioning wildlife corridor is maintained. In this case it is important to maintain the burn corridor at its current width and not allow further encroachment into this area. The Avon Burn is known to support spawning salmon and is therefore of particular importance for biodiversity. The corridor along the burn may well also allow for the movement of species such as otter.

The proposed development would not be in the best interests of biodiversity or habitat retention.

### Assessment of Public Representations

The proposed development is not considered to cause any adverse overshadowing or privacy issues. The proposal would have an impact of the burn embankment with potential ecological and biodiversity concerns in particular. The stability of the decking structure itself is not a material planning consideration.

### 7. CONCLUSION

The proposal represents an unacceptable form of development which is contrary to the terms of the Development Plan. There are no material planning considerations that warrant an approval of planning permission in this instance.

### 8. RECOMMENDATION

Refuse Planning Permission

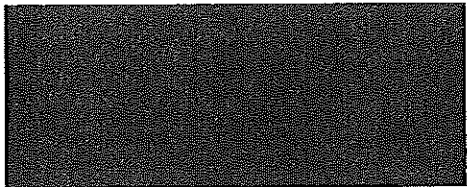
Refusal is recommended for the following ;

Reason(s):

1. The proposed development would further restrict an already narrow greenspace corridor and have an adverse effect on the ecological value of the Avon Burn. The proposal is contrary to Policy SC12 - Urban Open Space of the Falkirk Council Local Plan.
2. The proposed development would represent a narrowing of an already restricted width greenspace corridor along the Avon Burn and would have an unacceptable negative impact on the riparian ecosystem in this area. The proposal is contrary to the terms of Policy EQ27 - Watercourses of the Falkirk Council Local Plan.

Informatives:

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



ices

25/3/13

Date

Contact Officer : Kevin Brown  
(Planning Officer) 01324 504701

Reference No. P/12/0585/FUL



**Falkirk Council**

**Town and Country Planning (Scotland) Act 1997 as Amended  
Issued under a Statutory Scheme of Delegation.**

**Refusal of Planning Permission**

Applicant  
Mrs Lyn Campbell  
27 Avonbank Gardens  
Dunipace  
Denny  
FK6 6LH

This Notice refers to your application registered on 8 October 2012 for permission in respect of the following development:-

Development	Change of use From Private Open Space to Enclosed Garden Ground, Erection of Raised Decking and Erection of Boundary Fence (Part Retrospective) at
Location	27 Avonbank Gardens, Dunipace, Denny, FK6 6LH

The application was determined under Delegated Powers. Please see the attached guidance notes for further information, including how to request a review of the decision.

In respect of applications submitted on or after 1 January 2010, Falkirk Council does not issue paper plans. Plans referred to in the informatives below can be viewed online by inserting your application number at <http://eplanning.falkirk.gov.uk/online/>

In accordance with the plans docketted or itemised in the attached informatives as relative hereto, Falkirk Council, in exercise of its powers under the above legislation, hereby

**Refuses Detailed Planning Permission**

The Council has made this decision for the following

**Reason(s):**

1. The proposed development would further restrict an already narrow greenspace corridor and have an adverse effect on the ecological value of the Avon Burn. The proposal is contrary to Policy SC12 - Urban Open Space of the Falkirk Council Local Plan.
2. The proposed development would represent a narrowing of an already restricted width greenspace corridor along the Avon Burn and would have an unacceptable negative impact on the riparian ecosystem in this area. The proposal is contrary to the terms of Policy EQ27 - Watercourses of the Falkirk Council Local Plan.

**Informatives:**

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

25 March 2013



**Director of Development Services**

**Morris, John**

---

**From:** hillis, alfred  
**Sent:** 22 November 2012 14:02  
**To:** adtm1dmbcorr  
**Subject:** P/12/0585/FUL - 27 Avonbank Gardens, Dunipace

Contaminated Land

The Planning Applicant should confirm in writing that no made ground, suspect substances or odours have been encountered within the site.

In the event that any made ground, suspect substances or odours are encountered during any site works/operations, following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land risk assessment in accordance with current guidance and legislation and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

Environmental Health

Noise need not be considered as a determining factor in considering this application.

Informative - The builder shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Unit.

Alf Hillis  
 Environmental Health Officer  
 01324 501024

---

\*\*\*\*\*

The information contained in this e-mail is confidential and is intended only for the named recipient(s). If you are not the intended recipient, you must not copy, distribute or take any action or reliance on it. If you have received this e-mail in error, please notify the sender. Any unauthorised disclosure of the information contained in this e-mail is strictly prohibited.

The views and opinions expressed in this e-mail are the senders own and do not necessarily represent the views and opinions of Falkirk Council.

\*\*\*\*\*

Our ref: PCS/123793  
Your ref: P/12/0585/FUL

If telephoning ask for:  
Alex Candlish

18 December 2012

Kevin Brown  
Falkirk Council  
Development Services  
Abbotsford House  
Davids Loan  
Falkirk  
FK2 7YZ

By email only to: [adtm1dmbscorr@falkirk.gov.uk](mailto:adtm1dmbscorr@falkirk.gov.uk)

Dear Mr Brown

**Town and Country Planning (Scotland) Acts**  
**Planning application: P/12/0585/FUL**  
**Change of use from Private Open Space to Enclosed Garden Ground, Erection of**  
**Raised Decking and Erection of Boundary Fence**  
**27 Avonbank Gardens Dunipace Denny FK6 6LH**

Thank you for your consultation e-mail which SEPA received on 03 December 2012. We have no objection to this planning application. Please note the advice provided below.

### Advice for the planning authority

#### 1. Flood risk

- 1.1 We have reviewed the information provided in this consultation and it is noted that the application site lies within the 1 in 200 year (0.5% annual probability) flood envelope of the Indicative River & Coastal Flood Map (Scotland), and may therefore be at medium to high risk of flooding.
- 1.2 Scottish Planning Policy states in paragraph 203, that "For planning purposes the functional flood plain will generally have a greater than 0.5% (1:200) probability of flooding in any year. Development on the functional flood plain will not only be at risk itself, but will add to the risk elsewhere." Built development should not therefore take place on the functional flood plain.
- 1.3 We do not object to the extension of enclosed garden ground incorporating raised decking. We are aware that the structure has been partially built already. The structure is entirely within the 1:200 year envelope and therefore there is a risk of flooding to the structure. Insufficient information is provided with this consultation for us to adequately assess flood risk at this site. However, no land-raising of the garden ground or solid boundaries are shown on the Location Plan (dated 21/9/12). We would highlight there remains a residual risk to the development as high flows may undermine the structure or decking may be washed into the Avon Burn and potentially block downstream structures.



Chairman  
David Sigsworth  
Chief Executive  
James Curran

Edinburgh Office  
Clearwater House, Heriot Watt Research Park  
Avenue North, Riccarton, Edinburgh EH14 4AP  
tel 0131 449 7296 fax 0131 449 7277  
[www.sepa.org.uk](http://www.sepa.org.uk)

## Detailed advice for the applicant

### **2. Flood risk**

- 2.1 The Indicative River & Coastal Flood Map (Scotland) has been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km<sup>2</sup> using a Digital Terrain Model (DTM) to define river cross-sections and low-lying coastal land. The outlines do not account for flooding arising from sources such as surface water runoff, surcharged culverts or drainage systems. The methodology was not designed to quantify the impacts of factors such as flood alleviation measures, buildings and transport infrastructure on flood conveyance & storage. The Indicative River & Coastal Flood Map (Scotland) is designed to be used as a national strategic assessment of flood risk to support planning policy in Scotland. For further information please visit [www.sepa.org.uk/flooding/flood\\_extent\\_maps.aspx](http://www.sepa.org.uk/flooding/flood_extent_maps.aspx).
- 2.2 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.
- 2.3 The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Falkirk Council as Planning Authority in terms of the said Section 72 (1). Our briefing note entitled: "*Flood Risk Management (Scotland) Act 2009: Flood risk advice to planning authorities*" outlines the transitional changes to the basis of our advice inline with the phases of this legislation and can be downloaded from [www.sepa.org.uk/planning/flood\\_risk.aspx](http://www.sepa.org.uk/planning/flood_risk.aspx).

## Regulatory advice for the applicant

### **3. Regulatory requirements**

- 3.1 Details of regulatory requirements and good practice advice for the applicant can be found on our website at [www.sepa.org.uk/planning.aspx](http://www.sepa.org.uk/planning.aspx). If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at:

Bremner House, Castle Business Park, Stirling, Stirlingshire, FK9 4TF, Tel – 01786 452595

If you have any queries relating to this letter, please contact me by telephone on 0131 273 7333 or e-mail at [planning.se@sepa.org.uk](mailto:planning.se@sepa.org.uk).

Yours faithfully

Alex Candlish  
Planning Officer  
Planning Service



*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. If you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found in How and when to consult SEPA, and on flood risk specifically in the SEPA-Planning Authority Protocol.*

## Comments for Planning Application P/12/0585/FUL

### Application Summary

Application Number: P/12/0585/FUL

Address: 27 Avonbank Gardens Dunipace Denny FK6 6LH

Proposal: Change of use From Private Open Space to Enclosed Garden Ground, Erection of Raised Decking and Erection of Boundary Fence

Case Officer: Kevin Brown

### Customer Details

Name: Mrs Amanda Fulton

Address: 29 Avonbank Gardens Dunipace DENNY

### Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to this planning application on the following grounds as a direct neighbour -

1) Loss of privacy and concern of increased noise due to intrusion in my back garden spoiling enjoyment and use of the garden.

2) Concern at safety of structure due to erosion of the river bank which I have noticed since moving into my own property in 2001.

3) Concern at safety of structure due to trees directly adjacent to the proposed site (this is contrary to details given in the signed application)

Please note - The work which has already been started is at my boundary contrary to the application and does not appear to be concreted in as yet.

Our ref: PCS/123793  
Your ref: P/12/0585/FUL

Kevin Brown  
Falkirk Council  
Development Services  
Abbotsford House  
Davids Loan  
Falkirk  
FK2 7YZ

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Alex Candlish

18 December 2012

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**Planning application: P/12/0585/FUL**

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Yours faithfully

Alex Candlish  
Planning Officer  
Planning Service

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. If you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found in How and when to consult SEPA, and on flood risk specifically in the SEPA-Planning Authority Protocol.*



18<sup>th</sup> July 2013

10 Laburnum Grove  
Stirling  
FK8 2PS

John Morris  
Development Management Unit  
Falkirk Council Development Services  
Abbotsford House  
David's Loan  
Falkirk  
FK2 7YZ

Dear Mr Morris

Town and Country Planning (Scotland) Act 1997  
The Town & Country Planning (Schemes of Delegation & Local Review Procedures)  
(Scotland) Regulations 2008

**Development:** Change of use From Private Open Space to Enclosed Garden Ground,  
Erection of Raised Decking and Erection of Boundary Fence (Part  
Retrospective)

**Location** 27 Avonbank Gardens Dunipace Denny FK6 6LH

**Planning**

**Application No.** O/12/0585/FUL

Thank you for your letter of 12<sup>th</sup> July 2013 enclosing a copy of a "representations" from SEPA.

I note that in common with SEPA's original consultation response that they have No Objection to the Proposal. This is of course as recorded in the Council's "Report of Handling". In relation to "the Advice" provided by SEPA beyond their summarised position of having No Objection, the River and Coastal Flood Map (Scotland) is an indicative publication only. If in the highly unlikely situation of a flood, the proposed development i.e. the garden decking would be no more at risk than any of the adjacent houses or the existing semi-permanent structures already erected in their garden properties. And indeed the decking is designed in such a manner that water would readily flow beneath the structure.

In relation to your letter I note that the Application for Review will be placed before a Planning Review Committee for decision. In the Notice of Review Application, I indicated that the Applicant has a preference for a "Hearing" and a "Site Inspection". In the circumstances, therefore, I would be pleased to receive your advice as to how these requests will be accommodated or otherwise.

Yours sincerely

Robert Moyes

## Environmental Quality

3.88

### EQ26 TREES, WOODLAND AND HEDGEROWS

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

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

### Watercourses

- 3.89 The rivers, burns, ditches and canals of the Council area represent a valuable ecological and recreational resource. Through the Water Framework Directive, a new framework for the protection of the water environment is being established with water management and planning undertaken on the basis of river basin districts.
- 3.90 Although water quality is generally improving through tighter legislation and standards, and the general decline in industrial activity, there are still many threats from development. Policy EQ27 aims to ensure that water quality, habitat and species integrity and quality, and recreational amenity of watercourses is safeguarded by development proposals. Reference should also be made to Policy EP17, which provides additional guidance on canals, Policy ST11, on sustainable urban drainage, and ST12 on flooding.

3.91

### EQ27 WATERCOURSES

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

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

### Open Space and Recreational Facilities

- 4.41 Open space is vital to the quality of the urban environment, providing areas for active and passive recreation and contributing to the landscape structure of settlements. Where linked into networks they provide routes for safe walking and cycling and corridors for wildlife. Good provision of other facilities for formal recreation such as sports halls, swimming pools and play areas contribute to quality of life and healthy living objectives.
- 4.42 National policy guidance on open space and recreational facilities is contained in the SPP and PAN 65: Planning and Open Space. The SPP emphasises the need to protect and enhance open space and states that local authorities should undertake open space audits and prepare open space strategies.
- 4.43 Whilst the overall quantity of open space and range of recreation facilities within the Council area is generally good, there are problems of quality, management and accessibility, as well as localised deficiencies in the quantity and distribution of facilities. The broad approach of the Council's Culture and Leisure Strategy is to concentrate investment on improving the quality of, and access to existing facilities. It introduces a hierarchy of strategic, core and local parks in order to prioritise resources and action for open space improvement, and identifies existing recreation facilities which should be a priority for upgrading. Detailed proposals arising out of the Culture and Leisure Strategy are included within the Settlement Statements. The Council has followed up the SPP's requirements by undertaking an open space audit for the Council area, and has formulated an open space strategy to allow a more strategic approach to planning for open space in the area. This sets out appropriate standards, assesses provision in terms of quantity, quality and accessibility, and identifies priorities for improving the open space resource.
- 4.44 The Structure Plan, through Policy COM.6, seeks to prevent the loss of open space and recreational facilities unless it is proved that such a loss will not have an adverse impact on visual or recreational amenity, considered as part of a community-wide assessment of provision, and will release resources for wider qualitative improvements to facilities. The open space audit and strategy provides a basis for such assessments.
- 4.45 In this context, Policy SC12 provides detailed criteria for assessing proposals involving the loss of open space. The principal open spaces within communities are shown on the Proposals Map. However, the policy will apply to other smaller, incidental areas of open space as well.

4.46

### SC12 URBAN OPEN SPACE

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

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;
- (2) In the case of recreational open space, it can be clearly demonstrated from the Council's open space audit and strategy, that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded.

4.47

New developments must contribute meaningfully to the provision of open space and play facilities in the local area, according to the principles contained in Policy SC13 and taking account of the various quantitative, qualitative and accessibility standards set out in the Council's Open Space Strategy. Traditionally, the requirement has been met through on-site provision, and this will continue to be the case with most larger developments. However, in certain circumstances, financial contributions to off-site provision or upgrading may be a more appropriate alternative. The Council intends to prepare Supplementary Planning Guidance to detail the circumstances where financial contributions towards the upgrading of off-site provision will be deemed appropriate. The SPG will also provide additional guidance on design, management and maintenance.



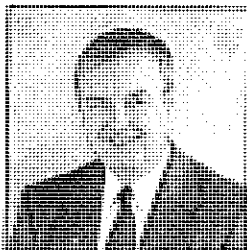
# Biodiversity and Development

Supplementary Planning Guidance Note



**Falkirk Council**  
*Development Services*

## Foreword



*David Alexander*

Welcome to this supplementary planning guidance note on Biodiversity and Development. It is one of a suite of such guides promoting development quality in the built environment and taking forward the Council's commitment to sustainable development as set out in the Development Plan.

Falkirk Council is committed to conserving and enhancing our locally and nationally important biodiversity. Development of all kinds can put pressure on our natural environment. However, development and biodiversity conservation can work together. With good planning and design we can achieve quality developments that protect, maintain and enhance our valuable local biodiversity. This guidance note is intended to assist developers in meeting Falkirk Council's biodiversity objectives.

The Council commends the advice set out in this guide.

February 2007

## Content



### Introduction

- 1.1 What is Biodiversity and Why Conserve it?
- 1.2 Biodiversity and Development
- 1.3 Who is the guidance for / what does the guidance include?
- 1.4 How strictly will the guidance be applied?

### Guidance

- 2.1 Development Plan Context
- 2.2 Protection through Legislation, Planning Policy and Guidance
- 2.3 Key biodiversity objectives
- 2.4 Incorporating biodiversity into development
- 2.5 Issues and opportunities for biodiversity

### Checklists

- 3.1 Biodiversity checklists

### Appendices

- Appendix 1 Initial Site Audit
- Appendix 2 Legally protected species and habitats occurring within the Falkirk area
- Appendix 3 LBAP species and habitats
- Appendix 4 Designated sites
- Appendix 5 Further information
- Appendix 6 Useful contacts

### 1.1 What is biodiversity and why conserve it?

Biodiversity simply means all living things. All plants, animals and habitats contribute to the planet's biodiversity (variety of life). Every living thing, whether rare or common, plays a vital part in the whole interconnected web of life.

Biodiversity is at the heart of our aim of a more sustainable future. A healthy and diverse natural environment is vital to our economic, social and spiritual well being, now and in the future.

The last 100 years have seen considerable declines in the numbers and health of many of our wild plants, animals and habitats. Human activity is placing ever-increasing demands on our natural resources. We have a shared responsibility to conserve and enhance our local biodiversity for the good of current and future generations.

The Falkirk Council area is rich in biodiversity, which provides environmental services and makes a direct contribution to the quality of life.

### 1.2 Biodiversity and development.

Development of all kinds can put pressure on our natural environment both directly and indirectly. However, development and biodiversity conservation can work together. By adhering to relevant legislation, national and local planning policies and guidance, biodiversity action plans and other biodiversity guidance, early on in the planning process, developers can achieve quality developments that meet biodiversity objectives.

### 1.3 Who is the guidance for/what does the guidance include?

This guidance note is intended to assist developers in making a planning application which will meet the Council's biodiversity objectives (see section 2.3).

It includes an introduction to key legislation, policy and guidance, an outline of the Council's Biodiversity Objectives relating to biodiversity and development, details of how biodiversity conservation should be incorporated into development, and checklists for different development types.

### 1.4 How strictly will the guidance be applied?

Various species, habitats and sites are given statutory protection and the Council has a duty to uphold this legislation via the planning process. Other nationally and locally important ecological features are highlighted in Council policy and strategies: these features must be fully considered within planning applications, and their protection and enhancement will be expected wherever possible. More general biodiversity enhancement will be encouraged wherever appropriate.

## 2.1 Development Plan Context

The policies summarised below set out Falkirk Council's agenda for protecting the network of sites and features of ecological importance within the area. The finalised Falkirk Council Local Plan actions the production of this supplementary planning guidance on biodiversity, to guide developers on requirements and best practice. These policies are available in full at [www.falkirk.gov.uk](http://www.falkirk.gov.uk).

### Falkirk Council Structure Plan 2007

#### POLICY ENV.3 NATURE CONSERVATION:

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

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

## Guidance

*Development Plan Context*

Falkirk Council Local plan Finalised Draft, April 2007

**EQ24 ECOLOGICAL SITES AND FEATURES :**

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

**EQ25 BIODIVERSITY :**

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

Developments which would have an adverse effect on the national and local priority habitats and species identified in the Falkirk Area Biodiversity Action Plan will not be permitted unless it can be demonstrated that there are overriding national or local circumstances;

The safeguarding, enhancement and extension of the broad and key habitats and the species of conservation concern identified in 'The Biodiversity of Falkirk' will be given particular attention in the consideration of development proposals;

Development proposals should incorporate measures to promote, enhance and add to biodiversity, through overall site planning, and infrastructure, landscape and building design, having reference to the Supplementary Planning Guidance note on 'Biodiversity and Development'; and

Priority will be given to securing appropriate access to and interpretation of areas of local nature conservation interest. The designation of Local Nature Reserves, in consultation with communities, local wildlife groups and statutory bodies will be pursued.

## Guidance

### *Development Plan Context*



In addition the following policies cover specific features of ecological interest:

**EQ26 TREES, WOODLAND AND HEDGEROWS:**

recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows and protects and encourages the enhancement of these features accordingly.

**EQ27 WATERCOURSES:** recognises the importance of watercourses within the Council area in terms of their landscape, ecological, recreational and land drainage functions, and protects and encourages the enhancement of these features accordingly.

**EQ28 THE COASTAL ZONE:**

promotes an integrated approach to the management of the coastal zone and safeguarding of the undeveloped coast.



## Guidance

### *Protection through Legislation, Planning Policy and Guidance*

## 2.2 Protection through Legislation, Planning Policy and Guidance

The tables below give a brief overview of the main legislation, policy and guidance relating to biodiversity and development. This underpins the Council's approach to the protection and enhancement of biodiversity within the planning process.

	Statutory protection	Examples of Classification/ Protected Feature
<b>Sites</b>	Site designations reflecting international and national importance.	Special Protection Area Special Area of Conservation Site of Special Scientific Interest (see Appendix 4)
<b>Habitats</b>	Protection of internationally or nationally important habitats.	e.g. Raised bog Saline lagoon (See Appendix 2 for full list)
<b>Plants &amp; Animals</b>	Protection of specific internationally and nationally important species  Protection of nesting birds	e.g. Great crested newt Badger (See Appendix 2 for full list)

	Non-statutory protection	Classification examples
<b>Sites</b>	Locally designated sites	Sites of Importance for Nature Conservation (SINCs) Wildlife Sites (See Appendix 4)
<b>Habitats</b>	LBAP <sup>1</sup> and UKBAP <sup>2</sup> Habitats	UK and Local Priority Habitats (See Appendix 3)
<b>Plants &amp; Animals</b>	LBAP <sup>1</sup> and UKBAP <sup>2</sup> Species	UK and Local Priority Species (See Appendix 3)

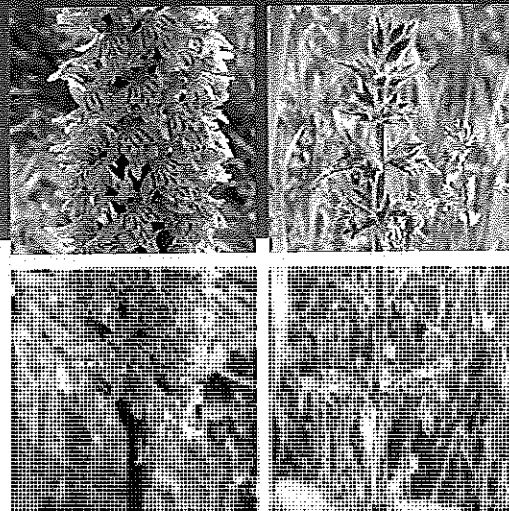
<sup>1</sup> LBAP:- Local Biodiversity Action Plan

<sup>2</sup> UKBAP:- UK Biodiversity Action Plan



## Guidance

### Protection through Legislation, Planning Policy and Guidance



Relevant Council Policies	Implications for development	Key Legislation and guidance
ENV3, EQ24	Protects sites against potentially damaging operations. Strong presumption against damaging development.	<ul style="list-style-type: none"> <li>■ Habitats directive</li> <li>■ Species Directive</li> <li>■ Habitats Regulations and Circular 6/95 (amended 2000)</li> </ul>
ENV3, EQ24	Avoid damage to or disturbance of habitats.	<ul style="list-style-type: none"> <li>■ Wildlife &amp; Countryside Act 1981 (as amended)</li> <li>■ Nature Conservation (Scotland) Act 2004</li> </ul>
ENV3, EQ24	Avoid or (in certain rare circumstances and where the relevant licenses are obtained) mitigate against adverse impacts on legally protected species.  Avoid disturbance of nesting birds.	<ul style="list-style-type: none"> <li>■ NPPG14</li> <li>■ PAN 51: Planning and Environmental Protection</li> <li>■ PAN 60: Planning for Natural Heritage</li> <li>■ Protection of Badgers Act 1992</li> </ul>

Relevant Council Policies	Implications for development	Key Legislation and guidance
ENV3, EQ24, EQ25 EQ26, EQ27, EQ28	Presumption against development. Where, in exceptional cases, development is permitted mitigation of negative ecological impacts, biodiversity enhancements and compensation may be required.	
ENV3, EQ24, EQ25 EQ26, EQ27, EQ28	Habitats to be protected and enhanced wherever possible.	<ul style="list-style-type: none"> <li>■ Local Biodiversity Action Plan</li> <li>■ Scottish Biodiversity Strategy</li> </ul>
ENV3, EQ24, EQ25 EQ26, EQ27, EQ28	Species to be protected and enhanced wherever possible.	<ul style="list-style-type: none"> <li>■ Local Biodiversity Action Plan</li> <li>■ Scottish Biodiversity Strategy</li> </ul>

## Guidance

### *Protection through Legislation, Planning Policy and Guidance*

#### **National and Local Biodiversity Strategies**

The Scottish Parliament is committed to playing a full part in fulfilling the UK Government's obligations under the Convention on Biological Diversity, through implementation of the Scottish Biodiversity Strategy. The main aim of this strategy is to conserve biodiversity for the health, enjoyment and well being of the people of Scotland now and in the future. Included within this strategy is an objective to "restore and enhance biodiversity in all our urban, rural and marine environments through better planning, design and practice".

The Falkirk Area Biodiversity Action Plan aims to protect and enhance the biodiversity of the Falkirk Council area, through focused local action. The habitats and species listed within this plan as local priorities will be given special consideration when assessing planning applications.

#### **Nature Conservation (Scotland) Act 2004**

Part 1 of The Nature Conservation (Scotland) Act 2004 places a duty on all public bodies and office workers to further the conservation of biodiversity. This duty applies to both Falkirk Council, in determining planning applications, and to any public bodies undertaking development activity.

## Guidance

### Key Biodiversity Objectives

## 2.3 Key biodiversity objectives

The Council will assess planning applications with a view to ensuring that they comply with the following overall aim and take full account of the key biodiversity themes listed below.

### Overall aim:

To ensure that species, habitats and sites that are particularly vulnerable or of high ecological importance nationally or locally are protected and that our wider biodiversity is maintained and where possible enhanced.

### Key Themes:

#### Protect

Protect existing species, habitats and ecologically important sites before, during and after development activity takes place.

#### Enhance

Wherever possible, opportunities to improve the ecological value of all or part of the development site should be pursued. In addition to providing biodiversity gain, such enhancement can often contribute towards a high quality, aesthetically pleasing development.

#### Mitigate

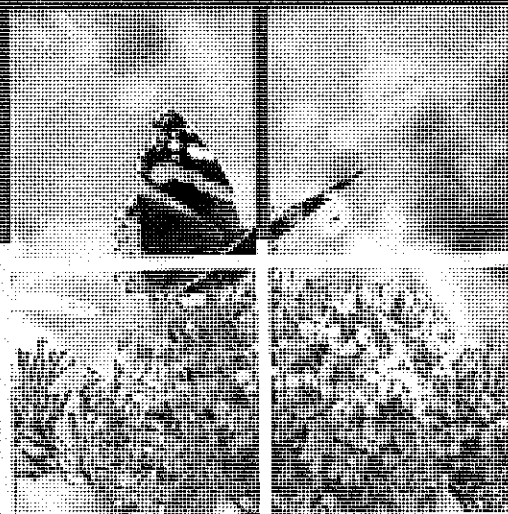
Negative impacts on biodiversity as a result of development should be minimised through appropriate mitigation.

#### Compensate

Where development is permitted and negative impacts on key biodiversity features cannot be avoided, compensatory biodiversity enhancements will be required.

#### Manage/Maintain

Designs should be developed with a view to ensuring the long-term quality of environmental features. Development and implementation of appropriate management plans and/or maintenance regimes will be necessary in some cases.



## Guidance

### *Incorporating Biodiversity into Development - Step 1*

## 2.4 Incorporating biodiversity into development

With a few simple steps, developers can ensure that they comply with biodiversity legislation, meet the Council's requirements for biodiversity conservation, and achieve best practice. An overview of these key steps and how they fit into the planning process is given below followed by a graphical representation.

(The specific requirements will differ for different development types: see the Checklists in 3.1 for more detail).

### Step 1. Consultation and Scoping

An Initial Site Audit should be undertaken to determine the possible ecological issues at a potential development site. A proforma for this initial audit is available in Appendix 1. In the case of a site with a range of established environmental features/habitats/species this audit is best undertaken by a qualified ecologist or a landscape architect with suitable ecological experience. The initial audit will assist in the selection of an appropriate development site, highlight the potential biodiversity issues and opportunities at a site, and identify where further survey data will be required.

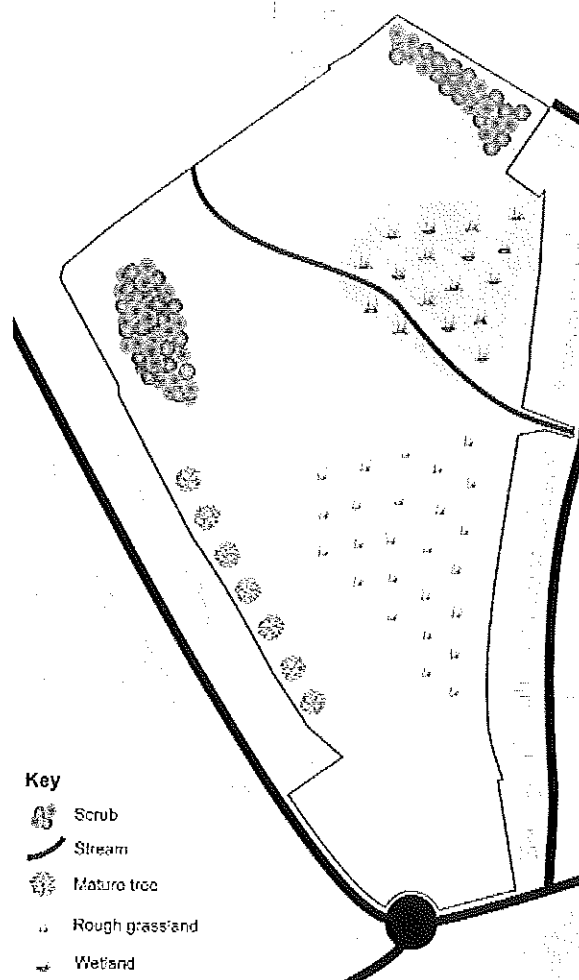
Early discussions with the Council and other relevant organisations (see Appendix 6) should also be used to identify the environmental data that will be required with a planning application.

A considerable amount of environmental data already exists, particularly relating to designated sites and some legally protected species. Early consultation with relevant statutory and non-statutory organisations will ensure that, where available, historic data for a development site is obtained. The absence of existing environmental data for a site does not mean that there are no features of ecological significance. An initial site audit will indicate what further survey data is required.

The site audit should be included with any outline planning application.

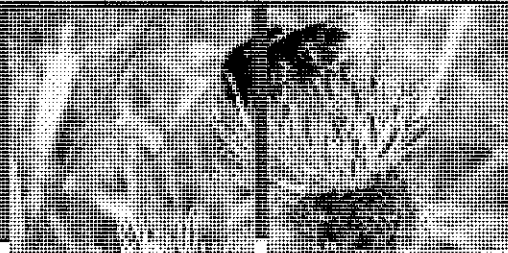
### Example 1: Initial Site Audit

An initial site audit should be undertaken to determine the possible ecological issues at a site.



## Guidance

## Incorporating Biodiversity into Development - Step 1



## Initial Site Audit Proforma

	Tick if Yes	If Yes then	Done
Does the site include all or part of a statutorily designated site e.g. SPA, SAC, SSSI?	<input type="checkbox"/>	Consult Scottish Natural Heritage and Falkirk Council for more information.	<input type="checkbox"/>
Is there a statutorily designated site e.g. SPA, SAC, SSSI nearby that may be impacted by the development?	<input type="checkbox"/>	Consult Scottish Natural Heritage and Falkirk Council for more information.	<input type="checkbox"/>
Does the site include all or part of, or impact on a nearby, non-statutory designated site i.e. a SINC or a Wildlife Site?	<input type="checkbox"/>	Consult Falkirk Council to determine under what circumstances, if any, development might be acceptable and the ecological data required.	<input type="checkbox"/>
Does all or part of the site form a wildlife corridor or 'stepping stone' linking two or more other areas of ecological value?	<input type="checkbox"/>	Assess ecological impact of development on the site and adjacent areas of habitat, and identify possible mitigation.	<input type="checkbox"/>
Does the site include any of the following habitats?			
Mature trees (individuals or small stands)	<input checked="" type="checkbox"/>	Survey for: Bats* LBAP Species* Check for: Tree Preservation Orders and Conservation Area designation Undertake: Tree survey (species, location, ground spread, age, height)	<input type="checkbox"/>
Woodland	<input type="checkbox"/>	Survey for: Bats, Red squirrels, Badgers* LBAP Species* Undertake: Phase II habitat survey Ecological Impact Assessment	<input type="checkbox"/>
Hedges	<input type="checkbox"/>	Survey: To determine if the hedges are of particular ecological value (i.e. species-rich, LBAP Species*)	<input type="checkbox"/>
Rivers, streams or wet ditches	<input checked="" type="checkbox"/>	Survey for: Otters, Water voles, Salmon* LBAP Species* Undertake: Ecological Impact Assessment	<input type="checkbox"/>
Ponds, pools or lochs	<input type="checkbox"/>	Survey for: Great crested newts, Water voles - LBAP Species* Undertake: Ecological Impact Assessment	<input type="checkbox"/>
Wetland or bog	<input checked="" type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Long/rough grassland	<input checked="" type="checkbox"/>	Survey for: LBAP Species Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Bunged/unimproved heath	<input type="checkbox"/>	Survey for: Young's helleborine, Foxglove, lungwort, LBAP Species* Undertake: Phase II habitat survey or vegetated areas Ecological Impact Assessment	<input type="checkbox"/>
Brownfield	<input type="checkbox"/>	Survey for: Invertebrates	<input type="checkbox"/>
Heath (heather)	<input type="checkbox"/>	Survey for: LBAP Species Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Buildings/barns	<input type="checkbox"/>	Survey for: Bats*, Barn owls, nesting birds, LBAP Species*	<input type="checkbox"/>
Scrub	<input checked="" type="checkbox"/>	Survey for: LBAP Species Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Coastal sand, mudflat, lagoons or saltmarsh	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>

\* If protected species are identified through surveys consult SNH and Falkirk Council on the additional data, protection and mitigation required.

\* Survey for the LBAP species associated with the habitat in question.

#### **Step 2.**

##### **Detailed Surveys and Impact Assessment**

Where the initial site audit indicates that the site does or could support species, habitats or features of biodiversity interest, specific, targeted surveys should be carried out.

As an absolute minimum, sufficient data should always be obtained to determine the presence or absence of legally protected and LBAP Priority species and habitats (see Appendices 2 & 3) and, if present, to indicate their distribution and population size/area. However, additional survey data may be necessary to inform mitigation, enhancement, compensation and management works on site, and will be a requirement for certain development types or sites. These additional data needs will be highlighted by the initial site audit and/or by early discussions with the Council and other relevant bodies.

Optimum survey seasons vary for different species and habitats. Further information is available outlining optimum survey times and methodologies for different species/habitats (see Appendix 5). Advice should be sought to ensure that surveys take place at the appropriate time. In some cases more than one survey will be required to provide sufficient data on a species/habitat. Given these time constraints survey requirements for a development should be determined at the earliest possible stage to avoid delays later in the planning process.

The potential ecological impacts associated with a proposed development can be predicted once sufficient baseline data has been collected. An ecological impact assessment should address the following questions:

- Is the impact positive or negative?
- Is the impact direct or indirect?
- Is the impact permanent?  
If not how long will it last?
- What will be the scale of the impact?
- Is the impact cumulative or not?

Developments where there is clearly going to be little or no environmental impact may not need to produce an ecological assessment, however, other developments will. Discussions with the Council should determine where an ecological assessment will be required. (Also see section 3.1: Biodiversity Checklists)

Certain major developments will require a formal Environmental Impact Assessment (EIA) under the Environmental Impacts Assessment (Scotland) Regulations 1999. The contents of such an EIA are stipulated by the regulations.

Developments which are deemed, by the competent authority, to have a 'significant effect' on the qualifying species or habitat of a Special Protection Area or Special Area of Conservation will require a formal 'Appropriate Assessment'.

The ecological surveys/baseline data and impact assessment should be included with any outline planning application.

## Guidance

### *Incorporating Biodiversity into Development – Step 3*

#### **Step 3.**

#### **Design of Development to Incorporate Biodiversity Objectives**

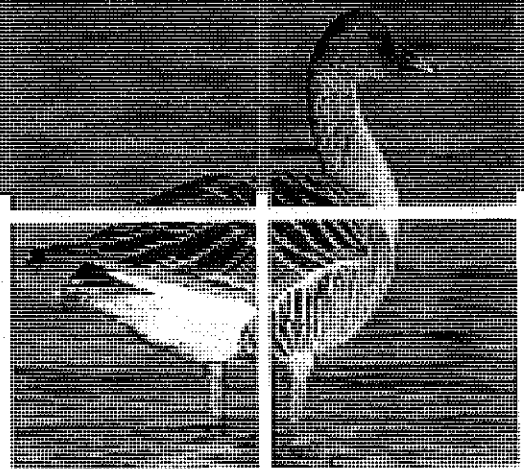
The process of audit, survey and impact assessment should identify a range of biodiversity constraints and opportunities for a development. Having identified these constraints and opportunities, they should be factored into any masterplan or initial designs. Even where few features of ecological value have been identified on site, the developer should still explore opportunities to enhance the value of the site for wildlife.

Biodiversity objectives should be drawn up which are relevant and achievable within the development framework, meet legislative requirements and address the Council's biodiversity aims as set out in section 2.3. These objectives should be included in any outline planning application.

On submitting a detailed planning application more detailed designs and methodologies will be required, demonstrating how the proposed biodiversity objectives are to be fulfilled on site. At this stage planning conditions may be used to secure implementation of the necessary actions to ensure that the agreed biodiversity objectives are achieved.

Developers may wish to consult the Council prior to making an application to ensure that the proposed biodiversity objectives will adequately meet the Council's biodiversity aims (see section 2.3).

**Note:** Where no outline planning application is being submitted all environmental data, biodiversity objectives and detailed methodologies will need to be included within the detailed application.



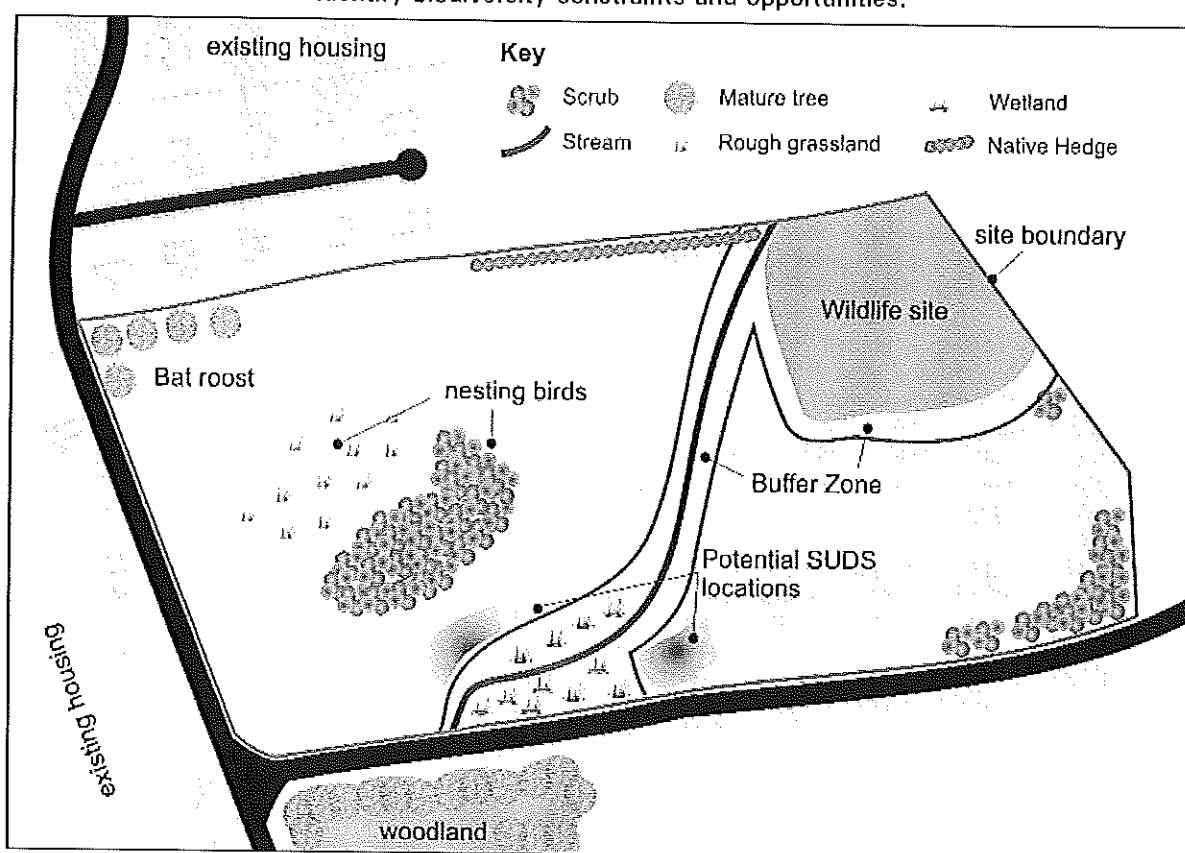


## Guidance

## Incorporating Biodiversity into Development - Step 3

## Example 2: Biodiversity Objectives

Identify biodiversity constraints and opportunities.



Set biodiversity objectives

- Ensure no disturbance of the bat roost.
- Time works to ensure no disturbance to nesting birds.
- Retain mature trees and hedge.
- Protect and enhance the biodiversity value of the watercourse and wetland by creating a suitably managed 10m buffer zone either side of it. This will also create an important wildlife corridor between the Wildlife Site and the nearby woodland.
- Protect and enhance the Wildlife Site with an undeveloped buffer zone around it. Provide access to this site at a level which is compatible with its conservation needs.
- Minimise the impact of construction work on retained biodiversity features, excluding activity from sensitive biodiversity areas.
- Compensate for loss of the long grass area and associated species by creating new areas of long grassland in openspaces and along road verges, with suitable grassland management.
- Compensate for loss of central scrub area by enlarging scrub habitats on the site boundary.
- Design and locate the SUDS ponds to maximise their value for wildlife and complement existing wetland habitats.
- Use native species in landscaping wherever possible, to benefit biodiversity. e.g. enhance existing areas of trees, hedge and scrub on the site boundary with additional native planting.
- Secure appropriate long-term management of all biodiversity and landscaped areas, including the Wildlife Site.



## Guidance

### *Incorporating Biodiversity into Development - Step 4*



#### Step 4.

#### Protection, Enhancement, Mitigation, Compensation

In designing a development that fulfils agreed biodiversity objectives and demonstrates good practice in biodiversity conservation, there is a hierarchy of themes that should be addressed. These are, in order of priority:

- Protect features of nature conservation value
- Enhance or create features of nature conservation value
- Mitigate for impacts to features of nature conservation value
- Compensate for the loss of features of nature conservation value

The design of all developments should aim to incorporate features of existing ecological value on or adjacent to the site. Designs should also aim to enhance existing features of ecological value. Where it is impossible to avoid all impacts to a feature of ecological value and these impacts can be lessened by a change in the development design or operations, mitigation should be considered. Justification of why impacts cannot be avoided through alternative designs should be provided. Evidence that appropriate consideration has been given to potential mitigation of negative impacts will be required. Where there is no viable alternative to the loss or damage of a feature of ecological value, compensation will be required. Compensation for habitat loss should aim to replace 'like for like' or better (see section 2.5 for more detail). Planning gain and planning conditions may be used to secure compensation for biodiversity losses.

It is essential that the detailed design and methodologies adopted to fulfil the agreed biodiversity objectives are put into practice on site. Where a development is permitted on the basis that the proposed mitigation would make the overall impact on biodiversity acceptable, that mitigation will be a condition of planning consent and must be carried out. In addition a developer may be asked to appoint an Ecological Clerk of Works to oversee certain areas of work. Training of site staff may also be required to ensure adequate awareness of on-site biodiversity issues. In certain circumstances ongoing monitoring of key biodiversity features may be required to ensure continued adherence to relevant legislation, policy and planning conditions.

Figure 1 : Hierarchy of themes to be addressed

- 1. PROTECTION**  
Protect features of nature conservation value
- 2. ENHANCEMENT**  
Enhance or create features of nature conservation value
- 3. MITIGATION**  
Mitigate against negative impacts
- 4. COMPENSATION**  
Compensate for unavoidable negative impacts

## Guidance

### *Incorporating Biodiversity into Development - Step 5*

#### Step 5.

#### Management, Monitoring and Aftercare

Ongoing management and maintenance of areas of biodiversity value to be retained, enhanced or created is essential. Only with appropriate management will these areas reach and maintain their full potential for wildlife and people. Management and maintenance may be secured through the production of a Biodiversity Management Plan for all or part of the development site. This plan would be required as part of a detailed planning application. In some cases it may be acceptable for the biodiversity management to be incorporated into a Landscape Plan. A trained ecologist should be used to ensure that the plan contains appropriate prescriptions and adequate monitoring mechanisms. Sufficient funds must be put in place to implement the proposed management for the lifetime of the management plan. The management plan and/or landscape plan must be provided before or with the detailed planning application.

The production of environmental surveys, impact assessments, biodiversity objectives, detailed methodologies for biodiversity conservation and biodiversity management plans should be carried out by a suitably qualified ecologist.

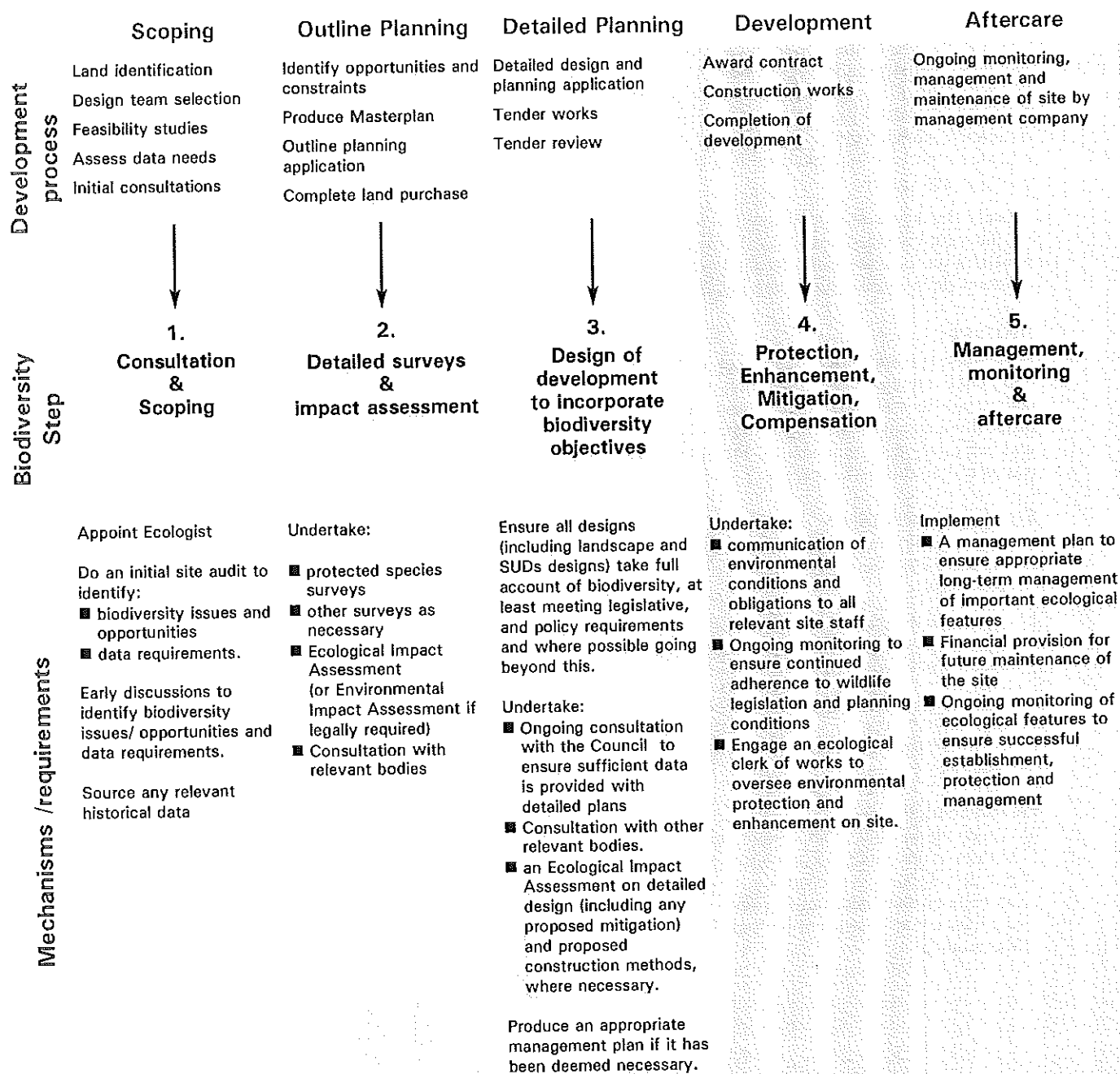
As a guide, a 'suitably qualified ecologist' will :

- have a relevant biological or environmental qualification
- have several years relevant experience
- have the necessary survey and assessment skills and knowledge of relevant legislation
- have good references from similar jobs.

They may also have membership of a professional body such as IEEM or be a Chartered Environmentalist (CENV).

## Guidance

### Incorporating Biodiversity into Development - Steps 1-5



## Guidance

### Issues and opportunities for biodiversity – Protect

## 2.5 Issues and opportunities for biodiversity

This section highlights some of the key biodiversity issues and opportunities that should be considered when planning a development. It also provides guidance on the type of biodiversity protection, enhancement, mitigation, compensation and management measures that will be looked for in a good planning application.

(Clearly the issues and opportunities will differ for different development types. For more guidance on the likely considerations for different development types see section 3.1)

### Protect

Protection of biodiversity must meet legislative and policy requirements. In addition developers should aim to protect all species and habitats of local importance (i.e. LBAP priority species and habitats – see Appendix 3). Protection issues to be considered include:

#### Statutory responsibilities

- Ensure legally protected species, habitats and sites are not harmed (in line with legislation).
- Consult with relevant agencies and where necessary obtain licenses for work affecting legally protected species, habitats or sites.
- Ignorance is not a defence; it is the developers/contractors duty to ensure work will not impact upon legally protected features.

#### Precautionary Principle

- Where the ecological importance of a feature is unknown the precautionary principle should be applied. i.e. do not damage or disturb something until you are confident that it is not of high ecological importance.

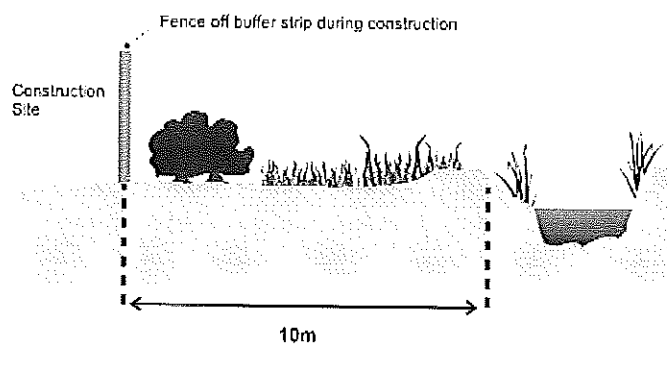
#### Other features of ecological importance

- Protect locally designated sites of ecological importance from damage. There is a presumption against development of locally designated sites. Even where, in extreme cases, development is granted, protection of key elements of the site is likely to be a condition of consent. As such, activity on site should not commence until it is clear whether permission has been granted and which features are to be protected.
- Protect species and habitats of local importance (i.e. those identified within the Local Biodiversity Action Plan (LBAP) - (see Appendix 3)
- As far as possible existing ecological features should be retained and incorporated into the site design and layout. Existing habitats, species, and wildlife corridors should be the starting point for a design that meets biodiversity objectives.

#### Protection measures

- On site protection measures could include: fencing off key areas of habitat to avoid direct damage, timing operations to avoid disturbance at key times, preventing pollution, creating buffer zones around ecological features and excluding construction activity from these areas, and ensuring site personnel are aware of the protection requirements and mechanisms on site. (see 'Mitigate' section on page 21 for more detail).

**Example 3: Leave a buffer strip of at least 10m beside a watercourse to help protect species like water voles**



## Guidance

### Issues and opportunities for biodiversity - Enhance



#### Enhance

Enhancement can involve improving or enlarging existing habitats or creating new habitat. Similarly it could aim to reinforce an existing species population or encourage new wildlife to the site. Enhancement works should be viewed as an opportunity to improve the site for the benefit of both wildlife and people. Well implemented and maintained biodiversity enhancements can provide attractive and healthy spaces for people, adding value to a development. Enhancement works to be considered include:

##### Enhancing existing habitat

- Improve or enlarge existing areas of natural habitat. An ecologist should be used to advise on the detail of how this should be done.
- Leave nature to take its own course. Rather than planting up areas, in some cases it is better to leave them to colonise naturally. Where planting is undertaken native species should be used. Use the species already present as a guide to which plants to use. In special cases (e.g. additional planting adjacent to an ancient woodland) local provenance plant stock should be used.
- Non-native, invasive species such as Japanese Knotweed should be controlled and disposed of appropriately. It is an offence under The Wildlife and Countryside Act 1981 (as amended) 'to plant or otherwise encourage' the growth of certain plants. This could include cutting the plants or roots and disturbing surrounding soil if not correctly managed.
- Creating buffer zones around existing habitats (e.g. a strip at least 10m wide either side of a watercourse) can help protect and enhance that habitat, making it more valuable to wildlife. Incorporating habitats into larger areas of openspace can increase their attractiveness to wildlife.
- Where watercourses have been canalised or culverted, there may be opportunities to restore them to a more natural form with meanders, stepped sides and wetlands that flood at times of high flow.
- Linking existing and new habitat areas with 'wildlife corridors' or 'stepping stones' will significantly increase their value for biodiversity. (See 'Mitigate' section)

##### Creating new habitat

- New habitats should be appropriate to the area. Look at the habitats already present on or near the site and aim to complement these. The wildlife already present gives an indication of the sort of habitats and species that will thrive. An ecologist should be used to advise on the detail of how this should be done.
- Where possible, habitat creation should be guided by the Integrated Habitat Network Study (to be produced in 2007-2008).
- Design SUDs ponds or treatment beds to create wetland habitats of benefit to biodiversity and consider the incorporation of grassed swales within the development. (see SEPA Ponds, pools and lochans handbook). Where possible create drainage ditches rather than underground pipes.
- It may be possible to design and manage areas of public openspace to benefit wildlife. e.g. sow native grass and wildflower mixes in areas where short amenity grassland is not required.
- Where openspace is limited, green roofs may be used to provide additional habitat for wildlife.
- Restoration plans for mineral workings and waste facilities offer an ideal opportunity for large scale habitat creation and should be carefully designed to optimise the benefit to biodiversity.
- Ideally, habitat creation (whether as mitigation, compensation or enhancement) should be undertaken prior to development.

## Guidance

### Issues and opportunities for biodiversity - Enhance

#### Landscaping for biodiversity

- Where possible native species should be used in planting schemes, these generally offer greater wildlife benefits than non-native species. However, horticultural varieties and structural planting can offer wildlife benefits if they are selected to provide food and shelter for birds and other wildlife, for as long a season as possible.
- Boundaries and verges often offer opportunities to landscape for biodiversity. Native hedges should be used in preference to fences or non-native hedges. Long grass can be left along verges to provide wildlife corridors.

#### Attracting wildlife

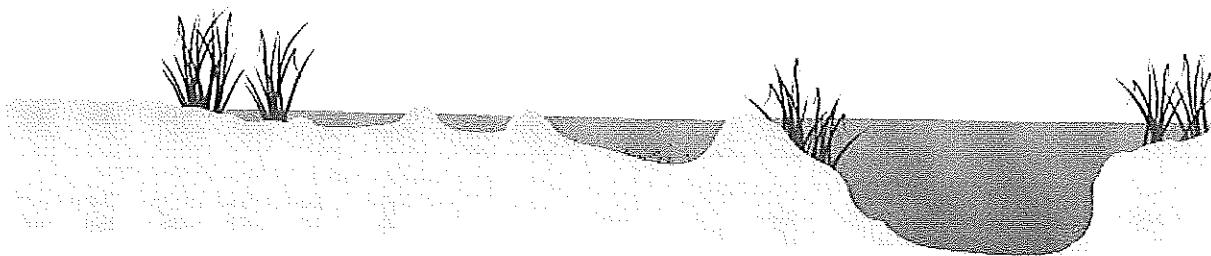
- Use a show home garden or borders to encourage wildlife gardening (e.g. planting nectar-rich flowers, creating a hedge, providing a garden pond, and avoiding peat based composts).
- Where appropriate (and particularly where other suitable habitat has been lost) provide bird and bat boxes, and incorporate bat and swift 'bricks' into buildings.

#### Spaces for people

- Consider providing public access to natural areas, where this will not generate undue disturbance or damage to the species or habitats present. Interpretation facilities such as information boards at areas of ecological interest will help to ensure that enhancements benefit local people as well as wildlife and encourage sympathetic use of the area.

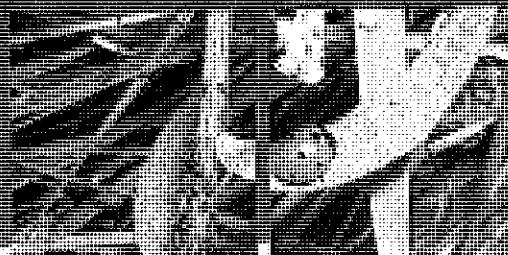
#### Example 4: Design SUDS ponds to maximise their biodiversity values

Create a pond complex, with seasonal and semi-seasonal ponds separated from permanent ponds in the summer.



## Guidance

### Issues and opportunities for biodiversity - Mitigate



## Mitigate

Mitigation of negative impacts should be achieved by good quality design influenced at the earliest possible stage by sound ecological data and assessment of environmental impacts. The objective of minimising negative impacts should inform the whole design and construction process from identifying an appropriate development site to implementing site maintenance after construction. Mitigation measures that should be considered include:

### Minimising disturbance & damage

- Minimise disturbance to species (particularly legally protected species and LBAP or UK BAP priority species - see Appendices 2 and 3) by avoiding key areas where they are present. It may be necessary to erect barriers between the main development site and the areas occupied or used by the species in question to ensure no direct disturbance. In the case of legally protected species more stringent safeguards will be required: any disturbing activity will require a license and advice should be sought from Scottish Natural Heritage (SNH).
- Translocation of species tends to be difficult and is often unsuccessful. It should only be considered as a last resort.
- Areas of habitat to be retained should be fenced off during construction work to avoid any direct damage.
- Impacts from pollution (dust, noise, polluted runoff, etc.) should be minimised through careful design and the implementation of suitable precautions during construction. (e.g. polluted runoff should be caught and treated before it enters a watercourse)
- Construction activity should, as far as possible, be timed to avoid sensitive times of year (e.g. the bird breeding season March - August). The use of bright lighting on site during the hours of darkness should be minimised, due to its potential to disturb bats and other night foraging creatures.
- Unavoidable flood defence work or alteration of watercourses should be undertaken sensitively creating stepped banks to provide varied habitats. Culverting should be avoided.
- Mitigate against ongoing future impacts, such as increased disturbance at a site, by screening wildlife areas from footpaths and directing lighting away from wildlife areas.

### Creating replacement habitat

- Mitigation of habitat loss by creation of similar habitat, which species can move into, requires creation of a large total area and high quality habitat. Where key species are to be displaced into the new habitat, this should be created well in advance of disturbance to the existing habitat. Newly created habitat will take considerable time to establish thus reducing its biodiversity value in the short to medium term. Translocation is often unsuccessful and should only be attempted as a last resort.
- Where valuable habitat has to be removed, careful storage and re-use of the topsoil on site should allow similar species to establish. This may also reduce disposal costs. Where creation of replacement habitats cannot be done using a seed source from on site (e.g. saved within the topsoil), seed could be obtained from a similar, local site.
- Provision of nest boxes and bat boxes or bat/swift 'bricks' can sometimes help to mitigate against loss of nesting/roost sites, although choosing the correct design is crucial to success.

### Creating 'stepping stones' and 'wildlife corridors'

- Development can often fragment habitats within or around a site. These fragmented habitats may become too small and isolated to support healthy wildlife populations or to withstand pressures such as damage from recreational use. This fragmentation and isolation should be mitigated by:
  - Retention of buffer zones around fragments of habitat (at least 10m wide)
  - Creation of habitat 'stepping stones' (large enough and close enough together to allow species to travel from one area of habitat to the next)
  - Creation of wildlife corridors to link habitat fragments.



## Guidance

### Issues and opportunities for biodiversity - Mitigate

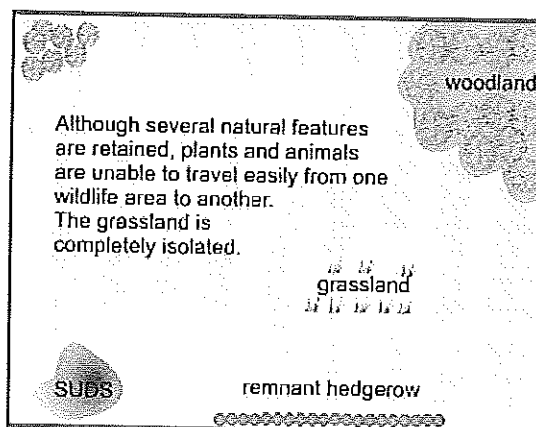
Ideally stepping stones should be large areas of high quality habitat but even individual trees, groups of trees, patches of grassland, green roofs, or long-grass verges will help. A wildlife corridor is a linear feature which species can move easily and safely along to travel between larger areas of habitat (e.g. hedgerows, watercourses, long-grass verges, planting strips, tree lines or shelterbelts).

#### Education & Awareness

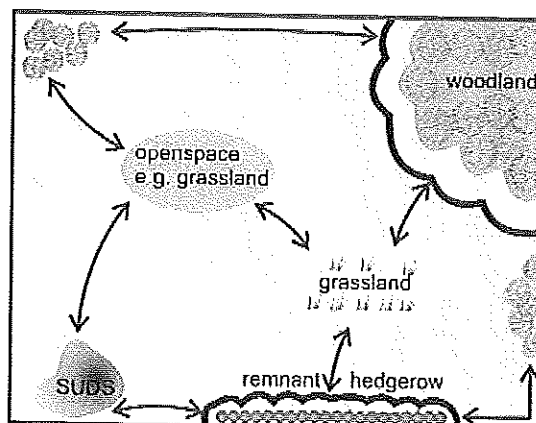
- All site personnel should be briefed by an ecologist on the biodiversity issues on site and the measures in place to safeguard important habitats and species, to reduce the potential for accidental disturbance or damage.

#### Example 5 : Wildlife corridors, buffers and stepping stones

A development without wildlife corridors, buffers or 'stepping stones'.



A development with wildlife corridors, buffers or 'stepping stones'.



#### Key

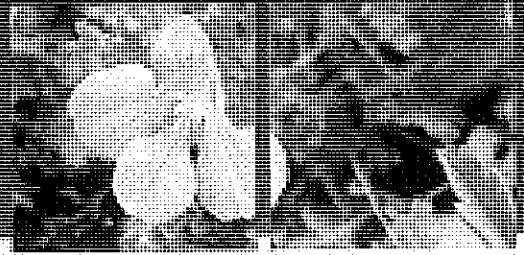
- Native Hedge
- Mature Tree
- Buffer Zone
- Stepping stone habitat
- Wildlife corridor

Designing in simple wildlife corridors e.g. along road verges, hedges, footpaths and watercourses ; and well placed buffer zones and "stepping stone" habitat ensures that wildlife can migrate throughout the site and key areas are protected.



## Guidance

### Issues and opportunities for biodiversity - Compensation



#### Compensate

Where negative impacts on biodiversity cannot be avoided, compensation will be required. Where possible compensation should be provided on site. However, off site options might be considered where the development site does not offer scope for on site compensation. Compensation for habitat loss is often difficult and not always possible. Compensation options to be considered include:

##### Habitat creation

- New habitat may be created to compensate for habitat lost to development. Where compensatory habitat is to be provided it is likely that a larger area than that lost will be required; created to a similar, if not better, quality. Ideally this should be provided within the development site. However, if this is impossible it may take place outwith the site but nearby, and ideally with suitable wildlife corridors/stepping stones linking the compensation area to the development site.

##### Habitat enhancement

- Enhancement of a nearby area of habitat rather than creation of new habitat may also be an option for compensation, although again this will require enhancement of a larger area than that lost. This option will not be acceptable in cases where it is critical that the overall area of habitat in the locality is not reduced.

#### Biodiversity features

- Provision of features such as bird boxes, bat boxes and bat 'bricks' may help to compensate for habitat loss, where an appropriate design is used.

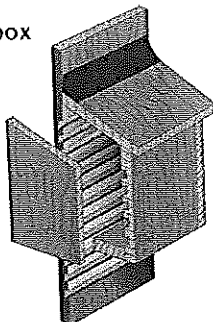
#### Contributions towards local biodiversity conservation

- In certain circumstances compensation may take the form of a sum of money to assist with management of nearby sites of ecological importance. This may be particularly important where development will lead to increased pressure on that site. Such compensation may be secured through planning gain.
- Compensation may take the form of a sum of money to assist with biodiversity conservation within the local area. The Local Biodiversity Action Plan may be used to help identify the priorities for conservation action locally.

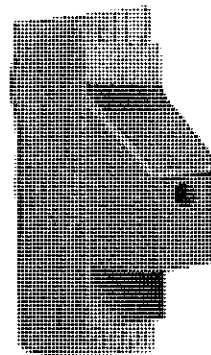
**Note:** in some instances the negative impacts of a proposed development on biodiversity will be unacceptable and in such cases planning permission will not be granted for the development regardless of the compensation offered.

**Example 6 :** Provision of suitably designed bird or bat boxes may help to compensate for loss of other potential nesting/roosting areas (e.g. areas of trees or scrub)

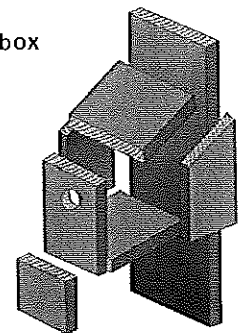
Bat box



Two designs are shown here but advice should be sought on the most appropriate design for a specific location.



Bird box



## Guidance

### Issues and opportunities for biodiversity - Manage/Maintain

#### Manage/ Maintain

Where ecological features are retained or created within the development site, appropriate ongoing management and maintenance must be put in place. The size and nature of the development and the ecological features on site will determine the scale of management provision required. In some cases providing for future management will require implementation of specific management regimes; in others it will simply require a suitable initial design.

Some developments will be required to produce a Biodiversity Management Plan for all or part of the development site to ensure appropriate ongoing management of the features of importance for biodiversity. In other cases biodiversity management can be included within a Landscape Plan. Discussion with Council officers will indicate what is required on a case by case basis.

Ongoing monitoring is important to ensure that the required protection or enhancement of biodiversity is taking place successfully and that further protection measures are not required to (as a minimum) meet legislative requirements. Periodic monitoring may be a condition of planning consent.

Management plans should cover at least the 5 years following completion of a development and ideally plan for longer term management/ maintenance.

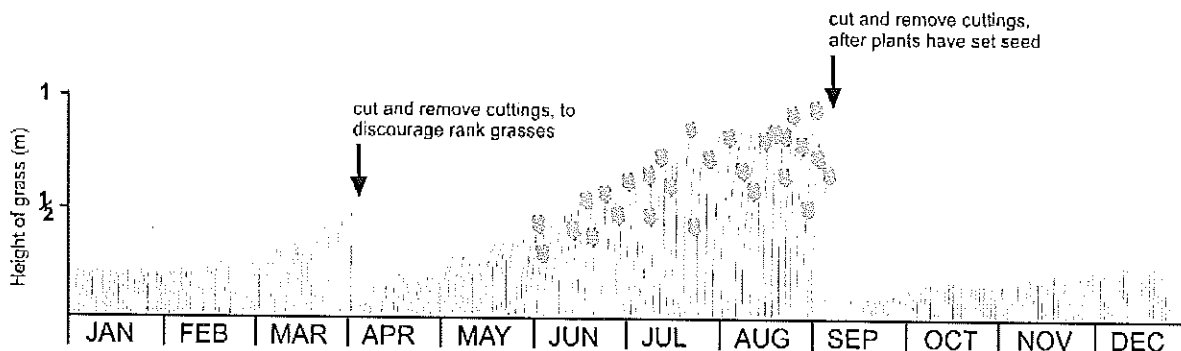
It is worth noting that natural areas are often less expensive to maintain than more modified areas (e.g. manicured grass verges or formal flower beds/shrubberies). Options for leaving areas of grass uncut, reducing or eliminating the need for pesticide use, and reducing the use of horticultural varieties, that may require regular pruning, should be considered.

#### Example 7: Management of grassland areas for biodiversity.

Areas of long grass can be of considerable benefit to biodiversity. Long grass could, for example, be retained on verges, as swathes within areas of short grass, or as larger meadow areas.

Ideally areas of long grass should be cut periodically to prevent rank grass swamping wildflower species. The grass cuttings must be removed to prevent the build up of nutrients in the soil.

The timing of cutting is important. Below is a guide to cutting times, although the species present will dictate ideal cutting times for a site.



## Checklists

### Biodiversity checklists



### 3.1 Biodiversity checklists

The following checklists offer a quick guide to the main likely biodiversity requirements and opportunities for different development types. The issues listed are not exhaustive and other considerations may arise following discussion with relevant Council officers and other organisations.

Checklists are provided for each of the following development types:

- **Householder/Minor proposals:**
  - Householder proposals - alterations, extensions, etc.
  - Listed building consents
  - Change of use
  - Developments of less than 10 houses and less than 0.5ha.
- **Significant new developments:**
  - Housing developments of 10 or more houses or over 0.5ha
  - Other developments of over 1000 sq.m floorspace or over 1ha
- **Mineral workings & waste developments**
- **Wind farm developments**
- **Road & rail facilities**

The above development types are indicative only, to give a guide to the most appropriate checklists to use. If in doubt early discussion with Council officers is recommended.

## Checklists

### Householder/Minor Proposals

#### Householder/Minor proposals

Undertake an initial site audit to help identify whether there are any issues that require further investigation. (see Appendix 1)

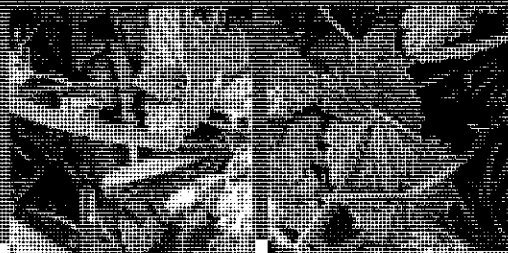
Further investigation is only likely to be required if the proposal involves:	If so:	Then:
Roofing/roofing works (on an existing roof)	Check for the presence of bat roosts and breeding bird sites	If present do not disturb bats, bat roosts (even if vacant) or nesting birds. Consult SNH.
Demolition	Check for the presence of bat roosts and breeding bird sites	If present do not disturb bats, bat roosts (even if vacant) or nesting birds. Consult SNH.
A barn conversion	Check for the presence of barn owls, other breeding birds and bat roosts.	If Barn Owls are present consult Biodiversity Officer to determine appropriate mitigation (e.g. nest boxes). Do not disturb bats, bat roosts (even if vacant) or nesting birds. Consult SNH.
Impact on a designated site (see Appendix 4)	Check status of the site and the likely impact of the development  Note: designated sites may be affected even if they are outwith the development area.	Consult the Council (for non-statutory designations) or SNH (for statutory designations) to determine whether development might be considered. There is a presumption against development in these cases.
Damage to or loss of key habitat features such as:		
Watercourses	Survey for water voles & otters	If legally protected species or habitats are found consult SNH. Protection, mitigation and compensation may be required.
Ponds	Survey for great crested newts and water voles.	
Trees/woodland	Check for bat roosts, nesting birds and badgers.	If present do not disturb nesting birds, bats, bats roosts or badger setts. Consult SNH.
LBAP priority habitats (see Appendix 3)	Assess impact of development on priority habitats.	Aim to retain ecological features as far as possible. Mitigate to minimise impacts on species and habitats. If loss of habitat is unavoidable, replacement habitat should be provided (e.g. bird or bat boxes, tree planting, wetland creation etc.)
LBAP priority species (see Appendix 3)	Assess impact of development on priority species.	

Additional enhancement to benefit biodiversity is encouraged but it is recognised that the level of enhancement that can be expected will be proportionate to the scale and environmental impact of the proposed development.

Where areas of ecological importance are being retained or created appropriate management may be requested.

## Checklists

### Significant New Development



### Significant New Development

An ecologist or suitably experienced landscape architect should undertake an **initial site audit** (see Appendix 1) to help identify areas/issues that require further investigation.

Early discussions with Falkirk Council are vital to agree biodiversity issues, opportunities and data needs.

Where there are ecological issues an ecologist should be appointed for the duration of the development process.

Undertake surveys to determine the presence or absence of legally protected species and habitats, the presence and status of LBAP priority species and habitats, and any other features of ecological interest. Habitat surveys should be to Phase II level. (The site audit will help identify survey needs).

Produce an **Ecological Impact Assessment** (or alternatively an Environmental Impact Assessment if required by law), including assessment of the likely impact of the proposed development after suitable mitigation.

Set **Biodiversity Objectives** for the development outlining how biodiversity is to be protected and enhanced. Falkirk Council can be consulted to determine whether these objectives are acceptable.

Enhancement to benefit biodiversity is strongly encouraged. This should be guided by the biodiversity features and opportunities present at a site and proportionate to the scale and environmental impact of the proposed development (see page 19). Landscaping should be designed to optimise its value for biodiversity.

Where the loss of habitat or species populations is unavoidable compensation will be required (see page 23).

A **Biodiversity Management Plan** must be produced and implemented for any development where areas of ecological value are being retained or created. In some cases, to be agreed with Council officers, it will be acceptable for this to be included within a Landscape Plan.

Ongoing monitoring of key species, habitats or biodiversity features may be necessary. Discussions with Falkirk Council will highlight where this is the case.

Feature present	If so:	Then:
Legally protected species or habitat	Prevent damage or disturbance. Consult SNH.	If the species/habitats present do not preclude all development, assess impacts on species/habitat and design to meet legislative requirements and enhance associated habitats. A licence may be required for work impacting on a legally protected species.
Impact on a designated site	Check site status and likely impact of the development. * (see note below)	Consult the Council (non-statutory designations) or SNH (statutory designations) to determine whether development may be considered. There is a presumption against development in these cases.
Buildings	Check for the presence of bat roosts and breeding birds. Check for barn owls.	If present do not disturb bats or nesting birds. Consult SNH. If Barn Owls are present then consult the Biodiversity Officer to determine appropriate mitigation (e.g. provision of nest boxes).
LBAP species and habitats and other ecologically valuable features	Survey to determine status of habitat or species. Assess impact of development and identify mitigation.	Protect LBAP species and habitats wherever possible. Retain ecological features of value where possible. Mitigate to minimise impacts on species and habitats. If loss of habitat is unavoidable, replacement habitat should be provided.
Wildlife corridors & stepping stones	Assess impact of development in terms of habitat fragmentation and the loss of wildlife corridors/stepping stones.	Protect habitats and wildlife corridors/stepping stones wherever possible. Provide buffer zones around key habitat. Design layouts should identify wildlife corridors and stepping stones.

\* Note : designated sites may be affected even if outwith development area.

## Checklists

### Mineral Workings & Waste Development

#### Mineral Workings & Waste Development

An ecologist or suitably qualified landscape architect should undertake an initial site audit (see Appendix 1) to help identify whether the site is appropriate for the development and areas/issues that require further investigation.

Early discussions with Falkirk Council are vital to agree biodiversity issues, opportunities and data needs.

Where there are ecological issues an ecologist should be appointed for the duration of the development process.

Undertake surveys to determine the presence or absence of legally protected species and habitats, the presence and status of LBAP priority species and habitats, and any other features of ecological interest. Habitat surveys should be to Phase II level. (Use site audit to identify survey needs).

Produce an **Ecological Impact Assessment** (or Environmental Impact Assessment if required by law), including assessment of the likely impact of the proposed development after suitable mitigation and longer term impacts after restoration.

Set **Biodiversity Objectives** outlining how biodiversity is to be protected and enhanced. Falkirk Council can be consulted to determine whether these objectives are acceptable.

#### Biodiversity Management Plan

Where species/habitats are to be retained on site or created nearby to compensate for habitat loss, a management plan should be provided detailing how these features are to be managed.

#### Restoration Plan

Mineral and waste developments often offer opportunities for large scale habitat creation at the restoration stage. A detailed restoration plan must be submitted with the planning application. Restoration schemes should have clear biodiversity objectives and should focus on creating LBAP priority habitats appropriate to the site's location. Bare ground and rock habitats can be a positive feature of restored mineral workings. Guidance on appropriate habitat creation can be sought from the Council's Biodiversity Officer. The restoration plan must include a detailed management programme and provision for its implementation.

Ongoing monitoring of key species, habitats or biodiversity features may be necessary both while the site is in use and following restoration. Discussions with Falkirk Council will highlight where this is the case.

Feature present	If so:	Then:
Legally protected species or habitat	Prevent damage or disturbance. Consult SNH.	If the species/habitats present do not preclude all development, assess impacts on species/habitat and ensure legislative requirements are met. Restoration plans should aim to reinstate and enhance habitats associated with protected species.
Impact on a designated site	Check site status and likely impact of the development. * (see note below)	Consult the Council (for non-statutory designations) or SNH (for statutory designations) to determine whether development might be considered. There is a presumption against development in these cases.
Peat	Survey to establish the condition of the peat habitat.	Consult the Council to determine if peat working will be acceptable. SPP4: Working of peat is only acceptable in areas of significantly degraded peatland of low conservation value.
LBAP species and habitats and other ecologically valuable features	Survey to determine status of habitat or species. Assess impact of development and identify mitigation.	Protect LBAP species and habitats wherever possible. Retain ecological features of value where possible. Mitigate to minimise impacts. If loss of habitat is unavoidable, it may be necessary to provide replacement habitat nearby. Reinstate and enhance habitats during restoration.
Wildlife corridors & stepping stones	Assess impact of development in terms of habitat fragmentation and the loss of wildlife corridors/stepping stones.	Where possible provide alternative corridors/stepping stones to allow species safe movement around/across the site while operational. Restoration plans should aim to reinstate and improve wildlife corridors and stepping stones within the site.

\* Note : designated sites may be affected even if outwith development area.



## Checklists

### Windfarm Development

#### Windfarm Development

An ecologist or suitably qualified landscape architect should undertake an initial site audit (see Appendix 1) to help identify whether the site is appropriate for the development and highlight issues for further investigation.

Early discussions with Falkirk Council are vital to agree biodiversity issues, opportunities and data needs.

Where there are ecological issues an ecologist should be appointed for the duration of the development process.

Undertake surveys to determine the presence or absence of legally protected species and habitats, the presence and status of LBAP priority species and habitats, and any other features of ecological interest. Habitat surveys should be to Phase II level. (The site audit will help identify survey needs). Windfarm proposals are likely to require considerable bird data. Consultation with RSPB, SNH and Falkirk Council will help to identify bird survey requirements.

Produce an Ecological Impact Assessment (or alternatively an Environmental Impact Assessment if required by law), including assessment of the likely impact of the proposed development after suitable mitigation.

Set Biodiversity Objectives for the development outlining how biodiversity is to be protected and enhanced. Falkirk Council can be consulted to determine whether these objectives are acceptable.

Enhancement to benefit biodiversity is strongly encouraged. This should be guided by the biodiversity features and opportunities present at a site and proportionate to the scale and environmental impact of the proposed development (see page 17). In certain circumstances there may be opportunities for considerable habitat creation or enhancement beneath turbines.

Where the loss or disturbance of ecologically valuable habitat or species populations is unavoidable compensation will be required (see page 21). Loss of habitat on windfarm sites should be minimal and compensation should be provided on site wherever possible.

A Biodiversity Management Plan must be produced where areas of ecological value are being retained or created.

Ongoing monitoring of key species, habitats or biodiversity features may be necessary both during and after the construction phase. Discussions with Falkirk Council will highlight where this is the case.

Feature present	If so:	Then:
Legally protected species or habitat	Prevent damage or disturbance. Consult SNH.	If the species /habitats present do not preclude all development, assess impacts on species/habitat and ensure operations will meet legislative requirements.
Impact on a designated site	Check site status and likely impact of the development.* (see note below)	Consult the Council (for non-statutory designations) or SNH (for statutory designations) to determine whether development might be considered. There is a presumption against development in these cases.
Birds	Assess the impact of the development on bird species, in particular protected species.	Impacts on birds must be minimised. In some instances the impact on certain species may be considered unacceptable.
Bean Geese	Assess if there could be an impact on the Bean Goose flock.	If there is likely to be an impact, an appropriate assessment will be required. Consult Council and SNH.
Bats	Assess likely impact on bats.	Where there is an impact on bats mitigation may be required.
LBAP species and habitats and other ecologically valuable features	Determine status of habitat or species through survey. Assess impact of the development (both construction and operation phases) and identify appropriate mitigation.	Protect LBAP species and habitats where possible. Retain ecological features of value where possible. Mitigate to minimise impacts on species and habitats. If loss of LBAP habitat is unavoidable replacement habitat should be provided. Minimise impacts of construction activity, including temporary and permanent infrastructure.
Wildlife corridors & stepping stones	Assess impact of development in terms of habitat fragmentation and the loss of wildlife corridors/stepping stones.	Avoid fragmentation of ecologically important habitats and wildlife corridors/stepping stones wherever possible. Where corridors are lost provide alternative wildlife corridors within the site.

\* Note : designated sites may be affected even if outwith development area.

## Checklists

### Road and Rail Development

#### Road and Rail Development

An ecologist or suitably qualified landscape architect should undertake an initial site audit (see Appendix 1) to help identify whether the site is appropriate for the development and areas/issues that require further investigation.

Early discussions with Falkirk Council are vital to agree biodiversity issues, opportunities and data needs.

Where there are ecological issues an ecologist should be appointed for the duration of the development process.

Undertake surveys to determine the presence or absence of legally protected species and habitats, the presence and status of LBAP priority species and habitats, and any other features of ecological interest. Habitat surveys should be to Phase II level. (The site audit will help identify survey needs).

Produce an Ecological Impact Assessment (or alternatively an Environmental Impact Assessment if required by law), including assessment of the likely impact of the proposed development after suitable mitigation.

Set Biodiversity Objectives for the development outlining how biodiversity is to be protected and enhanced. Falkirk Council can be consulted to determine whether these objectives are acceptable.

Enhancement to benefit biodiversity is strongly encouraged. This should be guided by the biodiversity features and opportunities present at a site and proportionate to the scale and environmental impact of the proposed development (see page 19). Verges/embankments offer an opportunity for habitat creation (e.g. species-rich grassland).

Where the loss or disturbance of ecologically valuable habitat or species populations is unavoidable compensation will be required (see page 23).

A Biodiversity Management Plan must be produced where areas of ecological value are being retained or created. Management of verges/embankments should, wherever possible, be designed and undertaken in a manner which protects and enhances biodiversity.

Ongoing monitoring of key species, habitats or biodiversity features may be necessary. Discussions with Falkirk Council will highlight where this is the case.

Feature present	If so:	Then:
Legally protected species or habitat	Prevent damage or disturbance. Consult SNH.	If the species /habitats present do not preclude all development, assess impacts on species/habitat and ensure operations will meet legislative requirements.
Impact on a designated site	Check site status and likely impact of the development.* (see note below)	Consult the Council (for non-statutory designations) or SNH (for statutory designations) to determine whether development might be considered. There is a presumption against development in these cases.
Buildings, bridges & tunnels	Check for: bat roosts, breeding bird sites, and signs of protected species (e.g. otter, water vole, badger) using paths through tunnels or under bridges.	Do not disturb protected species or their roosts/resting places. Consult SNH.  Avoid and mitigate against impacts on species (e.g. provide runways under bridges where the banks are to be disturbed).
LBAP species and habitats and other ecologically valuable features	Survey to determine status of habitat or species. Assess impact of development and identify mitigation.	Protect LBAP species and habitats wherever possible. Retain ecological features of value wherever possible. Mitigate to minimise impacts on species and habitats. If habitat loss is unavoidable, it may be necessary to provide replacement habitat nearby.
Wildlife corridors & stepping stones	Assess impact of development in terms of habitat fragmentation and the loss of wildlife corridors/stepping stones.	Minimise loss of wildlife corridors. Where development cuts across a wildlife corridor, investigate whether there is a need for underpasses and/or warning signs to provide safe crossing-points for species.  Design the road/rail corridor to maximise its value as a new wildlife corridor.

\* Note : designated sites may be affected even if outwith development area.



## Appendix 1

## Appendix 1 – Initial Site Audit

This checklist should be completed at the earliest opportunity and not give an indication of the ecological data that will be required for a development etc. as well as highlighting the important designations, habitats and species to be considered during the design and planning process.

Note: In some cases further surveys could identify any additional (beyond) requirements and/or staff.

	Tick if Yes	If Yes then:	Done
Does the site include all or part of a statutorily designated site: e.g. SPA, SAC, SSSI?	<input type="checkbox"/>	Consult Scottish Natural Heritage and Falkirk Council for more information.	<input type="checkbox"/>
Is there a statutorily designated site e.g. SPA, SAC, SSSI nearby that may be impacted by the development?	<input type="checkbox"/>	Consult Scottish Natural Heritage and Falkirk Council for more information.	<input type="checkbox"/>
Does the site include all or part of, or impact on a nearby, non-statutory designated site: i.e. a SINC or a Wildlife Site?	<input type="checkbox"/>	Consult Falkirk Council to determine under what circumstances, if any, development might be acceptable and the ecological data required.	<input type="checkbox"/>
Does all or part of the site form a wildlife corridor or 'stepping stone' linking two or more other areas of ecological value.	<input type="checkbox"/>	Assess ecological impact of development on the site and adjacent areas of habitat, and identify possible mitigation.	<input type="checkbox"/>
Does the site include any of the following habitats?			
Mature trees (individuals or small stands)	<input type="checkbox"/>	Survey for: Bats* LBAP Species* Check for : Tree Preservation Orders and Conservation Area designation Undertake : Tree survey (species, location, ground spread, age, height)	<input type="checkbox"/>
Woodland	<input type="checkbox"/>	Survey for: Bats, Red squirrels, Badgers* LBAP Species* Undertake: Phase II habitat survey Ecological Impact Assessment	<input type="checkbox"/>
Hedges	<input type="checkbox"/>	Survey : To determine if the hedge is of particular ecological value (i.e. species-rich). LBAP Species*	<input type="checkbox"/>
Rivers, streams or wet ditches	<input type="checkbox"/>	Survey for: Otters, Water voles, Salmon* LBAP Species* Undertake: Ecological Impact Assessment	<input type="checkbox"/>
Ponds, pools or lochs	<input type="checkbox"/>	Survey for: Great crested newts, Water voles * LBAP Species* Undertake: Ecological Impact Assessment	<input type="checkbox"/>
Wetland or bog	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Long/rough grassland	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Bings/spoil tips/rock faces	<input type="checkbox"/>	Survey for: Young's helleborine (on wooded bings), LBAP Species* Undertake: Phase II habitat survey on vegetated areas Ecological Impact Assessment	<input type="checkbox"/>
Brownfield	<input type="checkbox"/>	Survey for: Invertebrates	<input type="checkbox"/>
Heath (heather)	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Buildings/barns	<input type="checkbox"/>	Survey for: Bats*, Barn owls, nesting birds, LBAP Species*	<input type="checkbox"/>
Scrub	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>
Coastal sand, mudflat, lagoons or saltmarsh	<input type="checkbox"/>	Survey for: LBAP Species* Undertake: Phase II habitat survey, Ecological Impact Assessment	<input type="checkbox"/>

\* If protected species are identified through surveys consult SNH and Falkirk Council on the additional data, protection and mitigation required.

\* Survey for the LBAP species associated with the habitat in question.

## Appendix 2

### Appendix 2 – Legally protected species and habitats likely to occur within the Falkirk area

European Protected Species likely to occur within the Falkirk area	Habitat most likely to be found in
Bats	Roosts : Buildings, trees, bridges/tunnels etc.
Great Crested Newts	Still water. Other habitat within 1km of breeding ponds (grassland, woodland, etc.)
Otter	Rivers and larger streams

Other legally protected species likely to occur within the Falkirk area	Habitat most likely to be found in
Red Squirrel	Woodland/Parkland (particularly conifer woodland)
Badger	Woodland but also forages in grassland areas
Water Vole	Streams, wet ditches, canals and lochs
Barn Owl	Nests: Barns. Feeds over open grassland/farmland
Common Tern	Mudflats, saltmarsh, openwater
Short-eared Owl	Estuary, saltmarsh, heath, bog, fen
Kingfisher	Riverbanks
Adder	Heath or bog
Slow Worm	Heath, grassland, scrub
Atlantic Salmon	Rivers
Young's Helleborine	Bings with some woodland cover

### Habitats which may be protected by designation as an SAC (and which occur within the Falkirk area)

Active blanket bog
Raised bog
Estuaries
Saline lagoons
Inter-tidal Mudflats

## Appendix 3

### Appendix 3 – LEAP and UKBAP species and habitats

The Local Biodiversity Action Plan process has identified 20 priority habitats and 112 priority species which are of particular national and/or local significance and as such should be certain and locally.

The local list includes all the species and habitats that are identified as national priorities by the UK Biodiversity Action Plan and occur within the Lifford area.

The full list of the UK Biodiversity Action Plan habitats and species is available at [www.ukbap.gov.uk](http://www.ukbap.gov.uk)

Habitats
Estuary
Mudflats
Saline lagoon
Saltmarsh
Arable
Boundary features
Lowland, dry acidic grassland
Neutral grassland
Heath
Lowland raised and intermediate bog
Canals
Fen, marsh and swamp
Rivers and streams
Standing open water
Bings
Gardens
Urban greenspace
Urban wildlife corridors
Broadleaved and mixed woodland
Wood pasture and parkland

Mammals
Badger
Brown hare
Brown long-eared bat
European otter
Hedgehog
Pipistrelle bats
Water vole

Amphibians, Reptiles & Fish
Adder
Atlantic salmon
Brook lamprey
Common frog
Common toad
Great crested newt
Palmate newt
River lamprey
Sea/Brown trout
Smooth newt
Sparling
Twaite shad

Birds
Barn owl
Bean goose
Black grouse
Black-tailed godwit
Bullfinch
Common tern
Curlew
Dipper
Dunlin
Golden plover
Great crested grebe
Green woodpecker
Grey partridge
Greylag goose
Hen harrier
Kestrel
Kingfisher
Knot
Lapwing
Linnet
Merlin
Pink-footed goose
Pintail
Red-breasted merganser
Lesser Redpoll
Redshank
Reed bunting
Sand martin
Sedge warbler
Shelduck
Short-eared owl
Skylark
Snipe
Song thrush
Spotted flycatcher
Swallow
Swift
Teal
Tree pipit
Tree sparrow
Twite
Water rail
Wood warbler
Woodcock
Yellowhammer

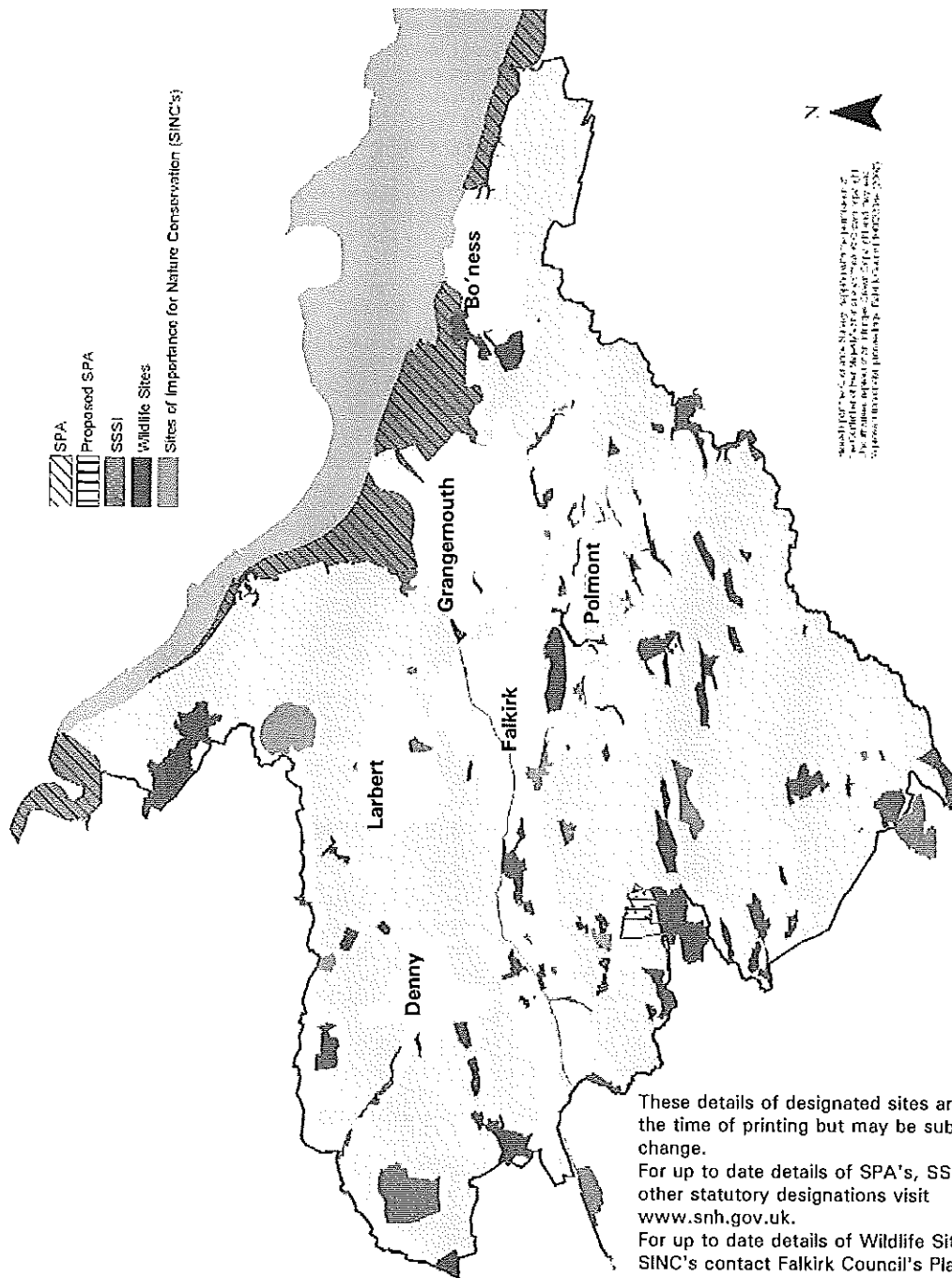
Invertebrates
<i>Acanthocnema nigrimana</i> (a fly)
<i>Aepus marinus</i> (a ground beetle)
<i>Ameletus inopinatus</i> (a mayfly)
<i>Beris clavipes</i> (a soldier fly)
<i>Boloria selene</i> (small pearl-bordered fritillary)
<i>Brachygluta helferi</i> (a beetle)
<i>Brachyopa insensilis</i> (a fly)
<i>Brachysomus echinatus</i> (a weevil)
<i>Callophrys rubi</i> (green hairstreak butterfly)
<i>Chrysolina oricalcia</i> (a beetle)
<i>Coenonympha tullia</i> (large heath butterfly)
<i>Deleaster dichrous</i> (a beetle)
<i>Dyscia fagaria</i> (grey scalloped bar moth)
<i>Enicmus fungicola</i> (a mould beetle)
<i>Enicocerus exsculptus</i> (a beetle)
<i>Mycetobia pallipes</i> (a fly)
<i>Neolimnophila carteri</i> (a fly)
<i>Omphiscola glabra</i> (a freshwater snail)
<i>Parhelophilus consimilis</i> (a hoverfly)
<i>Phyllodrepa crenata</i> (a beetle)
<i>Polyommatus icarus</i> (common blue butterfly)
<i>Scaphisoma boleti</i> (a beetle)
<i>Sphaerophoria loewi</i> (a hoverfly)
<i>Symbalophthalmus dissimilis</i> (a fly)
<i>Systemus pallipes</i> (a fly)
<i>Xylena exsoleta</i> (swordgrass moth)

Flowering Plants
Bennett's pondweed
Bluebell
Dune helleborine
Field scabious
Grass of Parnassus
Greater butterfly orchid
Harebell
Ivy-leaved water crowfoot
Ox-eye daisy
Purple ramping-fumitory
Ragged robin
Round-leaved sundew
Smooth cat's-ear
Tufted loosestrife
Whorled caraway
Wych Elm
Young's helleborine

Ferns and lower plants
Hay scented buckler fern
<i>Lepidozia pearsonii</i> (a Liverwort)
Moonwort
Pillwort
<i>Plagiochila spinulosa</i> (a Liverwort)

## Appendix 4

### Appendix 4 – Statutory and non-statutory designated sites



## Appendix 5

### Appendix 5 – Further Information

#### Species and habitats:

Information sheets are available on the following subjects:

- Bats
- Badgers
- Water voles, otters and other aquatic mammals
- Birds (including swifts & barn owls)
- Bean Geese
- Plants
- Invertebrates
- Amphibians, fish & reptiles (including Great Crested Newts)
- Invasive species
- Woodland
- Grassland
- Urban greenspace / brownfield sites
- Buildings
- Freshwater
- Hedges / boundary features
- Surveying for biodiversity on development sites (Accepted timings, methodologies etc.)
- Biodiversity Management Plans

Information sheets are available at [www.falkirk.gov.uk](http://www.falkirk.gov.uk) or from the Falkirk Council Planning and Environment Unit.

#### Designated sites:

Further information on statutory designated sites (SPAs, SACs, and SSSIs) is available from **Scottish Natural Heritage**

Further information on locally designated sites (Wildlife Sites and SINCs) is available from the **Falkirk Council Planning and Environment Unit**. It is intended that supplementary planning guidance relating specifically to locally designated sites will be produced in due course.

#### Legislation and guidance:

Further detail on legislation and guidance relating to biodiversity conservation is available at:

[www.snh.gov.uk](http://www.snh.gov.uk)  
(legally protected sites and species and the role of SNH)  
[www.hmsso.gov.uk](http://www.hmsso.gov.uk)  
(copies of legislation relating to species and habitat protection)  
[www.scotland.gov.uk](http://www.scotland.gov.uk)  
(wildlife legislation, planning guidance – NPPGs, PANs etc)  
[www.rtpi.org.uk](http://www.rtpi.org.uk)  
(Royal Town Planning Institute publications including: "Planning for Biodiversity" available to download)  
[www.forestry.gov.uk/scotland](http://www.forestry.gov.uk/scotland)  
(Forestry Act 1967 (amended), felling licences etc.)

#### Further Reading:

Anon, 2000, 'Ponds, pools and lochans', SEPA  
Anon, 2004, 'Biodiversity by Design : A Guide for Sustainable Communities', TCPA  
Anon, 1999, 'Bats and People', SNH  
Anon, 1998, 'Wildlife, The Law and you', SNH  
Anon, 2001, 'Badgers and Development', SNH  
T. Langton et al, 2001, 'Great Crested Newt Conservation Handbook', Froglife  
R.Strachan and T. Moorhouse, 2006, 'Water Vole Conservation Handbook', WildCru  
D. Tuldesley & Associates, 2005, 'Environment Assessment Handbook: Guidance on the EIA process', SNH

## Appendix 6

### Appendix 6: Useful contacts

**Falkirk Council**  
**Development Management Unit**  
 Development Services  
 Falkirk Council  
 Abbotsford House  
 David's Loan  
 Falkirk FK2 7YZ  
 Tel: 01324 504950

**Falkirk Area Biodiversity Officer**  
 Planning and Environment Unit  
 Development Services  
 Falkirk Council  
 Abbotsford House  
 David's Loan  
 Falkirk  
 FK2 7YZ  
 planenv@falkirk.gov.uk  
 Tel: 01324 504950  
 www.falkirk.gov.uk

**Bean Goose Action Group**  
 c/o Scottish Natural Heritage  
 The Beta Centre  
 Innovation Park  
 Stirling University  
 Stirling  
 FK9 4NF  
 Tel: 01786 450362  
 www.snh.gov.uk

**Central Scotland Forest Trust**  
 Hillhouse ridge  
 Shottskirk Road  
 Shotts  
 Lanarkshire  
 ML7 4JS  
 Tel: 01501 822015  
 www.csft.co.uk

**Farming and Wildlife Advisory Group**  
 Algo Business Centre  
 Glenearn Road  
 Perth  
 PH2 0NJ  
 Tel: 01738 450500  
 E-mail : scotland@fwag.org.uk  
 www.fwag.org.uk

**Forestry Commission Scotland**  
 Central Scotland Conservancy  
 Bothwell House  
 Hamilton Business Park  
 Caird Park  
 Hamilton  
 ML3 0QA  
 Tel: 01698 368530  
 www.forestry.gov.uk/scotland

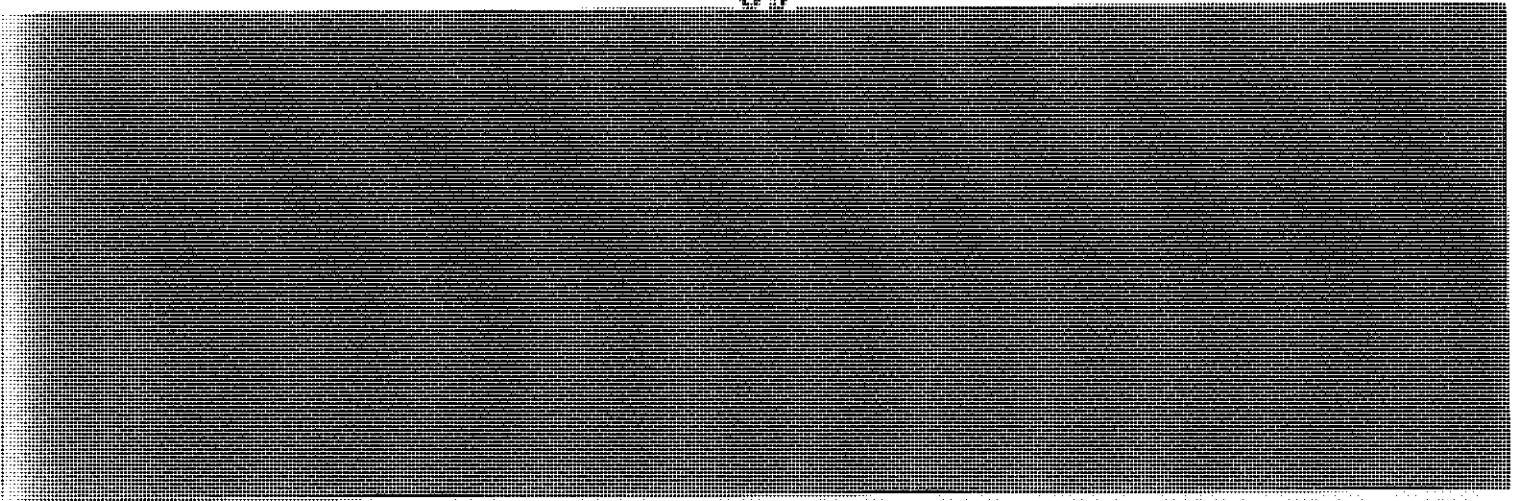
**Jupiter Wildflower Nursery**  
 Wood Street  
 Grangemouth  
 FK3 8LH  
 Tel: 01324 486475  
 E-mail : n.mcintyre@btcv.org.uk

**Royal Society for the Protection of Birds**  
 Dunedin House  
 25 Ravelston Terrace  
 Edinburgh  
 EH4 3TP  
 Tel: 0131 3116500  
 www.rspb.org.uk

**Scottish Environment Protection Agency**  
 Bremner House  
 The Castle Business Park  
 Stirling  
 FK9 4TF  
 Tel: 01786 452595  
 www.sepa.org.uk

**Scottish Natural Heritage**  
 The Beta Centre  
 Innovation Park  
 Stirling University  
 Stirling  
 FK9 4NF  
 Tel: 01786 450362  
 www.snh.gov.uk

**Scottish Wildlife Trust**  
 Cramond House  
 Cramond Glebe Road  
 Edinburgh  
 EH4 6NS  
 Tel: 0131 312 7765  
 www.swt.org.uk



هذه الوثيقة متاحة عدد للطلب  
في اللغات الأخرى في المجتمع.

ਇਹ ਪਰਚ ਸਮਾਜ ਦੀਆਂ ਹੋਰ  
ਭਾਸ਼ਾਵਾਂ ਵਿਚ ਪ੍ਰਿੰਟਿਡ ਤੇ ਮਿਲਦਾ ਹੈ।

此文件設有其他  
語文，請向有關  
方面索取。

یہ دستاویز دوسری کمیونٹی زبانوں میں مطالبے پر دستیاب ہے۔

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**Falkirk Council**  
Development Services





**Falkirk Council**  
*Chief Executive Office*  
 Governance

Enquiries to: Shona Barton  
 Direct Dial: (01324) 506116  
 Email – shona.barton@falkirk.gov.uk  
 Our Ref: SB  
 Date: 15 August 2013

Ms Anna Perks  
 Biodiversity Officer  
 Falkirk Council  
 Abbotsford House

Dear Ms Perks,

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION  
 P/12/0585/FUL CHANGE OF USE FROM PRIVATE OPEN SPACE TO  
 ENCLOSED GARDEN GROUND, ERECTION OF RAISED DECKING AND  
 ERECTION OF BOUNDARY FENCE (PART RETROSPECTIVE) AT 27  
 AVONBANK GARDENS, DUNIPACE**

**NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS**

The Planning Review Committee met on 13 August 2013 to consider the above application for review. Following an adjournment and subsequent site inspection, the Committee determined that they still did not have enough information to determine the application, and requested, in accordance with Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (“the 2008 Regulations”), that further information by way of written submissions be provided by the Applicant and the Council’s Biodiversity Officer.

**The Committee asked that the Council’s Biodiversity Officer provide information on the impact on the biodiversity of the area of the proposed development.**

As the Committee agreed to a timescale of 14 days from receipt of the request for provision of this information, I would be grateful if you could forward to me any appropriate information on or before **Tuesday 2 September 2013**.

A copy of this letter has been sent to the applicant in accordance with Regulation 15(a) of the 2008 Regulations. Please note that a copy of your response to this letter will be forwarded to the applicant. The applicant will then have a period of 14 days to comment in response.

Please contact me if you require any further clarification.

Yours sincerely,



Committee Services Officer  
 for Chief Governance Officer

*Chief Governance Officer: Rose Mary Glackin*

Municipal Buildings  
 Falkirk FK1 5RS  
 LP 1 Falkirk-2

[www.falkirk.gov.uk](http://www.falkirk.gov.uk)

## PLANNING &amp; TRANSPORTATION SERVICES

Enquiries to: Anna Perks  
Tel No: 01324 504863  
Fax No: 01324 504709

Shona Barton  
Committee Services Officer  
Falkirk Council  
Municipal Buildings  
Falkirk  
FK1 5RS

Our Ref:  
Your Ref:

29<sup>th</sup> August 2013


Dear Shona

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION P/12/0585/FUL  
CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED GARDEN  
GROUND, ERECTION OF RAISED DECKING AND ERECTION OF BOUNDARY  
FENCE (PART RETROSPECTIVE) AT 27 AVONBANK GARDENS, DUNIPACE**

Please find attached the requested written submission on the impact on the biodiversity of the area of the above proposed development, for the attention of the planning review committee.

If the planning review committee requires any further information please let me know.

Yours sincerely,



Anna Perks  
Falkirk Area Biodiversity Officer

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION P/12/0585/FUL  
CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED GARDEN  
GROUND, ERECTION OF RAISED DECKING AND ERECTION OF BOUNDARY  
FENCE (PART RETROSPECTIVE) AT 27 AVONBANK GARDENS, DUNIPACE**

**WRITTEN SUBMISSION ON THE IMPACT ON THE BIODIVERSITY OF THE AREA OF  
THE ABOVE PROPOSED DEVELOPMENT.**

**Site description**

At this location the Avon Burn is about 2-3m wide and runs through a wooded corridor of approximately 16m width in total. The north bank (between the burn edge and the existing garden fence lines) is about 5-7m wide and the south bank (measured horizontally from the burn edge to track edge) is about 4m wide.

This habitat corridor consists mainly of broadleaved riparian woodland and scrub with a few slightly more open areas of grassland/tall herbs. The woodland and scrub provides important cover for wildlife and helps to protect the burn from disturbance, as it passes through the urban area of Dunipace.

At the location in question the bank is relatively steep and the bankside vegetation plays an important role in stabilising the soils and preventing bank erosion.

**Salmon and other fish**

The Avon Burn has become a valuable spawning and nursery area for salmon (a priority species in the Falkirk Area Biodiversity Action Plan). Any activity that modifies the burn, causes bank instability or creates sedimentation within the burn may have a negative impact on the salmon and other fish. River lamprey and brook lamprey (also Falkirk Biodiversity Action Plan priority fish species) are also thought to inhabit the Avon burn and could potentially be negatively impacted by sedimentation or modification of the burn.

Retention of an undisturbed corridor of habitat between the existing back gardens and the burn is important to help prevent:

- dumping of material into the burn,
- accidental displacement or erosion of soil and other bank material into the burn, and
- loss of vegetation beside the burn,

all of which may reduce the value of the burn to salmon and other fish.

**Otters**

The Avon Burn is likely to support otter, which are believed to be distributed along much of the River Carron catchment. Otters will travel throughout their home range, which will typically cover at least 1km of a river system. They will generally travel along paths along the river bank or beside the river/burn. As a result structures which obstruct the river bank may affect the otter's movement along its territory. Equally structures or land uses that increase disturbance levels along the riverbank may also have a negative impact on animals using the river bank.

### **Wildlife Corridor**

The Avon Burn and the wooded corridor either side of it provides an important wildlife corridor through the built up area of Dunipace. It represents a remnant of relatively undisturbed habitat running east-west through the urban area. While it is only about 15m wide, this is sufficient to enable a whole range of species to move through the area between open countryside to the east and the area of woodland, grassland and the burn to the west.

An effective wildlife corridor needs to be a certain width. E.g. a strip of habitat 1-2m wide is unlikely to offer sufficient cover to allow for the movement of larger animals such as deer, foxes or otters, although it may be sufficient for small insects. As indicated in the Biodiversity and Development Supplementary Planning Guidance new development should aim to retain a minimum of 10m of habitat adjacent to each bank of a burn to protect the watercourse and important species such as otters and to allow a whole range of wildlife to effectively use the wildlife corridor. The retained habitat corridor in question is already rather narrow (just 5-7m on the north bank and less on the south). As such, any erosion of the habitat corridor is likely to have a negative impact on local wildlife and is of concern.

### **Pollution**

A buffer zone of undisturbed natural habitat between a developed area (e.g. houses, roads and gardens) and a watercourse can help to reduce pollutants entering the watercourse. A habitat buffer can help filter pollutants such as pesticides, herbicides, household chemicals, and oily surface water which may get washed towards the burn and which can have a negative impact on water quality and aquatic plants and animals. As such it is good practice to retain a habitat buffer of at least 10m between a watercourse and any development.

### **Cumulative Affect**

The level of obstruction or disturbance caused by this one proposal is likely to have some impact in terms of deterring animals from using the riverbank adjacent to No. 27 or displacing animals so that they have to use the southern bank, which is more exposed and likely to be more disturbed. On its own it is unlikely to cause species to stop travelling up and down the burn corridor altogether. However, the principle of retaining a sufficiently wide, unobstructed and undisturbed riparian corridor is important. Should a number of properties choose to undertake works which obstruct or disturb the bank and riparian wildlife corridor along the Avon Burn, the area could quickly become far less attractive to important local species such as otters. If similar encroachment was allowed to take place on the south side of the burn, this could quickly create a pinch point, significantly narrowing the wildlife corridor. Such encroachment on the Avon Burn wildlife corridor would make it very difficult for some animals to move up and down the burn corridor, could limit the range of species able to thrive within the area, and could reduce the ecological value of the burn itself.

I hope this assessment is of assistance.

**ANNA PERKS, BIODIVERSITY OFFICER, FALKIRK COUNCIL**  
**29<sup>TH</sup> AUGUST 2013**



**Falkirk Council**

*Chief Executive Office*

*Governance*

Enquiries to: Shona Barton  
Direct Dial: (01324) 506116  
Email – shona.barton@falkirk.gov.uk  
Our Ref: SB  
Date: 15 August 2013

Mr Robert Moyes  
10 Laburnum Grove  
Stirling  
FK8 2PS

Dear Mr Moyes,

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION  
P/12/0585/FUL CHANGE OF USE FROM PRIVATE OPEN SPACE TO  
ENCLOSED GARDEN GROUND, ERECTION OF RAISED DECKING AND  
ERECTION OF BOUNDARY FENCE (PART RETROSPECTIVE) AT 27  
AVONBANK GARDENS, DUNIPACE**

#### **NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS**

The Planning Review Committee met on 13 August 2013 to consider the above application for review. Following an adjournment and subsequent site inspection, the Committee determined that they still did not have enough information to determine the application, and requested, in accordance with Regulation 15 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (“the 2008 Regulations”), that further information by way of written submissions be provided by the Applicant and the Council’s Biodiversity Officer.

The Committee asked that the applicant provide a report which provides information on:-

- (1) the condition of the ground where the development is proposed, and
- (2) the stability of the concrete posts which are already in place, and their suitability for implementation of the proposed development.

As the Committee agreed to a timescale of 14 days from receipt of the request for provision of this information, I would be grateful if you could forward to me any appropriate information on or before **Tuesday 2 September 2013**.

Please contact me if you require any further clarification.

Yours sincerely

Committee Services Officer  
for Chief Governance Officer

*Chief Governance Officer: Rose Mary Glackin*

Municipal Buildings

Falkirk FK1 5RS

LP 1 Falkirk-2

[www.falkirk.gov.uk](http://www.falkirk.gov.uk)

10 Laburnum Grove  
STIRLING  
FK8 2PPS

3 September 2013

Shona Barton  
Committee Services Officer  
Chief Executive Office  
Falkirk Council  
Municipal Buildings  
Falkirk  
FK1 5RS



Dear Ms Barton

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION P/12/0585/FUL. CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED GARDEN GROUND, ERECTION OF RAISED DECKING AND ERECTION OF BOUNDARY FENCE (PART RETROSPECTIVE) AT 27 AVONBANK GARDENS, DUNIPACE**

**NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS**

Thank you for your letter of 15<sup>th</sup> August 2013 in connection with the Planning Review Committee for the above Planning Application.

As requested by the Committee, I have enclosed the further required information as follows.

1. Attached is a Report from Engineers, David Reid & Associates, who have carried out a site inspection and proposed some additional design features to respond to the concern expressed by the Committee in relation to the structural stability of the proposal. Acknowledging the comments of SEPA, they indicate the opinion that high flows of water in the adjacent burn would be unlikely to undermine the structure. However, they have further suggested that should this still be a concern to the Planning Authority, the most appropriate solution would be the installation of a concrete anchor block at the top of the bank within the existing garden. This would ensure the deck would remain fixed in position in the unlikely circumstances of high flows causing any erosion. This solution will also prevent the need for any more intrusive works to the burn bank than those that have already taken place.
2. The second attachment is an Ecological Report from Central Environmental Surveys who were commissioned by the Applicant to provide an opinion about ecological matters which may assist the consideration of the Committee. The overarching conclusions from the Report are that the proposed decking will not, in the view of the writer, cause a blockage to the free movement of wildlife along the burn. In coming to this conclusion, reference is made to the existing close proximity to the burn of other nearby properties.

I have also taken the opportunity of attaching one of the Applicant's own photographs which demonstrates, by virtue of the previously installed posts, that the decking and associated boundary fence will not have any material impact on the existing trees, which the Applicant wishes to retain, along the burn bank. However, if the Committee are still of a mind that the nature of the fence is an issue, then the Applicant would be willing to reduce the height accordingly.

I trust the above referred to information will prove to be adequate for the ongoing consideration of the Committee. Every effort has been made to demonstrate from structural and ecological points of view that the proposed decking would not be an unreasonable extension to the Applicant's garden amenities the ground which is totally within her ownership. In the circumstances, therefore, it is respectfully requested that the Appeal to the Review Committee be upheld.

Yours sincerely

A large, dark, rectangular redacted area covering the signature of Robert Moyes.

Robert Moyes MRTPI

## DAVID REID &amp; ASSOCIATES

13 Allan Park, Stirling FK8 2QG

## SITE INSPECTION

Project: 27 Avonbank Gardens, Dunipace

Client: Lyn Campbell

Date: 30.08.13

## INTRODUCTION: -

David Reid & Associates attended the above site on 30 August 2013, to undertake a structural review of the proposed decking area within the rear of the property, and provide comment on SEPA's planning consultation response of 18 December 2012.



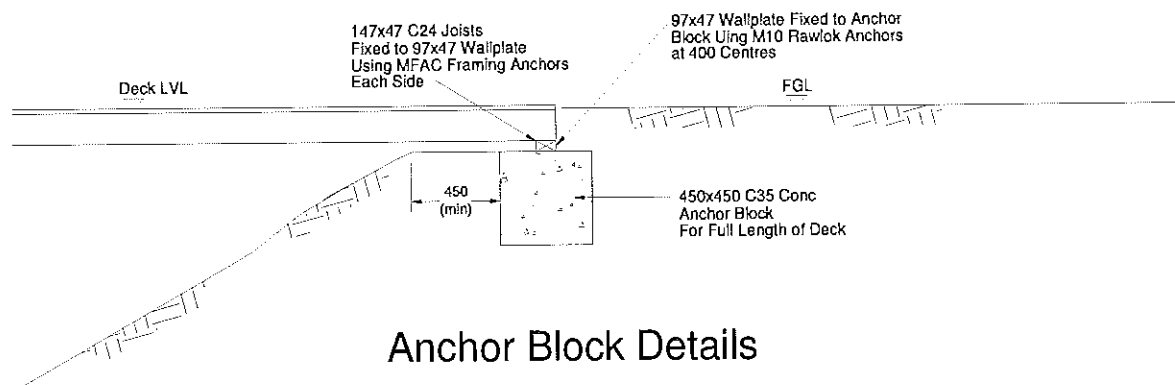
Photographs

## DISCUSSION: -

Inspection of Drawing No.1 detailing the proposals & the installed foundation posts (see photographs) gave no cause for concern, however, we would note that the timber joists supporting the deck should be a minimum of 147x47 C24 external grade timbers at a maximum of 400mm centres.

We have read SEPA's planning consultation response and would concur with most of their comments, however, given the presence of established growth over the river bank (see photographs) we are of the opinion that undermining of the structure resulting from high flows is highly unlikely.

Should this still present a concern to the Planning Authority, we would recommend the installation of a concrete anchor block at the top of the bank, within the existing rear garden and the provision of a positive fixing between the new deck joists and the anchor block (see sketch below).



Anchor Block Details

NOTE PREPARED BY .....K Dunbar.....

DATE ...30.08.13....

ISSUE: Client, File.

David Reid & Associates is a trading name of  
David Reid Group Limited, a company registered in Scotland. Registration No. SC324822  
Registered Office: 4, Polwarth Gardens, Edinburgh EH11 1LW





## Central Environmental Surveys

Natural Resource Management Consultancy

V.A.T. Number 717 0359 44

Principal : Alan Booth MSc., M.I.E.E.M.

e-mail : alan@environmentalsurveys.co.uk

Woodlea

Perth Road

Dunblane

Perthshire FK15 0BU

Tel : 01786 824440

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Mobile: 07967 589794

### 27 Avonbank Gardens

### Ecological Report

August 2013

#### Summary

No designated conservation sites will be affected, and no evidence of any protected species was found on or near the site. The habitats and plant species within the proposed development site are common and widespread.

The habitats and plant species within the proposed development site are common and widespread. However, the riparian corridor along the Avon Burn should be maintained to provide a buffer against pollution and access for free movement of wildlife along the watercourse. The erection of one section of decking extending some 2.3 meters over the bank would not, in the view of the writer, cause a blockage to the free movement of wildlife along the burn. As long as no rootstock or above ground stems of Japanese knotweed are disturbed during the process then no spread of the plant would be likely to be attributed to the development. Indeed any movement of the plant colonies could be better recognized from the viewing platform provided.

The following constraints apply:

**Breeding Birds:** Under Section 1 of the Wildlife and Countryside Act 1981 (as amended) it is an offence to intentionally kill, injure, handle or remove any wild bird (with the exception of a few pest species); take or damage a nest whilst in use or being built; and take or destroy eggs. The nesting season is March to September, inclusive. Do the work outside this season if possible. If works are to be carried out during the nesting season (1<sup>st</sup> March to 30<sup>th</sup> September) where breeding birds may be disturbed, then Working methods guidelines apply (Provided below).

**Invasive Alien Plant Species:** Stands of Japanese Knotweed *Fallopia japonica* occur some metres downstream of the development site. This plant is listed under Schedule 9 of the Wildlife and Countryside Act 1981, making it illegal to spread this plant. Whilst the removal of this invasive alien plant is not the duty of the contractor, the contractor must, however, ensure that it is not spread further by development activities or otherwise disturbing or removing material. Also, under the Environmental Protection Act 1990 all parts of the plant and the soil it is growing in are classified as controlled waste. Additionally, it is a condition of the planning document (Falkirk Council, Ref: P/11/0330/PPP, 6 Oct. 2011) that Japanese Knotweed 'be managed, treated and eradicated prior to any development of the site'. Refer to *Scottish Environment Protection Agency (SEPA) Technical Guidance Note: On-site management of Japanese Knotweed and associated contaminated soils*. This guidance note covers the management options of Japanese Knotweed and Knotweed infested soil on-site and off-site. Management of Japanese Knotweed is the responsibility of the owner of the site.

**Water Framework Directive:** Falkirk Council stipulate that a substantial riparian corridor be safeguarded to maintain amenity access, water quality, landscape integrity and ecological functioning of aquatic and riparian habitats. However, the adjacent houses of Avonbank Gardens are built up to the edge of the burn-side slope, some 3 to 4m from the water's edge, precluding amenity access.

## 1. INTRODUCTION

### 1.1 *Terms of Reference and Scope of Study*

This report provides the results of an ecological for the proposed development of decking to the rear of 27 Avonbank Gardens to extend some 2.3 metres over the steep slope of the burn banking. The scope of the survey included a review of designated nature conservation sites and a walkover ecological field survey, to cover the site of the proposed works.

This report details the findings of the survey, considers the requirement of any protected species licensing which may affect the proposed works and outlines any suggested measures to reduce potentially adverse effects upon habitats and species. Any requirement for further survey work is considered.

## 2. SURVEY METHODOLOGY

### 2.1 *Searches for Designated Nature Conservation Sites & Protected Species*

Prior to a site survey a review was undertaken of both statutory and non-statutory designated nature conservation sites located on and adjacent to the work site. The review involved the use of an ArcView dataset, held at Central Environmental Surveys, which is periodically updated.

The National Biodiversity Network (NBN) website is checked for existing records of protected species occurring in the area.

### 2.2 *Walkover Ecological Survey*

An accredited ecologist conducted a walkover survey of the site 22<sup>nd</sup> August to check for biodiversity issues and the impact of the proposed decking. The site was surveyed for the presence, or possible presence, of protected and/or notable species and habitats, with regard to standard survey techniques (Hill 2005 & Bat Conservation Trust 2007). Notes were taken on habitat types encountered and where appropriate were assigned a Phase 1 classification (JNCC 2003).

A search was also made for controlled non-native species listed on Schedule 9 part 1(animals) and part 2(plants) of the Wildlife and Countryside Act 1981 (as amended).

## 3. SURVEY RESULTS

### 3.1 *Search for Designated Nature Conservation Sites*

No statutory or non-statutory nature conservation or landscape designations apply to the proposed development site.

### 3.2 *Search for Official Records for Protected Species*

The National Biodiversity Network (NBN) website was checked for existing records of protected species occurring in the area. Records for Otter occur on the River Carron in Dunipace, and also in the general area on the Pow Burn and the Forth-Clyde Canal. There are no records for Badger, Water Vole, Great Crested newt or Red Squirrel within 10km of the proposed development site.

### 3.3 *Walkover Ecological Survey*

The site is limited to the banking of the burn to the rear of 27 Avonbank Gardens and is shown on the attached proposed site plan. The habitats of the site consist of low wet woodland and ruderal vegetation along the slope down to the Avon Burn

No evidence of badgers was found in the vicinity of the proposed development, surrounding areas, particularly the adjacent old railway line, were searched to a radius of approximately 100m for evidence of badgers, particularly setts.

No evidence of otter or water vole was found along the banks of the Avon Burn within 100m of the proposed development site.

No trees or other structures that might provide suitable sites for bat roosts were found within the proposed development site. No survey for bats themselves was undertaken.

No evidence of Red Squirrel occupation was found within or near the proposed development site.

No ponds suitable as breeding habitat for Great Crested Newt occur in the vicinity of the proposed development.

The invasive alien plant Japanese Knotweed occurs as small stands across the proposed development site.

#### 4. CONCLUSIONS & RECOMMENDATIONS

No designated conservation sites will be affected. No evidence of protected species was found during the field survey. No protected species records for the area of works were found on the National Biodiversity Network (NBN) website.

The following constraints apply:

If the works are to be carried out during the nesting season (1<sup>st</sup> March to 30<sup>th</sup> September) then breeding birds may be disturbed. Do the work outside of this period. If operations have to be completed and trees have to be felled during the nesting season, a screening survey should be completed before the commencement of any on-site works by a trained ecologist. Working methods guidelines provided below.

Several stands of Japanese Knotweed *Fallopia japonica*, an invasive alien species, were found several metres downstream of the development site on the same bank as well as upstream on a triangular patch of semi improved grassland. This plant is listed under Schedule 9 of the Wildlife and Countryside Act 1981, making it illegal to spread this plant. Whilst the removal of this invasive alien plant is not the duty of the contractor, the contractor must, however, ensure that it is not spread further by development activities or otherwise disturbing or removing material. Also, under the Environmental Protection Act 1990 all parts of the plant and the soil it is growing in are classified as controlled waste. Furthermore it is a condition of the planning document (Falkirk Council, Ref: P/11/0330/PPP, 6 Oct. 2011) that Japanese Knotweed '*be managed, treated and eradicated prior to any development of the site*'. For details of the approaches available visit the SEPA website, search for Japanese Knotweed, on-site management advice is provided, or paste in the links below:

[http://www.sepa.org.uk/customer\\_information/doc.aspx?docid=c9451616-c276-4365-aad2-6af888a0c41d&version=-1](http://www.sepa.org.uk/customer_information/doc.aspx?docid=c9451616-c276-4365-aad2-6af888a0c41d&version=-1)

Standard SEPA pollution prevention guidelines <http://www.environment-agency.gov.uk/netregs/businesses/94430.aspx>.

The habitats and plant species within the proposed development site are common and widespread. However, the riparian corridor along the Avon Burn should be maintained to provide a buffer against pollution and access for free movement of wildlife along the watercourse. The erection of one section of decking extending some 2.3 meters over the bank would not, in the view of the writer, cause a blockage to the free movement of wildlife along the burn. As long as no rootstock or above ground stems of Japanese knotweed are disturbed during the process then no spread of the plant would be likely to be attributed to the development. Indeed any movement of the plant colonies could be better recognized from the viewing platform provided.

**WORKING METHOD GUIDELINES: BREEDING BIRDS****Legislative Context**

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended) it is an offence to intentionally kill, injure, handle or remove any wild bird (with the exception of a few pest species); take or damage a nest whilst in use or being built; and take or destroy eggs. A person is not guilty of any offence if their action was the incidental result of a lawful activity and could not have been reasonably avoided.

A higher level of protection is afforded to those birds listed in Schedule 1 of the Act. It is an offence to disturb Schedule 1 species whilst it is building or sitting on a nest, in addition to damaging or destroying their nests or eggs.

It is not an offence to disturb non-Schedule 1 species whilst they are building a nest or sitting on it. However, an offence may be committed if the bird is driven away from a nest by prolonged disturbance which results in the failure of eggs or death of dependent young.

**Application of Guidelines**

Any on-site works have the potential to disturb breeding birds if undertaken during the nesting season (1<sup>st</sup> March to 30<sup>th</sup> September). Do the work outside of this period. If operations have to be completed and trees have to be felled during the nesting season, a screening survey should be completed before the commencement of any on-site works by a trained ecologist.

If non-Schedule 1 nesting birds are observed, the consented working method should be revised to avoid any risk of damage or destruction of nest and to minimise the period of disturbance.

Where a Schedule 1 species is unexpectedly discovered in the course of tree management operations during the breeding season, work will cease immediately and the consultant ecologist will consult with the appropriate agency regarding the appropriate action to be followed.

**REFERENCES**

- Hill, D. *et al* (eds.). 2005. Handbook of Biodiversity Methods – Survey, Evaluation and Monitoring. Cambridge University Press.
- Joint Nature Conservation Committee (2003). *Handbook for Phase 1 habitat survey – a technique for environmental audit*. JNCC.
- National Biodiversity Network Gateway (NBN) <http://data.nbn.org.uk/>

**APPENDICES**

- I. Ecological constraints map**
- II. Photographs**

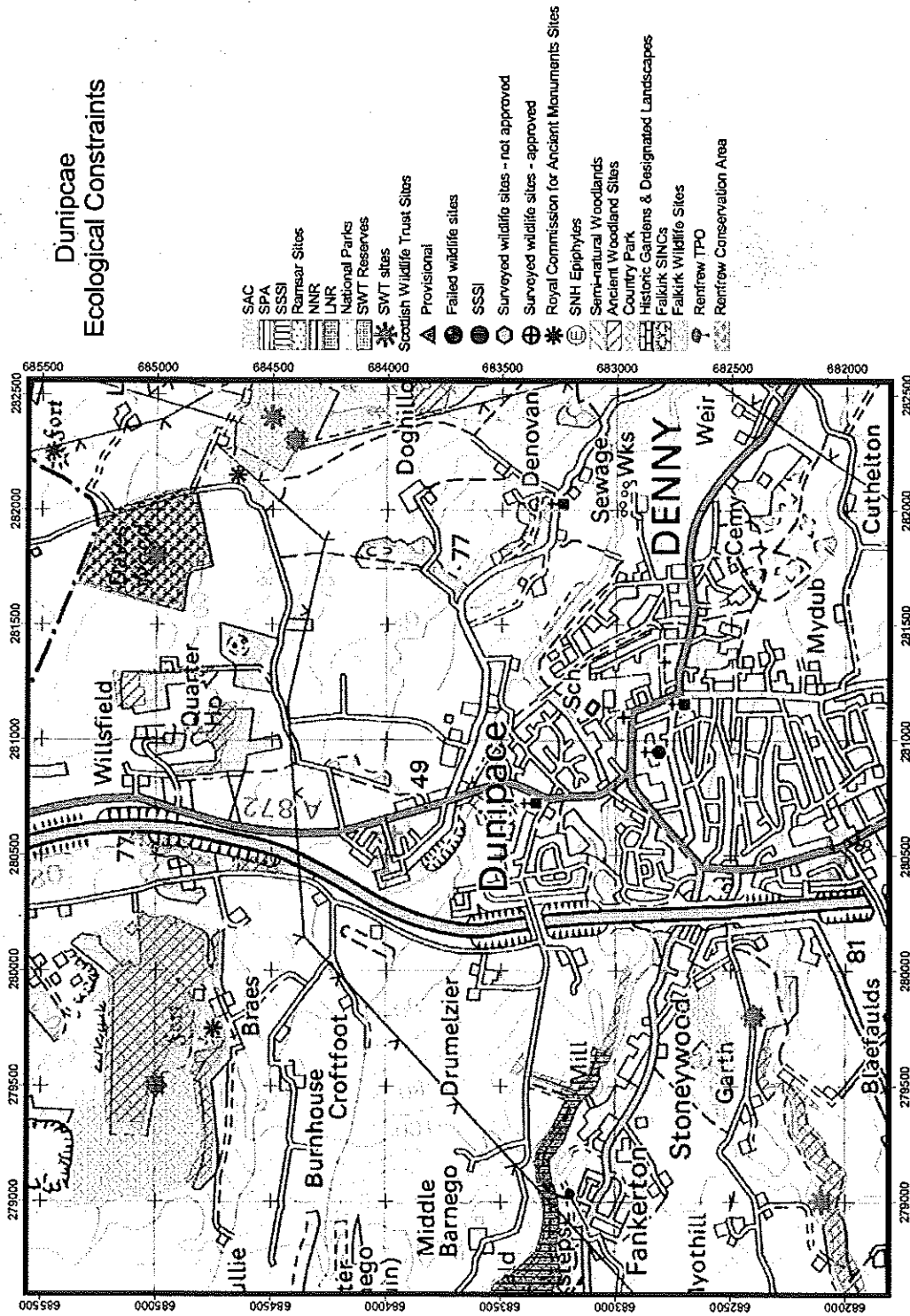




Photo 1: Japanese Knotweed plant over last year's dead stems upstream of Avonbank Gardens.

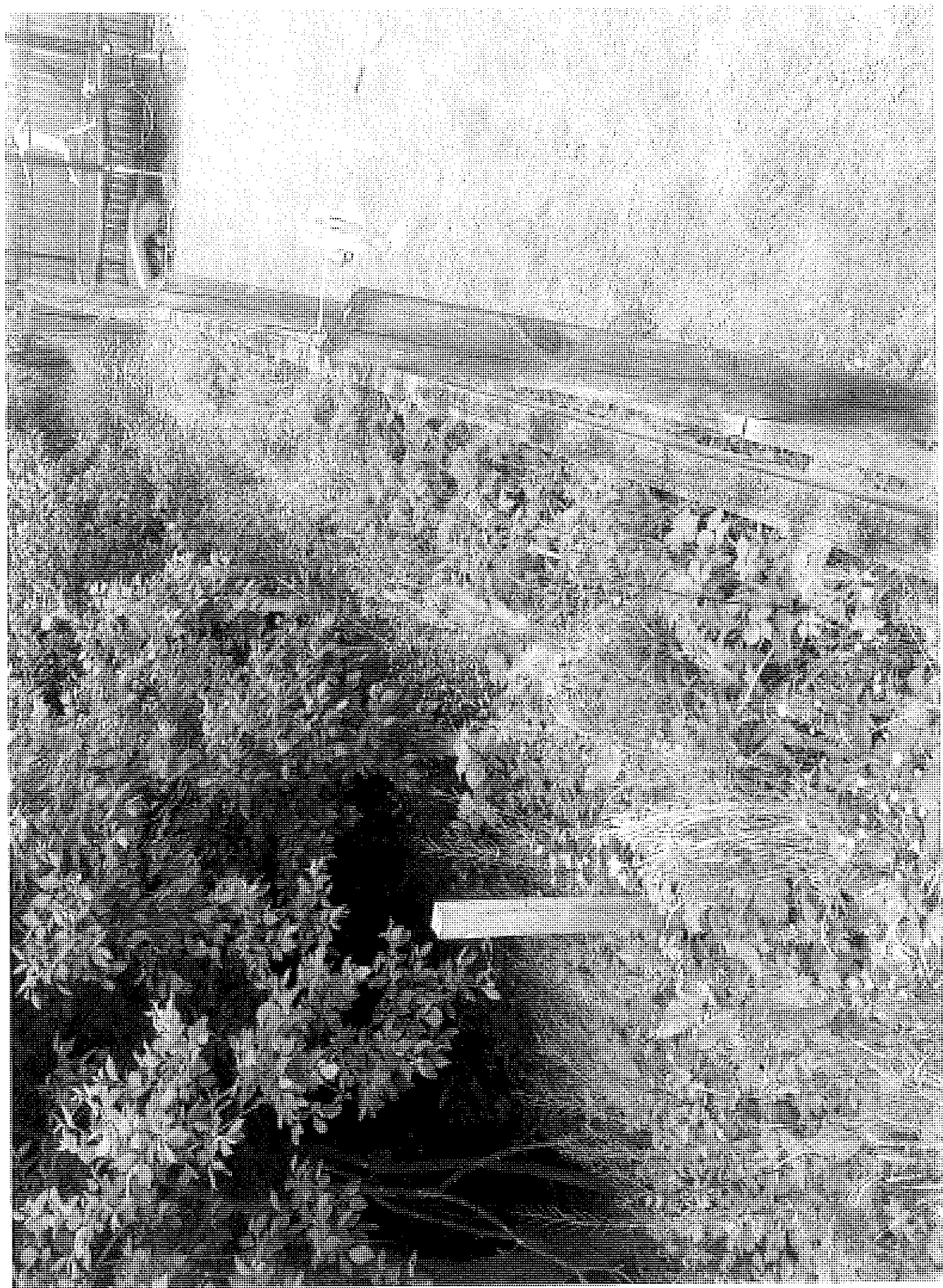


Photo 2: Avon Burn, downstream of the proposed development stems of Japanese Knotweed in foreground on the left of the picture.



Photo 3: Ruderal habitat and wet woodland (alder) on the lower banking of the site.





10 Laburnum Grove  
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24 September 2013

Shona Barton  
Committee Services Officer  
Chief Executive Office  
Falkirk Council  
Municipal Buildings  
Falkirk  
FK1 5RS

Dear Ms Barton

**PLANNING REVIEW COMMITTEE – PLANNING APPLICATION P/12/0585/FUL. CHANGE OF USE FROM PRIVATE OPEN SPACE TO ENCLOSED GARDEN GROUND, ERECTION OF RAISED DECKING AND ERECTION OF BOUNDARY FENCE (PART RETROSPECTIVE) AT 27 AVONBANK GARDENS, DUNIPACE**

**NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS**

Thank you for your letter and enclosure of 10<sup>th</sup> September 2013 regarding the above Planning Review.

I have considered the content of the response from the Council's Biodiversity Officer and had further discussions with my Client's own Environmental Advisor and I comment as follows.

My Client acknowledges the objectives of the Council in relation to the biodiversity of the adjacent Avon Burn but notes that the Council's Biodiversity Officer has not quoted any specific surveys that have been undertaken by the Council in the vicinity of her property. Rather, it is requested that the Council found their views on the previously submitted Environmental Report by Central Environmental Surveys who undertook a physical assessment of the immediate environs. This Report found that there was "no evidence of protected species was found during the field survey."

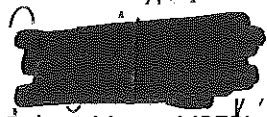
My Client's position is that the proposed garden decking is at worst, a minor intrusion into the wooded corridor located to the rear of the house and in her own ownership and that therefore, the existing bushes and vegetation are under her control. She has advised that she has no intention of reducing the cover of vegetation to the detriment of the burn corridor which forms an attractive back drop to her garden.

When commenting on the proposal, the Council's Biodiversity Officer indicated in her letter of 29<sup>th</sup> August 2013 that "on its own it is unlikely to cause species to stop travelling up and down the burn corridor". This is the same conclusion reached by my Client's own Environmental Advisor given that the proposed structure is a cantilevered feature which, other than the location of the support posts, does not make "contact" with the vegetation.

The proposal may be somewhat unusual and it is reasonable to assume that it is unlikely to be duplicated by other residents in the area. However, it is incumbent upon planning authorities to decide each application on its own merits and any suggestion of precedent by the Council's Biodiversity Officer is unreasonable.

I trust the above comments are relatively self-explanatory and I look forward to hearing when the Review Panel will be reconvened.

Yours sincerely



Robert Moyes MRTPI