

FALKIRK COUNCIL

Subject: ERECTION OF DETACHED DWELLINGHOUSE AT LAND TO THE WEST OF BARRDEN, MARCHMONT AVENUE, POLMONT FOR APSIS SOLUTIONS (CONSTRUCTION) LTD - P/13/0012/FUL

Meeting: PLANNING COMMITTEE

Date: 26 February 2014

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Lower Braes

Councillor Steven Jackson
Councillor Malcolm Nicol
Councillor Alan Nimmo

Community Council: Polmont

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

UPDATE REPORT FOLLOWING SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 29 January 2014 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 10 February 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant's representative spoke in support of the application, showing the approximate location of the proposed house within the site, including the height in relation to adjacent properties. The applicant's representative also explained that the proposed development has been sensitively designed to respect and integrate the development into the natural setting of the site.
4. Members of the Planning Committee viewed the application site, including the wider Gray Buchanan Park, and viewed plans of the proposed development.
5. Local residents, from two neighbouring properties, spoke in objection to the proposed development raising the following points:
 - The proposed development is contrary to the Development Plan;
 - The scale and massing of the proposed development would not respect the setting of the area;
 - The proposed development would impact on the biodiversity of the area;
 - The proposed development would restrict views to the adjacent waterfall; and
 - The proposed development would negatively impact adjacent property values.

6. The applicant's representative responded to the comments made by local residents, by confirming that the application site, including the waterfall and wider park, are privately owned by the applicant and the shrubbery clearance carried out to allow views to the adjacent waterfall, were done without the permission of the landowner (applicant). The applicant's representative also commented that the footprint, scale and massing of the proposed development would be similar to neighbouring properties.
7. Members of the Planning Committee, as well as Local Members, were given the opportunity to raise any questions regarding the proposal. Clarification was sought on the issue of biodiversity and it was requested that Falkirk Council's Biodiversity Officer attend the next meeting of the Planning Committee.
8. It was also noted that the adjoining park was well used by members of the public. Members of the Planning Committee also sought clarification in relation to the location of any proposed balconies and it was confirmed that these would face east, into the application site. Members of the Planning Committee also queried the access arrangements to the site and it was confirmed that access was owned by the applicant, with a right of access for the adjacent neighbour at 'Parkfield'. Members noted the value in carrying out site visits.
9. The case officer advised that the loss of a private view and the impact on property value are not material planning considerations. The Biodiversity Officer has been invited to the next meeting of the Planning Committee, however Members should note that the proposed development has been designed to maintain a 10 metre wide buffer zone from the edge of the Polmont Burn, to the proposed development area, to protect burn habitat. Additionally the applicant has submitted an Ecological Report which demonstrates that the proposed development would not adversely affect the overall integrity or biodiversity of the area. It should also be noted that this application includes a range of improvements to the wider Gray Buchanan Park, which includes the provision of a safe designed amenity area to view the waterfalls from within the park.
10. Following the site visit a further letter of objection was received from an existing objector and is summarised as follows:
 - The proposed development is within the Green Belt and is contrary to the Development Plan;
 - The proposed range of improvements to the wider Gray Buchanan Park are insignificant and will encourage antisocial behavior in the park;
 - The proposed 3 storey structure would be overpowering and not sympathetic to the area;
 - The proposed sewerage proposals would impact the water quality of the Polmont Burn;
 - Existing parking pressure on Marchmont Avenue for visitors the train station and park; and
 - Request that the Planning Committee refuse the application as inappropriate development.
11. Following the site visit the applicant's representative made the following comments in response to comments made during the meeting;

- There is no right to a view and the gap in the hedge, through which the neighbour views the waterfall, was created without the owner of the hedge (the applicant) giving consent. The access road and boundary hedge are not owned by the adjacent neighbour;
- There is no public right of access to the application site, and the promotion of this by the neighbour is dangerous, given the very steeply sloping nature of the land above the burn;
- The application site is considered a gap site as it sits between two existing dwellinghouses, fronting Marchmont Avenue;
- In essence there is no conflict with any other Local Plan policy other than policy EQ27 'Watercources' and the proposed development has been amended in consultation with Falkirk Council's Landscape and Biodiversity Officer to ensure the aims of the policy are not compromised; and
- The proposed development includes a wide range of enhancement works within the Gray Buchanan Park, designed to improve public access and enjoyment and enhance biodiversity.

12. No matters were raised which would amend the original recommendation to grant planning permission subject to conditions.

13. RECOMMENDATION

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

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2)**
 - i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.**
 - ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.**
 - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.**

- iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) No development shall commence on site until intrusive site investigation to assess shallow coal mining conditions within the application site is carried out and the findings submitted to and approved in writing by the Planning Authority. In the event that site investigations confirm the need for mitigation, details shall be submitted to the Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
- (4) The open space improvements detailed in the approved plan (bearing our online reference No. 24) shall commence during construction of the dwellinghouse and be completed in full prior to occupation of the dwellinghouse hereby approved.
- (5) For the avoidance of doubt no built development shall take place above the surface water drain or within any buffer zones set out by Scottish Water.
- (6) No vegetation clearance or tree surgery works shall be undertaken within bird breeding season (April to July inclusive) unless it can be demonstrated in writing to the Planning Authority, by an ecologist, that no breeding birds are present.
- (7) Prior to the commencement of any development on site, a re-check of tree cavities for the presence of hidden features suitable for use by roosting bats and the removal of dense ivy cover shall be carried out and the findings submitted in writing to the Planning Authority.
- (8) Prior to the commencement of any development on site a badger mitigation plan, to ensure that badgers do not become entrapped in site excavations, shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall commence in accordance with the approved mitigation scheme.
- (9) For the avoidance of doubt, land within the 10 metre wide buffer zone as shown green on the approved plan (bearing our online reference No. 08C) does not form part of the garden ground of the dwellinghouse and shall be maintained as a wild habitat at all times.
- (10) Prior to the commencement of any development on site a landscape plan, including landscape maintenance schedule, shall be submitted to and approved in writing by the Planning Authority. The landscape plan shall include the 10 metre wide buffer zone as shown green on the approved plan (bearing our online reference No. 08C).
- (11) For the avoidance of doubt the tree protection fence shown on the approved plan (bearing our online reference No. 08C) shall be erected prior to the commencement of any development on site and shall remain in place for the duration of the entire construction phase of development.

- (12) Prior to occupation of the dwellinghouse hereby approved the proposed new trees (compensatory tree planting) shall be planted in accordance with the details shown on the approved plan (bearing our online reference No. 03B). Any amendments to the number, location or type of trees shall be agreed in writing with the Planning Authority.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2,3) To ensure the ground is suitable for the proposed development.
- (4) To compensate for the loss of an area of open space / woodland.
- (5) To ensure that the existing sewer is adequately protected at all times.
- (6-12) To safeguard the environmental amenity of the area.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02C, 03B - 07B, 08C, 09B, 10D, 11B, 12B, 13A, 14B, 15A, 16 - 24 and Supporting Documents.
- (3) The applicant is invited to liaise with the Planning Authority prior to carrying out any open space improvements to Gray Buchanan Park, to ensure that any works do not require the benefit of Planning Permission.



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pp Director of Development Services

Date: 18 February 2014

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Falkirk Council Supplementary Guidance.
5. Letter of objection received from Mr Michael Elgie, Barrden, Marchmont Avenue, Falkirk FK2 0PP on 4 February 2013.
6. Letter of objection received from Harry McEwan, Parkfield, Marchmont Avenue, Polmont, Falkirk, FK2 0XR on 20 March 2013.
7. Letter of objection received from Mr Michael Elgie, Barrden, Marchmont Avenue, Falkirk FK2 0PP on 13 February 2014.

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

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Meeting: **PLANNING COMMITTEE**

Date: **29 January 2014**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Lower Braes**

Councillor Steven Jackson
Councillor Malcolm Nicol
Councillor Alan Nimmo

Community Council: **Polmont**

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the erection of a 3 storey, split level, house fronting Marchmont Avenue, Polmont. The application site, whilst being between two urban, residential properties, is located within part of the wider Millfield Estate and within an area of wooded open space, Gray Buchanan Park. The application site is also located within the Green Belt.
- 1.2 The application site is accessed from Marchmont Avenue and the development would utilise existing formal gates into the estate, also used by the adjacent property, Parkfield. The application site slopes relatively steeply to the east, towards the Polmont Burn.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee because the proposal is contrary to the Development Plan.

3. SITE HISTORY

- 3.1 There is no planning history for the application site.

4. CONSULTATIONS

- 4.1 The Scottish Rights of Way and Access Society have not responded to consultation.
- 4.2 The Forestry Commission do not object to the proposal, but comment that they wish the tree cover and woodland habitats to be retained as much as possible and appropriate compensatory planting prescribed.
- 4.3 The Roads Development Unit have no objection.
- 4.4 Scottish Water have no objection.
- 4.5 The Environmental Protection Unit advise of conditions in relation to ground contamination.
- 4.6 The Scottish Environment Protection Agency have no objection subject to a condition in relation to the existing surface water drain.
- 4.7 Scottish Natural Heritage do not wish to make comment on the proposal.
- 4.8 The Coal Authority have no objection, subject to a condition requiring intrusive ground investigations.

5. COMMUNITY COUNCIL

5. Polmont Community Council have not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 2 contributors submitted letters of objection to the Council. The salient issues are summarised as follows:
- The site boundaries are incorrect;
 - The application site is in the Green Belt and is a vital green link between Gilston and Gray Buchanan Park, containing an important watercourse and waterfall;
 - The application site is a nature resource and attracts visitors;
 - The scale of the house would overpower the site;
 - The projecting north west elevation would eliminate natural daylight to the adjacent lounge;
 - The south west boundary of the site is shown as contiguous with the main door (north east elevation) of the adjacent property, but there is a 1.2 metre pathway linking the site entrance gate to the property since construction;

- The east most section of the existing driveway provides for use of pedestrian residents of Millfield; and
- There is a stone built surface water drain 1 metre below the solum of the adjacent property which traverses the site to the Polmont Burn.

7. DETAILED APPRAISAL

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

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 The proposed development does not raise any strategic issues and therefore the application has been assessed solely against the Falkirk Council Local Plan.

Falkirk Council Local Plan

- 7a.2 The application site is located on Marchmont Avenue, Polmont and whilst forming a gap site between two residential properties, is located in the Green Belt and forms part of the Millfield Estate, within an area of wooded open space, Gray Buchanan Park. The following policy considerations are of relevance to the proposed development.

- 7a.3 Policy EQ1 ‘Sustainable Design Principles’ states:

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

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

7a.4 It is considered that the proposed development would achieve a high standard of design quality and compliance with sustainable development. The applicant has submitted a Design Statement which demonstrates that the proposal would promote the efficient use of natural resources. It is considered that the proposed development would integrate existing natural and built heritage into the development and it is noted where trees are to be lost compensatory planting is proposed. The scale, siting and design of the proposed house would respond positively and sympathetically to the site's surroundings and infrastructure is readily available. The application accords with policy EQ1 'Sustainable Design Principles'.

7a.5 Policy EQ19 - 'Countryside' states:

“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:

- the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7a.6 The application site is located in the countryside as identified in the Falkirk Council Local Plan. It is considered that the proposed development forms a gap site between adjacent properties, Parkfield and Barrden, fronting onto Marchmont Avenue. It is considered that the proposed development would integrate into the landscape, the building design would be sympathetic to adjacent properties and boundary treatments would be sympathetic. The application accords with policy EQ19 'Countryside'. The detailed policy relating to housing in the countryside (policy SC3) is discussed later in this report.

7a.7 Policy EQ20 - 'Green Belt' states:

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

- (1) The proposal satisfies Policy EQ19 and any relevant countryside policies as set out in Table 3.3; and*

- (2) *The proposal will not undermine the role of the Green Belt by detracting from its existing landscape character; reducing the visual separation between settlements; or compromising its existing or potential future use for countryside recreation.*

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

7a.8 The proposed development accords with relevant countryside policies and it is considered that the proposed development would not undermine the role of the Green Belt. Where proposals satisfy Green Belt criteria, developer contributions to landscape improvements should be sought. In this instance the applicant has put forward a proposal of improvements for the wider Gray Buchanan Park. These are considered acceptable and will be discussed later in this report. The application accords with policy EQ20 'Green Belt'.

7a.9 Policy EQ24 - 'Ecological Sites and Features' states:

- “(1) Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*
- (2) Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) Development likely to have an adverse effect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*

- (5) *Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site's natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future management.*
- (6) *The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest."*

7a.10 Policy EQ25 'Biodiversity' states:

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

- (1) *Developments which would have an adverse effect on the national and local priority habitats and species identified in the Falkirk Area Biodiversity Action Plan will not be permitted unless it can be demonstrated that there are overriding national or local circumstances;*
- (2) *The safeguarding, enhancement and extension of the broad and key habitats and the species of conservation concern identified in 'The Biodiversity of Falkirk' will be given particular attention in the consideration of development proposals;*
- (3) *Development proposals should incorporate measures to promote, enhance and add to biodiversity, through overall site planning, and infrastructure, landscape and building design, having reference to the Supplementary Planning Guidance Note on 'Biodiversity and Development'; and*
- (4) *Priority will be given to securing appropriate access to and interpretation of areas of local nature conservation interest. The designation of Local Nature Reserves, in consultation with communities, local wildlife groups and statutory bodies will be pursued."*

7a.11 The application site is located adjacent to the Polmont Burn. The applicant has submitted a plan showing a 10 metre buffer zone from the edge of the burn to the proposed development area, to protect the burn habitat. As such it is considered that the applicant has demonstrated that the proposed development would not adversely affect the overall integrity of the burn or the wildlife corridor it forms. The applicant has also submitted an ecological and species survey (Ecological Survey Report, August 2013) which further demonstrates that the integrity of the site would not be compromised by the proposed development. The Ecological Survey also concludes that there are no species of note. Further it is noted that the applicant proposes improvements to the wider Gray Buchanan Park to offset the loss of the application site. The application does not offend the terms of policy EQ24 'Ecological Sites and Features' and EQ25 'Biodiversity'.

7a.12 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

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

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

7a.13 The application site is covered by a Tree Preservation Order (TPO). The applicant has submitted a Tree Survey and Report which shows that some trees will be lost to the proposed development. Satisfactory compensatory tree planting is proposed. The application does not offend the terms of policy EQ26 'Trees, Woodland and Hedgerows'.

7a.14 Policy EQ27 - 'Watercourses' states:

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

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

7a.15 The application site is located within the riparian ecosystem of the Polmont Burn. The application has submitted a plan showing there would be no built development within a 10 metre buffer zone to protect the biodiversity of the area. Policy EQ27 requires watercourses to be promoted as recreational corridors with existing riparian access safeguarded. In this instance a section of the burn corridor would be lost to residential development. Whilst the proposed improvements, for the wider Gray Buchanan Park, would result in additional opportunities for ecological enhancement, access and recreation being encouraged and the buffer zone being retained, it is considered that the proposed development does not accord with the thrust of policy EQ27 'Watercourses'.

7a.16 Policy SC3 - 'Housing Development In The Countryside' states:

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

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

7a.17 The proposed development is not required for the pursuance of a countryside activity or involve the rehabilitation or conversion of existing rural buildings, as such the proposed development is contrary to criteria 1 and 2 of the above policy. It is, however, considered that the proposed development forms an appropriate infill opportunity within the envelope of an existing group of buildings, in this case a clear gap site between residential properties fronting Marchmont Avenue, in accordance with criterion 3. The proposals would not result in ribbon, backland or sporadic development, however the proposed development does not satisfy policy SC8 in terms of complying with other Local Plan policies. As such the application fails to accord with policy SC3 'Housing Development in the Countryside'.

7a.18 Policy SC8 'Infill Development and Subdivision of Plots' states:

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

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*

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

7a.19 It is considered that the scale, density, disposition and design of the proposed house would respect the architectural and townscape character of the area. Adequate garden ground would be provided and the privacy of surrounding properties would not be significantly affected by the proposals. The proposal involves the loss of some trees within the application site and this loss would be compensated by replacement planting and improvements to the wider Gray Buchanan Park. The boundary wall onto Marchmont Avenue would be retained, protecting the character and amenity of the area. Proposed vehicular access and other infrastructure is of an adequate standard. It is therefore considered that the proposed development complies with criteria 1 – 5 of policy SC8 'Infill Development and Subdivision of Plots'. It is however noted that the proposal is contrary to Local Plan policies EQ27 and SC3, and therefore criterion 6 is not satisfied. On balance the proposed development fails to accord with policy SC8.

7a.20 Policy SC12 - 'Urban Open Space' states:

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

- (1) *There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) *In the case of recreational open space, it can be clearly demonstrated from a settlement and neighbourhood audit 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.”*

7a.21 The application site is located within Gray Buchanan Park, identified as a core park (RC. POL01) in the Culture and Leisure Strategy. The core park is identified as being a priority for improvements, to be established through a Park Development Plan.

7a.22 The proposed development would see a small area of the park being developed for residential use. The area being developed sits between two existing residential properties and is read as a gap site. The proposal would have a built relationship with the neighbouring property, Parkfield and the boundary wall onto Marchmont Avenue would be retained. The proposal has been designed to maintain a 10 metre buffer zone from the Polmont Burn and the existing vehicular and pedestrian access would be maintained post development. It is also noted that the loss of open space caused by the proposed development would be compensated for by a range of improvements to the wider park.

7a.23 As such it is considered that the proposed development would not have an adverse impact on the character of the area, particularly as a result of the site's relationship with the adjacent property and wall. The application site has not been identified as being surplus to recreational requirements, however it is considered the application site is of little recreational value being on a very steep slope onto Polmont Burn and heavily wooded. The area is not of significant ecological value, as demonstrated by the submitted ecological and species survey (Ecological Survey report, August 2013) and connectivity within the overall open space network would not be threatened. Further the proposed improvements would improve public access routes and the quality of the wider park resource. On balance the application does not offend the terms of policy SC12 'Urban Open Space'.

7a.24 Accordingly, it is considered that the proposed development is contrary to the Development Plan, namely policies EQ27, SC3 and SC8.

7b Material Considerations

7b.1 The material considerations to be assessed are the Proposed Falkirk Local Development Plan, Falkirk Council Supplementary Guidance, the consultation responses, information submitted in support of the proposal, assessment of public representations, additional planning considerations and consideration of the site in relation to coal mining legacy.

Falkirk Local Development Plan (Proposed Plan)

7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications. The following policies are of relevance:

7b.3 Policy CG01- 'Countryside' states:

"The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside, within which development will be assessed in the terms of the relevant supporting countryside policies (Policies CG03 and CG04), and Supplementary Guidance SG01 'Development in the Countryside'."

7b.4 Policy CG02 - 'Green Belt' states:

"1. The following areas, as indicated generally on Map 3.1 and detailed on the Proposals Map, are designated as Green Belt:

- Falkirk/Stenhousemuir/Grangemouth/Laurieston Corridor*
- Polmont/Grangemouth/Bo'ness/Linlithgow Corridor*
- Falkirk/Larbert/Denny/Bonnybridge Corridor*
- Callendar Park/Woods*

2. The purpose of the Green Belt is:

- To maintain the separate identity and visual separation of settlements*
- To protect the landscape setting of settlements; and*
- To protect and give access to greenspace for recreation*

3. *Within the Green Belt, development will not be permitted unless it can be demonstrated that the proposal satisfies the relevant countryside policies, and it can be demonstrated that it will not undermine any of the strategic purposes of the Green Belt as set out in sub section (2) above.”*

7b.5 Policy HSG04 - ‘Housing Design’ states:

“The layout, design and density of the new housing development should conform with any relevant site-specific design guidance, Supplementary Guidance SG02 ‘Housing Layout and Design’ and the Scottish Government’s policy on ‘Designing Streets’. Indicative site capacities in the site schedules may be exceeded where a detailed layout demonstrates that a high quality design solution, which delivers the requisite level of residential amenity, has been achieved.”

7b.6 Policy HSG05 - ‘Infill Development and Subdivision of Plots’ states:

“Proposals for the erection of additional houses within the curtilage of existing properties or on small gap sites will be permitted where:

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

7b.7 Policy INF03 - ‘Protection of Open Space’ states:

“The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value. Accordingly:

- 1. Development involving the loss of urban open space will only be permitted where:*
 - There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
 - There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council’s open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
 - The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
 - Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*
- 2. Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*

- *The proposed development is ancillary to the principal use of the site as a playing field; or*
- *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*
- *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*
- *The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7b.8 Policy CG03 - 'Housing in the Countryside' states:

"Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:

1. *Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;*
2. *Restoration or replacement of houses which are still substantially intact, provided the restored/replacement house is of a comparable size to the original;*
3. *Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;*
4. *Appropriate infill development;*
5. *Limited enabling development to secure the restoration of historic buildings or structures; or*
6. *Small, privately owned gypsy/traveller sites which comply with Policy HSG08.*

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'. Proposals will be subject to a rigorous assessment of their impact on the rural environment, having particular regard to policies protecting natural heritage and the historic environment."

7b.9 Policy GN03 - 'Biodiversity and Geodiversity' states:

"The Council will protect and enhance habitats and species of importance, and will promote biodiversity and geodiversity through the planning process. Accordingly:

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. Qualifying features of a Natura 2000 site may not be confined to the boundary of a designated site. 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. 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 likely to have an adverse effect on European protected species, a species listed in Schedules 5, 5A, 6, 6A and 8 of Wildlife and Countryside Act 1981 (as amended), or a species of bird protected under the Wildlife and Countryside Act 1981 (as amended) will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.*
4. *Development affecting Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites (as identified in Supplementary Guidance SG08 'Local Nature Conservation and Geodiversity Sites'), and national and local priority habitats and species (as identified in the Falkirk Local Biodiversity Action Plan) will not be permitted unless it can be demonstrated that the overall integrity of the site, habitat or species will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
5. *Where development is to be approved which could adversely affect any site or species of significant nature conservation value, the Council will require appropriate mitigating measures to conserve and secure future management of the relevant natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required, along with provision for its future management.*
6. *All development proposals should conform to Supplementary Guidance SG05 'Biodiversity and Development'."*

7b.10 Policy GN04 - 'Trees, Woodland and Hedgerows' states:

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

1. *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
2. *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
3. *Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development', including the preparation where appropriate of a Tree Survey, Constraints Plan, and Tree Protection Plan. 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 and implement an appropriate Management Plan; and*
5. *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7b.11 Policy D02 - 'Sustainable Design Principles' states:

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

1. *Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
2. *Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, distinctive, welcoming, adaptable, safe and easy to use;*
3. *Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
4. *Climate Change & Resource Use. Development should promote the efficient use of natural resources and the minimisation of greenhouse gas emissions through energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
5. *Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
6. *Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.*

Masterplans will be required for significant development proposals requiring a co-ordinated approach to design and infrastructure, and should demonstrate how the above principles have been incorporated into the proposals. Masterplans should be informed by a development framework or brief where relevant.

7b.12 Policy D03 - 'Urban Design' states:

"New development should create attractive and safe places for people to live, work and visit. Accordingly:

1. *Development proposals should conform with any relevant development framework, brief or masterplan covering the site. Residential proposals should conform with Supplementary Guidance SG02 'Housing Layout and Design';*
2. *The siting, density and design of new development should create a coherent structure of streets, public spaces and buildings which respects and complements the site's context, and creates a sense of identity within the development;*
3. *Street layout and design should generally conform with the Scottish Government's policy document 'Designing Streets';*
4. *Streets and public spaces should have buildings fronting them or, where this is not possible, a high quality architectural or landscape treatment;*
5. *Development proposals should include landscaping and green infrastructure which enhances, structures and unifies the development, assists integration with its surroundings, and contributes, where appropriate, to the wider green network;*
6. *Development proposals should create a safe and secure environment for all users through the provision of high levels of natural surveillance for access routes and public spaces; and*
7. *Major development proposals should make provision for public art in the design of buildings and the public realm."*

7b.13 Policy RW05 - 'The Water Environment' states:

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

- 1. The Council will support the development of measures identified within the Forth Area River Basin Management Plan designed to improve the ecological status of the water environment;*
- 2. Opportunities to improve the water environment by: opening out previously culverted watercourses; removing redundant water engineering installations; and restoring the natural course of watercourses should be exploited where possible;*
- 3. There will be a general presumption against development which would have a detrimental effect on the integrity and water quality of aquatic and riparian ecosystems, or the recreational amenity of the water environment, or which would lead to deterioration of the ecological status of any element of the water environment. Where appropriate, development proposals adjacent to a waterbody should provide for a substantial undeveloped and suitably landscaped riparian corridor to avoid such impacts;*
- 4. There will be a general presumption against any unnecessary engineering works in the water environment including new culverts, bridges, watercourse diversions, bank modifications or dams; and*
- 5. The water environment will be promoted as a recreational resource, (subject to the requirements of policy GN03 (1) for Natura 2000 Sites), with existing riparian access safeguarded and additional opportunities for ecological enhancement, access and recreation encouraged where compatible with nature conservation objectives."*

7b.14 The application is similarly assessed to the Development Plan as being in accordance with policies CG01 'Countryside', CG02 'Green Belt', HSG04 'Housing Design', CG03 'Housing in the Countryside', GN03 'Biodiversity and Geodiversity', GN04 'Trees, Woodland and Hedgerows', D02 'Sustainable Design Principles' and D03 'Urban Design' of the Proposed Falkirk Local Development Plan.

7b.15 Similar to policy EQ27 of the Development Plan, policy RW05 'The Water Environment' raises policy concerns. Policy RW05 continues the general presumption against development which could have a detrimental effect on the integrity of riparian ecosystems or the recreational amenity of the water environment. Similar to policy SC8 of the Development Plan, the proposed development is assessed as being contrary to policy HSG05 'Infill Development and Subdivision of Plots' as the proposal fails to comply with other LDP policies.

7b.16 The application site is identified in the Proposed Falkirk Local Development Plan as being within the Polmont Open Space Corridor (GN18, Urban Corridor). GN18 seeks to improve the quality, function and diversity of the open space corridor running through Polmont and an opportunity focus relates to the Polmont Burn. Policy INF03 'Protection of Open Space' continues the general protection of all open space. It is considered that the proposed development, whilst not directly offending policy INF03, does conflict with the aims of GN18.

7b.17 Accordingly, it is considered the proposal is contrary to the Proposed Falkirk Local Development Plan namely policies RW05, HSG05 and GN18.

Falkirk Council Supplementary Guidance

7b.18 The following Supplementary Planning Guidance Notes are of relevance to the proposed development:

- Housing Layout and Design - it is considered that the proposed development accords with the guidance in relation to infill development, specifically in relation to building line, height, scale, proportions, detailed decoration and materials;
- Design Statements - it is considered that the submitted Design Statement generally accords with this guidance note;
- Biodiversity and Development - it is considered that the applicant has identified biodiversity constraints at the application site and has factored the constraints into the proposed design. It is considered that the applicant has adhered to the hierarchy of biodiversity themes. The proposed development would leave a 10 metre wide buffer zone beside the existing watercourse, in accordance with the guidance. It is also noted that some of the improvement proposals to the wider Gray Buchanan Park are supported by the guidance note i.e. the provision of bird and bat boxes;
- Trees and Development – the applicant has submitted a tree survey and tree constraints plan in accordance with this guidance. Compensatory planting is also supported by the guidance note; and
- Flooding and Sustainable Urban Drainage Systems – the applicant has submitted a Flood Risk Assessment in accordance with this guidance note.

7b.19 It is considered that the application accords with the thrust of advice contained within Falkirk Council's Supplementary Guidance.

Consultation Responses

7b.20 It is considered that the issues raised through consultation can be addressed through the use of planning conditions.

Information Submitted in Support of the Proposal

7b.21 The applicant has submitted information in support of the proposed development including a Design Statement, Supporting Planning Statement, Coal Risk Assessment, Flood Risk Assessment, Habit and Species Survey and Tree Survey.

Assessment of Public Representations

7b.22 The site boundaries were amended by the applicant after submission of the application and are correct on the amended drawings received.

- 7b.23 It is noted that the application site is in the Green Belt and is a green link between Gilston and Gray Buchanan Park, containing an important watercourse and waterfall. The proposed development is assessed in the body of this report as not undermining the role of the Green Belt/green corridor.
- 7b.24 It is noted that visitors come to the application site.
- 7b.25 It is considered that the scale of the proposed house is appropriate in relation to the setting of the site and the scale and massing of adjacent properties.
- 7b.26 It is not considered that the projecting north west elevation would eliminate natural daylight to the property as a result of the distance of the property from the proposed development, existing tree cover and the double aspect lounge room window.
- 7b.27 It is considered that the location and block plan are accurate.
- 7b.28 The proposed development would not prevent access to adjacent residential properties.
- 7b.29 The location of a water drain at the site is noted. The applicant intends to reroute the drain, prior to the commencement of any development on site.

Additional Planning Considerations

- 7b.30 The applicant has put forward a proposal of improvements for the wider Gray Buchanan Park to offset and compensate for the loss of the application site, as an open space asset, for development. The proposals include:
- The existing Millfield House estate gates (adjacent to the application site) shall be repaired and maintained;
 - A new access to be formed between the former estate land and Gray Buchanan Park (this will formalise a number of ad hoc paths to a single gated entry point);
 - The ad hoc amenity area (numbered 3 on the submitted improvements plan) will be cleared to provide for picnic areas and passive and active amenity;
 - Provision of clear directional signage;
 - Replacement tree planting;
 - The installation of 6 No. bird boxes and 6 No. bat boxes;
 - Programme of works to the existing footpath network to clear debris and upgrade the paths for safe walking; and
 - Provision of an alternative amenity area to view the two waterfalls (numbered 6 on the submitted improvement plan).

- 7b.31 The proposals are considered acceptable and implementation can be secured through the use of a suitably worded planning condition.

Consideration of the Site in relation to Coal Mining Legacy

- 7b.32 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. Any development proposal not exempt on grounds of type or nature, which would intersect with the ground requires the submission of a desk based Coal Mining Risk Assessment and Consultation with the Coal Authority.
- 7b.33 The views of the Coal Authority are summarised within the consultation responses above and appropriate conditions and/or informatives are recommended.

7c Conclusion

- 7c.1 The application is assessed in the body of this report as being contrary to the Development Plan, namely policies EQ27, SC3 and SC8. The proposed development also raises similar policy conflicts in relation to the Proposed Falkirk Local Development Plan. Policy EQ27 'Watercourses' raises the main policy conflicts, the development being broadly in accordance with policies SC3 and SC8 except in relation to criteria requiring accordance with other Local Plan policies.
- 7c.2 Policy EQ27 aims to ensure that water quality, habitat and species integrity and quality, and recreational amenity of watercourses are safeguarded by development proposals. The application is assessed as being contrary to this policy as it would involve the development of an area of riparian corridor. It is considered that the application site is of little recreational amenity at present, due to its steep slope, dense tree cover and lack of management. Although an area of the application site would be lost to development, the proposals also include a 10 metre buffer zone to be left undeveloped as wild indigenous habitat. This area would be connected to the remaining riparian corridor and wider Gray Buchanan Park post development. It should be noted that the application site is a relatively small section of what is a much larger park. The proposed development also includes improvements to the wider park, including the Polmont Burn, which runs through the park. It is therefore considered that the application would result in net benefits to the recreational function of the wider park and burn. The applicant has demonstrated that the proposed development would not have a significant effect on the landscape integrity, water quality, aquatic and riparian ecosystems and recreational amenity of the Polmont Burn as a result of development and as such it is considered that although the application has been assessed as being contrary to the terms of policy EQ27 the aims of the policy would not be compromised by the proposals.

- 7c.3 As discussed earlier in this report, the proposed development is considered to relate to a clear gap site and as such would justify the proposal within a countryside / Green Belt location. Residential properties line the full northern length of Marchmont Avenue, the application site being the last available 'gap' in development of the full length of the road. It is considered that the proposed development would form a clear relationship with the two neighbouring properties, sharing an access with Parkfield and, on the opposite bank of the burn, Barrden, all fronting Marchmont Avenue. Further it is considered that the proposed house has been designed to a high standard and would successfully harmonise with the architectural character of the area, in particular in relation to the scale, density, disposition and design. The existing stone wall to the front of the site would be retained post development further maintaining the character of the area and reducing the visual impact of the proposed development.
- 7c.4 Whilst it is acknowledged that there are a number of policy constraints related to this site it is considered that the applicant has appropriately demonstrated that the proposed development could be developed without adverse impact on the residential, environmental or visual amenity of the area. Furthermore, granting of the application would lead to improvements to the wider recreational resource / park area and watercourse. As such it is considered that the proposed development is acceptable and outweighs the policy conflicts as discussed in this report. It should be noted that although this application is considered acceptable, any further development proposals for Gray Buchanan Park may not be considered to be in accordance with the Development Plan and would require to be fully scrutinised on their own merits.
- 7c.5 The comments raised by third parties are addressed in the body of this report and the issues raised by consultees can be addressed through the use of appropriately worded conditions. There are no material planning considerations that would warrant refusal and the application is recommended for approval subject to the conditions outlined below.

8. RECOMMENDATION

- 8.1 It is therefore recommended that Committee grant planning permission subject to the following conditions: -
- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
 - (2) i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.

- ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.
 - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.
 - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (3) No development shall commence on site until intrusive site investigation to assess shallow coal mining conditions within the application site is carried out and the findings submitted to and approved in writing by the Planning Authority. In the event that site investigations confirm the need for mitigation, details shall be submitted to the Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.
 - (4) The open space improvements detailed in the approved plan (bearing our online reference No. 24) shall commence during construction of the dwellinghouse and be completed in full prior to occupation of the dwellinghouse hereby approved.
 - (5) For the avoidance of doubt no built development shall take place above the surface water drain or within any buffer zones set out by Scottish Water.
 - (6) No vegetation clearance or tree surgery works shall be undertaken within bird breeding season (April to July inclusive) unless it can be demonstrated in writing to the Planning Authority, by an ecologist, that no breeding birds are present.
 - (7) Prior to the commencement of any development on site, a re-check of tree cavities for the presence of hidden features suitable for use by roosting bats and the removal of dense ivy cover shall be carried out and the findings submitted in writing to the Planning Authority.
 - (8) Prior to the commencement of any development on site a badger mitigation plan, to ensure that badgers do not become entrapped in site excavations, shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall commence in accordance with the approved mitigation scheme.

- (9) For the avoidance of doubt, land within the 10 metre wide buffer zone as shown green on the approved plan (bearing our online reference No. 08C) does not form part of the garden ground of the dwellinghouse and shall be maintained as a wild habitat at all times.
- (10) Prior to the commencement of any development on site a landscape plan, including landscape maintenance schedule, shall be submitted to and approved in writing by the Planning Authority. The landscape plan shall include the 10 metre wide buffer zone as shown green on the approved plan (bearing our online reference No. 08C).
- (11) For the avoidance of doubt the tree protection fence shown on the approved plan (bearing our online reference No. 08C) shall be erected prior to the commencement of any development on site and shall remain in place for the duration of the entire construction phase of development.
- (12) Prior to occupation of the dwellinghouse hereby approved the proposed new trees (compensatory tree planting) shall be planted in accordance with the details shown on the approved plan (bearing our online reference No. 03B). Any amendments to the number, location or type of trees shall be agreed in writing with the Planning Authority.

Reasons:-

- (1) As these drawings and details constitute the approved development.
- (2,3) To ensure the ground is suitable for the proposed development.
- (4) To compensate for the loss of an area of open space / woodland.
- (5) To ensure that the existing sewer is adequately protected at all times.
- (6-12) To safeguard the environmental amenity of the area.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02C, 03B - 07B, 08C, 09B, 10D, 11B, 12B, 13A, 14B, 15A, 16 - 24 and Supporting Documents.

- (3) The applicant is invited to liaise with the Planning Authority prior to carrying out any open space improvements to Gray Buchanan Park, to ensure that any works do not require the benefit of Planning Permission.



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Director of Development Services

Date: 17 January 2014

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Falkirk Council Supplementary Guidance.
5. Letter of objection received from Mr Michael Elgie, Barrden, Marchmont Avenue, Falkirk FK2 0PP on 4 February 2013.
6. Letter of objection received from Harry McEwan, Parkfield, Marchmont Avenue, Polmont, Falkirk, FK2 0XR on 20 March 2013.

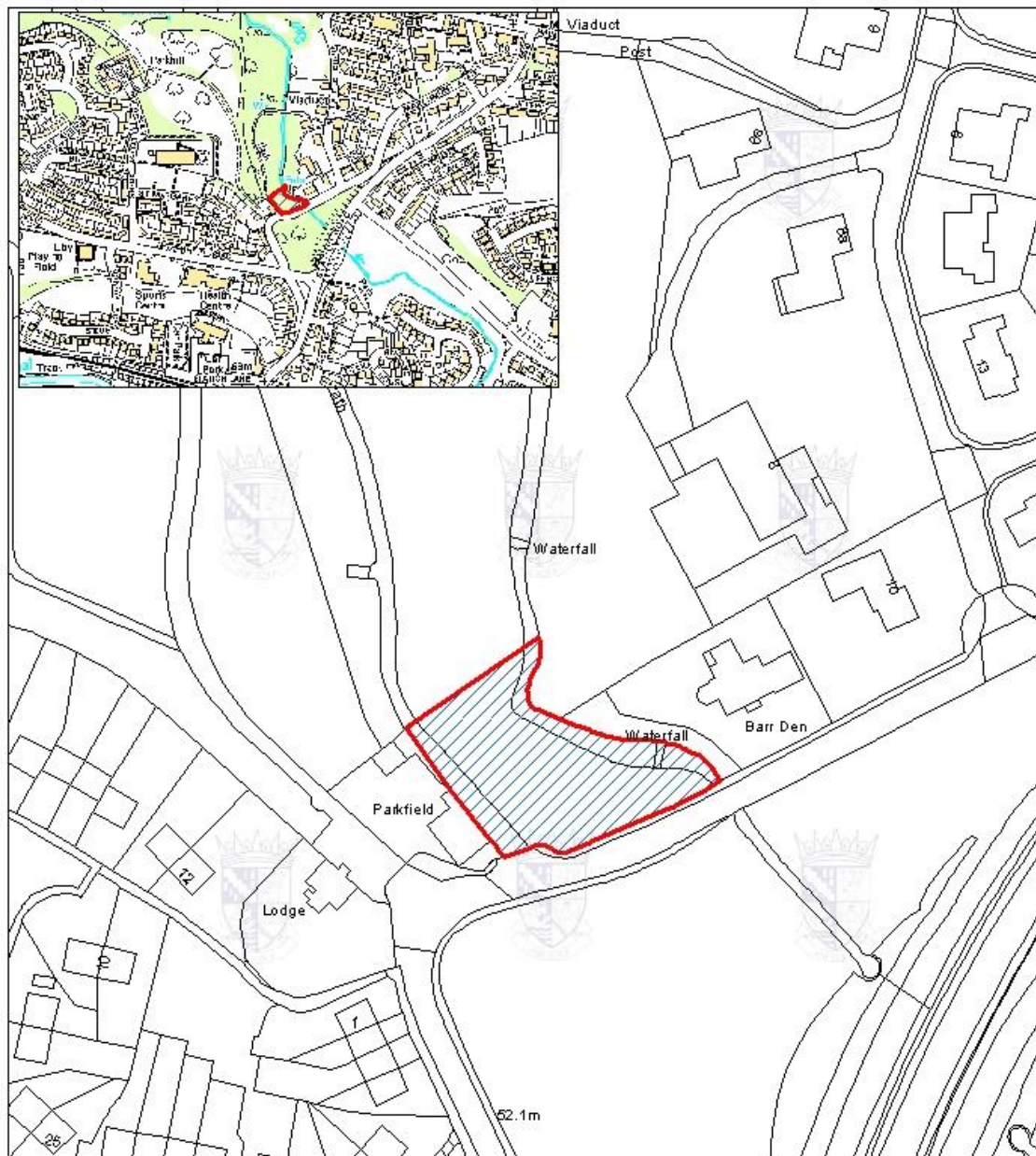
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/13/0012/FUL

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



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