

**FALKIRK COUNCIL**

**Subject:** PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES – P/12/0546/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 March 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

**UPDATE REPORT FOLLOWING SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended) when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The planning case officer presented a summary of the proposed development, representations received and the issues which have been addressed in making the recommendation to the Planning Committee. The Head of Planning and Transportation then presented a summary of proposed development as it relates to the funding and delivery of the Denny Eastern Access Road (DEAR), which forms part of the proposed development, and Supplementary Planning Guidance Note (SPG), "Delivery of Denny Eastern Access Road" (DEAR). The Head of Planning and Transportation also clarified the possible implications of a current appeal by MacTaggart and Mickel against the payment of a developer contribution of £550,000 towards the development of the proposed new roundabout at Glasgow Road under the terms of planning permission P/08/0296/FUL, for redevelopment of former paper mill at Carrongrove to provide 129 dwellinghouses and 53 flats, 750 sqm of commercial floor space, roads infrastructure including new roundabout, open space, landscaping, woodland management and public pathway provision at land to the west of 21 Old Mill Way, Kirkland Drive, Stoneywood.

3. The applicant's agent made a presentation to Members summarising the proposed development as it relates to the Development Plan and guidance. It was clarified that the applicant would intend to commence work on site on issue of planning permission.
4. The Chairman of Denny and District Community Council, Community Councillor Belbin, requested further details in respect of:
  - The timescale for the completion of the proposed development;
  - The number of crossing points proposed along the line of DEAR.
5. A further representative of Denny and District Community Council, Community Councillor Waddell, although acting independently, requested clarification in respect of:
  - The number of houses built in the Denny area since the opening of the current Denny High School;
  - The availability of health care provision to facilitate the proposed development;
  - Any proposed footpath connection to Bonnybridge;
  - The methodology of the calculation of development contributions required to fund DEAR;
  - The expected timescales for the completion of the number of dwellinghouses referred to in Section 8.1 of the Committee report which would trigger the payment of the developer contribution toward the funding of DEAR.

Community Councillor Waddell also commented that the Council owns land which, if sold for development, could raise sufficient capital to fund the development of DEAR prior to the development of any further residential developments.

6. A member of the public raised concern that the proposed development would result in the loss of part of the countryside to development which has value both in terms of amenity and as a means of settlement separation.
7. Members of the Planning Committee raised concern that there had been no comment in respect of the proposal from NHS Forth Valley. It was also noted, however, that general practitioners are a private enterprise and it is not possible to regulate health care provision through the planning process. Members also requested clarification regarding:-
  - Whether there is any proposal, or need, to redevelop the existing road infrastructure adjacent to the current Denny High School.
  - The funding required for the completion of DEAR.
  - The possible implications of the pending appeal in respect of planning permission P/08/0296/FUL referred to in section 2 of this update report.

8. Councillors Oliver, Blackwood and McCabe noted concern that funding the development of DEAR by means of developer contributions would result in the development of residential developments prior to the development of DEAR, adding pressure to roads infrastructure prior to mitigation measures being implemented. Furthermore, in addition to points already raised, clarification was requested in terms of:

- Details of the proposed mix of dwellinghouses;
- The reason for the payment of a developer contribution towards nursery school provision prior to the payment of developer contributions towards the provision of education services at Denny Primary School and Denny High School;
- The reasoning for the location of affordable housing units at phases of development later than the proposed phase 1;
- The reason for the withdrawal of the previous application reference 05/0904/LA referred to in Section 3.1 of the original report;
- The omission of NHS Forth Valley as a consultee;
- The reason for consultation with Stirling Council;
- The extent of DEAR proposed to be developed on the ground by the applicant;
- Why no developer contribution has been requested in respect of provision of education services at Nethermains Primary School.

9. Officers of Development Services clarified at the site visit:

- The number of crossing points proposed along the line of DEAR;
- The methodology of the calculation of developer contributions required under the terms of SPG "Delivery of the Denny Eastern Access Road (DEAR) to fund the development of DEAR;
- The traffic capacity of the existing road infrastructure adjacent to Denny High School as it relates to the projected traffic capacity which DEAR would be required to accommodate;
- The level of finance required to fund the development of DEAR;
- The possible implications of the pending appeal in respect of planning permission P/08/0296/FUL referred to in Section 2 of this update report;
- Details of the proposed mix of residential units;
- The reason for the withdrawal of planning application 05/0904/LA referred to in Section 3.1 of the original report;

- The extent of DEAR proposed to be developed on the ground by the applicant.
10. The applicant advised that, currently, the expected build out rate is 20 dwellinghouses per annum. This rate is, however, subject to fluctuation, and could possibly increase to 40 units per annum. The build out rate could also increase if a second developer became involved in the development. It is, therefore, not possible to accurately predict when the proposed development would be completed or the date on which the trigger for the outstanding payment of the developer contribution towards the funding of DEAR, as referred to in Section 8.1. of the original report, would be reached.
  11. The applicant's agent clarified that the proposed residential development is designed to omit any affordable housing units from phase 1 in order to maximise return from mainstream units to frontload funding to cover the cost of the roundabout on Glasgow Road and part of the first section of DEAR to a point 50 metres east of the centre of the said roundabout. The planning case officer commented that the location of affordable housing units as proposed fits well with the layout of the proposed residential development in terms of setting and integration. In terms of funding, it is noted that paragraph 1.5 of the original report dated 19 February 2014 sets out the intended approach with a final decision on the structuring of the applicant's transport contribution towards DEAR awaiting the outcome of the MacTaggart and Mickel appeal process as the Council does not accept that the planning agreement should be modified to remove the obligation related to MacTaggart and Mickel's transport contribution.
  12. It will be noted from the recommendation below that a suspensive condition (condition 20) has been introduced to ensure that the said roundabout on Glasgow Road and part of the first section of DEAR are completed before construction of the first dwellinghouse.
  13. The concerns raised at the site meeting in terms of health care provision are noted. It is also noted that NHS Forth Valley is not included as a consultee in respect of the proposed development. Doctors and dentists surgeries are operated as private enterprises, the provision of which is not possible to regulate through the planning process. The market is the principal driving mechanism for the provision of doctor and dentist facilities. NHS Forth Valley would not as a matter of course be consulted to comment in this regard. However, for clarification, Forth Valley NHS has confirmed that there is no mechanism in place at this time which could serve to either achieve contributions towards medical care or be considered as a material consideration in the determination of planning applications. NHS Forth Valley has advised that the level of health care capacity in the Denny area indicates that a new health centre is likely to be required at a future date, and discussions have begun with the planning authority to investigate mechanisms which could be put in place by the planning authority, working in conjunction with NHS Forth Valley, to address provision of health care issues. Discussions are currently in their infancy and it is not envisaged that any potential emerging mechanism would be in place before the adoption of the emerging Falkirk Local Development Plan in 2015.
  14. The rate and phasing of developer contributions towards education services provision is based on the timing of the expected impact of the proposed development and the existing capacity of provision. It is expected there would be an immediate impact on nursery school services as a result of the proposed development. The proposed phasing of the required developer contribution reflects this and that there would be an immediate need for funding additional places.

15. For clarification, the current Denny High School was occupied in February 2009. The following house completion data from that date is based on the catchment areas of primary schools which feed into Denny High School:

Catchment Area	House Completions Since February 2009
Antonine Primary School	2
Bankier Primary School	26
Denny Primary School	38
Dunipace Primary School	2
Head of Muir Primary School	64
Total	132

16. It is not expected to provide any additional footpath connections from Denny to other settlements as a result of the proposed development. Focus has been to ensure that:
- There would be provision of crossing points along the length of DEAR to safeguard connection of the core path network;
  - There would be satisfactory pedestrian access to bus stops;
  - There would be a pedestrian/cycle path provision along the entire length of DEAR.
17. No developer contribution has been sought in respect of the provision of education services at Nethermain Primary School as the application site does not fall within the catchment area for that school.
18. Stirling Council has been consulted for comment as it is considered that the proposed development would have an impact on the road network, in close proximity to the Stirling Council area, of a strategic nature. Furthermore, the catchment area for St Modan's RC High School, in the Stirling area, includes the Denny area.
19. The comment in respect of the loss of an area of countryside land which has high amenity and settlement separation value is noted. The proposed development, however, accords with the Development Plan in that the site is allocated for residential development. The proposed development is considered to be acceptable for reasons detailed in the original report.
20. Comments in respect of Council assets which could be realised to provide funding for the development of DEAR are noted. As noted at paragraph 1.5 of the original report of 19 February 2014, if the Council had appropriate funding, it could consider contributing an element of front funding to best achieve the practical delivery of the roundabout on Glasgow Road in the context of the Council's strategy to secure developer contributions. No such consideration has been given to front funding the whole of the DEAR.
21. No matters were raised which would amend the original recommendation for the Planning Committee to be minded to grant planning permission subject to the conclusion of a Section 75 obligation and, thereafter, the conditions detailed in the original report subject to the undernoted amendments to the proposed conditions.

22. It is noted that Conditions 8 and 10 as included in the recommendation of the original report, would ensure that there is no development outwith the area of phase 1 as detailed on the drawing bearing the planning authority's reference 120A, until such time as details of subsequent phases and details of play equipment, including a maintenance schedule, have been agreed. The planning case officer clarified at the Committee site visit that ground reprofiling works outwith the area of phase 1 would be necessary to allow phase 1 to be developed. It is recommended therefore that condition 8 and 10 be amended to read:

8. "Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling works or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded".

10. "Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with conditions 8".

## 23. RECOMMENDATION

23.1 It is recommended that the Committee indicate that it is minded to grant planning permission subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure the following, with sums indexed linked from the date of any minded to grant decision by the Committee:-

(a) A developer contribution towards education provision at Denny Primary School, Denny High School and nursery school provision. The developer contribution should consist of:-

Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings
Total		£1,550,350

The nursery provision contribution should be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time.

- (b) A pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. Payment of the developer contribution is to be phased, with the first contribution comprising any sum directly met by the applicant (and, for the avoidance of doubt, not reimbursed by the Council) in relation to the proper and reasonable cost of works carried out by the applicant to construct the roundabout on Glasgow Road and the first part of DEAR, including the new roundabout to provide access to the residential development, as detailed on the drawing bearing the applicant's reference RMDC/319/SL (1:500)/001 Revision N and the planning authority's reference 03B, (“the works”), said proper and reasonable costs to be fully vouched and demonstrated by the applicant to the satisfaction of the Director of Development Services. The nature and extent of the developer's contribution towards the works shall be the subject of written agreement and shall be quantified taking account of any potential funding available to the Council for delivery of the works. The residual monetary contribution (which shall be quantified by deduction of the developer's contribution in respect of the works from the total developer's contribution of £3,383,900) shall be paid in full by the applicant no later than :-

- The completion of the 251<sup>st</sup> dwellinghouse, including the 46 affordable housing units; or
- The completion of the 210<sup>th</sup> mainstream dwellinghouse, excluding the 46 affordable housing units;

whichever occurs first.

- (c) Development of 46 affordable housing units, the type, tenure, mix and means of delivery to be agreed in writing with the Planning Authority. Development of the housing development shall not progress beyond phase 1, as detailed on the drawing bearing the Planning Authority's reference 120A, until written agreement is secured.
- (d) A developer contribution towards the development of an adoptable standard footway at the north side of Nethermain Road, Denny to provide adequate pedestrian access to public transport links. The contribution required is £20,000 and is to be paid prior to the commencement of development.

In the event that an agreement has not been concluded with the applicant in respect of any or all of the above within a period of 6 months from the date of the Committee's agreement to be minded to grant planning permission, the application shall be referred back to the Planning Committee for further consideration.

23.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission subject to the following conditions and informatives:-

- (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) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the development will minimise its energy use and, consequently, its carbon footprint through design, materials and any other integral features.
- (3) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the Falkirk Council Outdoor Access Network would be maintained free of obstruction during the development or, alternatively, what temporary arrangements would be put in place to mitigate any temporary closure. If temporary closure of any outdoor access footpath is proposed, the details to be submitted shall demonstrate how this would be achieved. For the avoidance of doubt, the outdoor access footpaths and access ways to be considered are numbered 012/327, 012/296, 012/340 and 012/343 as identified in the Falkirk Council Core Paths Plan May 2010.
- (4) There shall be no development which would have any physical impact on the Little Denny Burn until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the proposed box culvert to be formed at the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.
- (5) Development shall not commence on site until such time as the scheme of archaeological work detailed in the Archaeological Written Scheme of Investigation has been carried out with the written approval of the Planning Authority.
- (6) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of drainage maintenance have been submitted to, and approved in writing by, the Planning Authority.



- (7) (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 11A 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.
- (8) Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling works or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded.
- (9) Notwithstanding any details previously submitted, development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the development of, and diversion of, culverts on site shall not constitute a flood risk either on or off site.

- (10) Notwithstanding any details previously submitted, there shall be no development on site, other than ground reprofiling or works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with condition 8.
- (11) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the implementation and future maintenance of the landscaping scheme have been submitted to, and approved in writing by, the Planning Authority.
- (12) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of external finishes in respect of the proposed residential development have been submitted to, and approved in writing by, the Planning Authority.
- (13) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of boundary treatments along the length of the proposed Denny Eastern Access Road have been submitted to, and approved in writing by, the Planning Authority.
- (14) There shall be no development of dwellinghouses, other than within phase 1 of the residential development as shown on the drawing bearing the Planning Authority's reference 120A, until such time as the temporary vehicular access to phase 1 of the residential development has been closed off with the written approval of the Planning Authority, in accordance with the drawing bearing the Planning Authority's reference 03B.
- (15) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the first junction within the proposed residential development have been submitted to, and approved in writing by, the Planning Authority, demonstrating that service vehicles shall be able to negotiate the junction.
- (16) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of final surfacing of roads and hard landscaped areas within the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (17) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation and surfacing of the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121, have been submitted to, and approved in writing by, the planning authority.

- (18) No dwellinghouse shall be occupied until such time as the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121 and referred to in condition 17, has been finished with the written approval of the planning authority.
- (19) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the footpath to be constructed from the proposed new roundabout at Glasgow Road running between plots 25 and 26 to the internal roadway at the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (20) For the avoidance of doubt, the extent of road infrastructure to which this condition refers comprises of the new roundabout at Glasgow Road in its entirety to the north, south and west, as shown on the drawing bearing the applicants reference RMDL/319/SL (1:500)/001 Revision N and the planning authority's reference 03B, and also part of the Denny Eastern Access Road from the proposed new roundabout at Glasgow Road to a point measuring 50 metres eastward of the centre of the said roundabout (together referred to as "the initial road works"). There shall be no work on site in respect of the proposed residential development, other than ground reprofiling work, until such time as the initial road works have been completed to wearing course level, together with all necessary traffic management features, in accordance with the written approval of the Planning Authority.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure that the proposed development is energy efficient.
- (3) In order that satisfactory pedestrian access to the transport network and the Core Path Network is maintained.
- (4) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (5) To safeguard archaeological remains.
- (6) To ensure adequate drainage is safeguarded.
- (7) To ensure the ground is suitable for the proposed development.
- (8) In order that the Planning Authority can control phasing of the development beyond phase 1.

- (9) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (10) To ensure a satisfactory standard of play equipment is installed.
- (11) To ensure that a satisfactory standard of landscape quality is maintained.
- (12-13) In the interests of visual amenity.
- (14-16) In the interests of safety of highway users.
- (17-19) To ensure the formation of pedestrian links to, form the proposed residential development.
- (20) To safeguard the safety of users of the wider road network at Glasgow Road and to ensure that there is a satisfactory standard of roadway in respect of site traffic taking access to and from the east side of the proposed new roundabout at Glasgow Road.

**Informative(s):-**

- (1) For the avoidance of doubt, the plans to which this decision refers bears the approved drawing numbers indicated on the Council's web site.

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**Director of Development Services**

**Date: 18 March 2014**

**LIST OF BACKGROUND PAPERS**

- 1. Falkirk Council Structure Plan.
- 2. Falkirk Council Local Plan.
- 3. Falkirk Local Development Plan Proposed Plan April 2013.
- 4. Notice of Intention to Develop 05/0904/LA.
- 5. Supplementary Planning Guidance Note (SP) ) "Housing and Layout Design".
- 6. SPG "Design Statements".
- 7. SPG "Education and New Housing Development".
- 8. SPG "Trees and Development".
- 9. SPG "Affordable Housing".
- 10. SPG "Flooding and Sustainable Urban Drainage".
- 11. SPG "Public Open Space, Falkirk Greenspace and New Development".
- 12. SPG "Delivery of Denny Eastern Access Road (DEAR)".
- 13. Planning Advice Note (PAN) 68 "Design Statements".
- 14. Circular 3/2009 "Notification of Planning Applications".
- 15. Circular 3/2012 "Planning Obligations and Good Neighbour Agreements".

16. Letter of Objection from Mr Scott Waller, Gibson Street, Denny, FK6 5BG on 9 October 2012
17. Letter of Representation from Mr Colin Duguid, 6 Demoreham Avenue, Denny FK6 5BJ on 9 October 2012

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** PROPOSAL FOR 307 NEW HOMES (INCLUDING 46 AFFORDABLE HOMES) AND DENNY EASTERN ACCESS ROAD (DEAR), INCLUDING PROVISION OF GREENSPACE, SUSTAINABLE URBAN DRAINAGE AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR BETT HOMES & CALLENDAR ESTATES – P/12/0546/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 26 February 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Brian McCabe  
Councillor John McNally  
Councillor Martin David Oliver

**Community Council:** Denny and District

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

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

- 1.1 This application seeks planning permission for a development consisting of three components.
- 1.2 Firstly it is proposed to erect 307 dwellinghouses, which would include 46 affordable units at land to the south of Mydub Farm, Denny
- 1.3 Secondly, it is proposed to construct the Denny Eastern Access Road (DEAR), at land to the south and east of Mydub Farm which would connect from a new roundabout at the junction of A872 Glasgow Road and Nethermains Road (the “Main Roundabout”), which forms part of the proposed development, to the existing section of DEAR east of Denny High School, connecting to the Herbertshire Roundabout at the A883 east of Broad Street, Denny.
- 1.4 It is proposed that the applicant would develop the first 420 metres of the DEAR from Glasgow Road, including the Main Roundabout, a temporary access to phase 1 of the residential development, and then a permanent roundabout (the “Second Roundabout”) providing access to later phases of the residential development.

- 1.5 It is recognised however that in accordance with the terms of Supplementary Planning Guidance Note (SPG) “Delivery of Denny Eastern Access Road (DEAR)” (the “DEAR SPG”), the delivery of this section of DEAR, including the Main Roundabout, could be achieved by a combination of developer contributions (albeit the required amounts could take some time to accrue) and “in kind” works in lieu of such financial contributions. The application site lends itself to a more flexible approach being adopted. Again, as envisaged by the DEAR SPG, the Council has already secured a contribution of £550,000 (index linked) towards the Main Roundabout from another development, although that contribution has not yet been triggered or paid. If the Council had appropriate funding it could therefore contribute the £550,000 for the Main Roundabout to best achieve the practical delivery of this section of the DEAR in the context of the Council’s strategy to secure developer contributions. This sum could then be recouped by the Council in due course from developers’ contributions. The remainder of the DEAR is likely to be developed by Falkirk Council as developer contributions are realised in accordance with the terms of the DEAR SPG.
- 1.6 Thirdly, it is proposed to construct two sustainable drainage ponds, to connect to the proposed residential development and DEAR, at areas to the south and east of Mydub Farm.
- 1.7 The application site extends to 22.7 hectares in area, 15.3 hectares of which would accommodate the proposed residential development.

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

- 2.1 The Director of Development Services considers it inappropriate to consider the application under delegated powers because of the complexity of the application and the wider context.

## **3. SITE HISTORY**

- 3.1 Notice of Intention to Develop 05/0904/LA for the construction of a new 7.3 metres wide carriageway approximately 1.5km long at land to the north east of Mydub Farm, Denny was withdrawn on 19 June 2006.

## **4. CONSULTATIONS**

- 4.1 The Scottish Environment Protection Agency (SEPA) has raised no objections. It is advised that conditions be attached to ensure that:-
- The proposed box culvert at the watercourse crossing over the Little Denny Burn is designed to convey a 1 in 200 year flood flow, and
  - The proposed drain 1 as shown in the drainage proposals, at both culverted and open sections, is designed to convey a 1 in 200 year flood flow.
- 4.2 Scottish Natural Heritage has raised no objections.
- 4.3 Historic Scotland has raised no objections.

- 4.4 The Keeper of Archaeology and Local History has advised that a condition be attached to ensure there is no commencement of works on the site until such time as a programme of archaeological work has taken place in accordance with the approved archaeological report.
- 4.5 The Coal Authority has raised no objections.
- 4.6 Central Scotland Police made no comment.
- 4.7 Scottish Power has made no comment.
- 4.8 Stirling Council has raised no objection.
- 4.9 Scottish Water has agreed to an agreement under Section 7 of the Sewerage Scotland Act 1968 which would determine the responsibilities of both Falkirk Council and Scottish Water in terms of drainage maintenance responsibilities for the proposed development. The Section 7 Agreement has yet to be concluded.
- 4.10 Housing Management is satisfied with the mix of affordable housing proposed. However, it is noted that the construction of the affordable housing units is not likely to be carried out until several years into the construction of the residential development. There would be no construction of affordable housing units until after phase 1 of the residential development. It is unclear whether the proposed mix of affordable units would still meet needs in the area, or what means of delivery would be appropriate, at that time. Housing Management has agreed that it would be appropriate to determine the type, tenure and means of delivery of the affordable housing at a later date, no later, however, than the completion of phase 1 of the residential development. This arrangement can be secured by means of a Section 75 Planning Obligation. It is noted that any amendment to the proposed development may require a further planning application.
- 4.11 The Environmental Protection Unit (EPU) has advised that contamination can be addressed by condition.
- 4.12 The Roads Development Unit (RDU) has advised that there remain issues to be concluded in terms of road geometry, surfacing and formation of footpaths:-
- A satisfactory swept path analysis is required to demonstrate that service vehicles would be able to negotiate the first junction within the residential development.
  - Final surfacing of roads and hard landscape areas within the residential development.
  - Formation and surfacing of footpath at the east side of Glasgow Road as shown on the drawing bearing the planning authority's reference 121.
  - Details of the formation of the footpath to be constructed from the new roundabout to be formed at Glasgow Road, running between plots 25 and 26 to the internal roadway of the proposed residential development.

Furthermore, the RDU has advised that there remain issues to be concluded in respect of the formation and diversion of culverts at the site:-



- Details required to demonstrate that culverts to be formed and diverted at the site shall not constitute a flood risk on or off the site.
- Details required to demonstrate that the box culvert to be formed at the crossing of the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.

4.13 Education Services has advised that the proposed development would put significant pressure on the provision of education services at Denny Primary School and Denny High School and, additionally, nursery school provision in the area. A developer contribution would be appropriate to mitigate the impact on education provision. The appropriate developer contribution is calculated:-

Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings

Total		£1,550,350
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It is advised that the nursery provision contribution be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments, with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time. The contribution can be secured by means of a Section 75 Planning Obligation.

4.14 The Transport Planning Unit has raised no objections. However, it has advised that the developer would be required to make a pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. Furthermore, the developer should meet the cost of the provision of an adoptable footway at Nethermain Road and secure the provision of a satisfactory footway adjacent to Glasgow Road. The contribution would be secured by means of a Section 75 Planning Obligation, some of it probably being “in kind” works.

## 5. COMMUNITY COUNCIL

5.1 No comments have been received from the Denny and District Community Council.

## 6. PUBLIC REPRESENTATION

6.1 Two letters of objection have been received. Concerns include:-

- There is potential for excessive noise from the development during the construction phase of the proposed development.

- The proposed development would be detrimental to visual amenity and would interrupt views from outwith the site.
- There would be an adverse impact on education provision in the area.
- There is likely to be an adverse impact on medical care provision in the area.
- There would be an adverse impact on the amenity of the area during the construction phase due to excessive dust.
- There would be overshadowing of adjacent properties.
- The proposed development would generate traffic to the detriment of road safety.

## 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 Policy COM.1 ‘Housing Land Allocations’ states:

*“The Council will:*

- 1 support the phased provision of land for new housing as detailed in Schedule COM.1a to which a flexibility allowance of 10% will be added under Policy COM.2;*
- 2 maintain an effective 5 year supply of the housing land set out in Schedule 1a;*
- 3 review the housing calculations and allocations at intervals of no more than 5 years; and*
- 4 In delivering the requirement in Schedule Com.1a the Council will support special initiatives for residential led regeneration at the location listed in Schedule Com.1b, provided that action plans and masterplans/ development frameworks are prepared in accordance with the local plan. In particular these must address phasing, social and physical infrastructure provision, the avoidance of adverse impacts on European sites, the removal of significant restraints and land acquisition as appropriate.”*

##### 7a.2 It is noted that in order to meet the aspirations of the Falkirk Council Structure Plan (FCSP) to provide 1000 new homes 2001-2020, the application site has been identified in the Falkirk Council Local Plan (FCLP) as an opportunity for residential development. The proposed development accords with Policy COM.1.

7a.3 Policy COM.2 ‘Implementation of Housing Land Requirement’ states:

*“In implementing the housing land requirement set out in Schedule COM.1a, Local Plans will:*

- 1 take into account completions since 30th June 2001 and the current effective and established housing land supply;*
- 2 make an assessment of the likely output from windfall and small sites in arriving at the amount of land to be allocated and add to that amount a 10% flexibility allowance;*
- 3 adopt an approach to site selection whereby priority is given to brownfield sites and to sites which enjoy a high level of accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4 ensure the housing land allocation is based on the phasing guidelines set out in Schedule COM.1a;*
- 5 ensure that there are adequate community facilities and physical infrastructure to accommodate the allocation;*
- 6 ensure that the location, scale, and design of allocated sites is sympathetic to the character of settlements and that significant land releases are accompanied by the preparation of masterplans; and*
- 7 take into account the location and firm development proposals of business and industrial premises including chemical and petrochemical facilities.*
- 8 Local Plans will also identify the site or area of search of the general locations listed in Schedule Com.1b taking into account the avoidance of adverse impact on European sites and specific requirements for new social and physical infrastructure.”*

7a.4 The identification of the application site as an opportunity for residential development integrates with appropriate development completions in the Denny area, and a 10% flexibility for windfall sites, to meet the requirements of the FCLP. The proposed residential development would be sympathetic to the area in terms of scale, design and character. Furthermore, it is considered that the proposal would be appropriately located in terms of transport, community and infrastructure. The proposed development accords with Policy COM.2.

7a.5 Policy COM.3 ‘Special Needs and Affordable Housing’ states:

*“The Council will support the provision of affordable and special needs housing, based on housing needs assessments for each community. Local Plans will identify suitable sites and where appropriate, stipulate the proportion of larger housing sites which should be reserved to meet specific housing needs.”*

7a.6 It is noted that the applicant proposes on site affordable housing provision and that Housing Management is satisfied with the proposed mix of affordable housing units. However, it is also noted that, in order to ensure delivery of affordable housing meets needs over time, Housing Management has agreed that type, tenure and delivery of affordable housing can be agreed at a later date, no later than the completion of phase 1 of the proposed residential development. This can be secured by means of a Section 75 Planning Obligation.

7a.7 It is noted that Policy SC4 of the FCLP “Affordable Housing” and the Supplementary Planning Guidance Note (SPG) “Affordable Housing” express that the viability of proposed developments should be considered when assessing a suitable method of Affordable Housing delivery. The applicant has submitted a viability statement in support of the proposed development which has been checked by the District Valuer. The District Valuer has assessed that after meeting the required developer contributions and obligations, the site would realise a modest positive land value. The proposed development accords with Policy COM3.

7a.8 Policy COM.5 ‘Developer Contributions’ states:

*“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:*

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

*The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”*

7a.9 It is noted that the proposed development would have a significant impact on the provision of education services in the area. It is considered that a developer contribution would be appropriate to mitigate the potential impact. The consultation response of Education Services in section 4 of this report is noted. The applicant has agreed to meet the required contribution.

7a.10 It is noted that delivery of the DEAR is to be financed by developer contributions. This road scheme is necessary to provide mitigation in respect of the impact of new development on the existing roads network. The contribution required is calculated at £3,383,900 in accordance with the Council’s DEAR SPG. The applicant has agreed to meet the required contribution.

7a.11 In order to provide residents of the proposed residential development satisfactory links to public transport, it is considered that it would be necessary to form a pedestrian footpath to the bus stop at Nethermain Road. The applicant has agreed to make a developer contribution of £20,000 for the formation of the footpath.

7a.12 It is noted that the applicant proposes to provide on site affordable housing in accordance with the Development Plan and the supplementary Planning Guidance Note (SPG) “Affordable Housing”. Phasing and Delivery of the affordable housing would be concluded under the terms of a Section 75 Planning Obligation.

7a.13 The proposed development accords with Policy COM.5.

7a.14 Policy COM.6 ‘Open Space and Recreational Facilities’ states:

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

- (1) the loss of open space and recreational facilities will not normally be permitted except where, as part of a community-wide assessment of provision, it is demonstrated that the loss will have no adverse impact on visual or recreational amenity and will release resources for qualitative improvements to facilities in the community as a whole;*
- (2) Local Plans will identify and seek to address any remaining localised deficiencies in provision;*
- (3) resources will generally be concentrated on improving the quality, management and accessibility of existing provision; and*
- (4) all new housing development must contribute to the provision and maintenance of open space and recreational facilities either through on-site provision or contributions to off-site provision. Standards will be set out in Local Plans based on the provision of 2.8ha per 1000 persons.”*

7a.15 It is noted that the proposed development would include on-site provision of open and recreational space. The provision would be principally in the form of a central village green style open space with a green corridor across the site to allow connectivity for people and wildlife. It is noted that the provision accords with Policy SC13 of the FCLP “Open Space and Play Provision in New Developments” detailed in sections 7a.64 - 7a.65 of this report and SPG “Public Open Space, Falkirk Greenspace and New Development” detailed in sections 7b.17 - 7b.18 of this report. The proposed development accords with Policy COM.6.

7a.16 Policy COM.7 ‘School Provision’ states:

*“New housing development will not be permitted unless adequate school capacity is available or will be made available.”*

7a.17 It is noted that a developer contribution would be required to safeguard satisfactory provision of education services. The applicant has agreed to meet the contribution required. The proposed development would accord with Policy COM.7.

7a.18 Policy ENV.1 ‘Countryside and Protected Areas’ states:

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

7a.19 It is noted that the proposed line of the DEAR lies outwith the Denny urban area. It is also noted that the proposed DEAR is identified as an opportunity for new roads infrastructure in the FCLP (TR.DEN.01). It is considered that the partial countryside location is essential for the provision of the DEAR. The proposal accords with Policy ENV.1.

7a.20 Policy ENV.7 'Quality of Development' states:

*"(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been addressed and how quality objectives will be achieved.*

*(2) Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements."*

7a.21 It is noted that the proposed development is accompanied by a supporting Design Statement. The proposed development would be sympathetic to the area in terms of scale, design and character. There would be a satisfactory provision of open space and greenspace connectivity. The proposed landscape plan would safeguard the amenity of the urban fringe setting. It is also noted that the proposed development accords with "Designing Streets" policy detailed in sections 7b.28 - 7b.29 of this report. The proposed development accords with Policy ENV.7.

7a.22 Policy TRANS.3 'Transport Assessment' states:

*"Proposals which could result in a significant increase in travel demand will be required to submit a Transport Assessment and where appropriate a Green Transport Plan. These should demonstrate how the impact of the development on the surrounding traffic network can be minimised and how other modes of travel rather than the car will be encouraged."*

7a.23 A Transport Assessment (TA) has been submitted in support of the proposed development. It is considered that the impact of the proposal on the transport network is acceptable provided that developer contributions are made to facilitate the delivery of DEAR. Furthermore, the construction of DEAR would reduce traffic congestion at Denny Cross. The proposed development accords with Policy TRANS.3.

7a.24 The proposal accords with the Falkirk Council Structure Plan.

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

7a.25 Housing proposal H.DEN12 identifies the proposed residential development site as an opportunity for residential development of approximately 300 dwelling units. The residential development opportunity as identified by H.DEN12 is linked to the development of DEAR. H.DEN12 requires the precise definition of the line of DEAR and the formation of a robust settlement edge. The proposed development meets all of the preceding requirements of H.DEN12. The proposed development accords with housing opportunity H.DEN12.

7a.26 Transport opportunity TR.DEN01 identifies DEAR as a means to address traffic capacity problems at Denny Cross which would further exacerbated by further development. It is noted that phase 1 from Broad Street to Denny High School has been completed. The remainder of the route is to be developer funded under TR.DEN01 (see SPG “Delivery of Denny Eastern Access Road (DEAR)” in sections 7b.19 - 7b.20 of this report). The proposed development includes the seeking of planning permission for DEAR, the details of which are acceptable in terms of design etc to the Roads Development Unit and the Transport Planning Unit. The developer has agreed to a contribution towards the construction of DEAR in accordance with the SPG. Such a contribution would be secured by means of a Section 75 Planning Obligation. Part of this contribution is likely to be "in kind" construction. The proposed development therefore meets the requirements and aspirations of TR.DEN01.

7a.27 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.28 It is considered that the siting and design of the proposed development would be sympathetic to the site’s surroundings and would fit well into the landscape. The residential development, which would be formed around a central open space, would create an attractive environment incorporating designing streets traffic calming features. The proposal is satisfactory in terms of infrastructure connection. The proposal accords with Policy EQ1.

7a.29 Policy EQ2 ‘Implementation of Sustainable Design Principles’ states:

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

- (1) Masterplans will be required for development proposals requiring a comprehensive approach to design and infrastructure. The Council will set out the basis for the preparation of Masterplans in Development Frameworks or Briefs;*
- (2) Development Briefs will be prepared by the Council for other development sites where merited by the size, sensitivity or complexity of the site;*

- (3) *Supplementary Planning Guidance Notes will be produced to provide detailed advice on the application of the sustainable design principles; and*
- (4) *Planning applications for significant residential, business or commercial development, or smaller proposals affecting protected sites or buildings, should be accompanied by a Design Statement explaining how each of the factors in Policy EQ1 has been complied with."*

7a.30 The application is supported by a design statement. The design statement sets out the site context and background in terms of culture, character, ecology and setting and clarifies how the proposed development would integrate in terms of built form, greenspace and infrastructure. It is considered that the design statement is comprehensive and satisfactory. The proposed development accords with Policy EQ2.

7a.31 Policy EQ3 'Townscape Design' states:

*"New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*

- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site's environs and creates a sense of identity within the development;*
- (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
- (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) *The contribution to the townscape of important landmarks, skylines and views should be respected."*

7a.32 The proposed development would create a sense of identity. The majority of buildings front onto the streets and the buildings along the eastern boundary of the site front onto the open space, which helps to ensure that the site is not inward looking. The buildings are two storey in nature and reflect the scale and height of dwellings along the northern boundary.

7a.33 Policy EQ4 - 'Landscape Design' states:

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

- (1) *Be informed by the surrounding landscape;*
- (2) *Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) *Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) *Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*



- (5) *Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) *Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) *Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) *Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7a.34 The application is supported by a landscape plan. The principal landscape elements at the proposed housing development are the retention of a strong tree belt adjacent to Glasgow Road, to attenuate traffic noise, and the village green style central open space. There would be a central boulevard of open space running across the housing development, through the central open space. There would also be open space provision adjacent to DEAR. It is considered that the proposed development would provide a satisfactory level of passive and active open space and provide satisfactory connectivity and wildlife corridors. The proposed development accords with Policy EQ4.

7a.35 Policy EQ6 ‘Design and Energy Use’ states:

“Developers should demonstrate how they have assessed and pursued opportunities for sustainable energy use in new developments. In particular:

- (1) *Local climatic factors should be taken into account, and opportunities taken to maximise solar gain and minimise wind chill in the layout and orientation of buildings;*
- (2) *The utilisation of renewable energy sources in meeting the energy needs of developments will be encouraged where appropriate in terms of type, scale and impact; and*
- (3) *Combined heat and power and community heating schemes as part of new developments will be encouraged.”*

7a.36 It is considered that the issue of energy use can be addressed by condition.

7a.37 Policy EQ16 ‘Sites of Archaeological Interest’ states:

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

7a.38 The application is supported by an archaeological report. It is noted that the Keeper of Archaeology and Local History has advised that a condition be attached to secure the implementation of the programme of archaeological work proposed.

7a.39 The proposal accords with Policy EQ16.

7a.40 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.41 It is noted that DEAR would be located outwith the Denny urban area as defined in the Falkirk Council Local Plan. It is considered that a countryside location is essential for the construction of DEAR. Furthermore, it is considered that DEAR, as proposed by the application, would meet Falkirk Council construction and design standards and would integrate well into the rural setting. The proposed development accords with Policy EQ19.

7a.42 Policy EQ21 - 'Falkirk Greenspace' states:

*“Through the Falkirk Greenspace Initiative, the Council will work with its partners to improve the landscape, habitat quality and recreational potential of the network of urban fringe and urban open space around and within settlements. Priority will be given to:*

- (1) Appropriate woodland creation and management, where landscape quality, access, biodiversity, and connectivity across the Greenspace can be promoted;*
- (2) The creation of an interlinked network of paths within the Greenspace, with particular emphasis on a principal circular route, as a key part of the core path network, complemented by secondary routes where appropriate; and*
- (3) Requiring developers in urban fringe locations to contribute to landscape and/or access improvements in association with new development.”*

7a.43 It is considered that the proposed development integrates well with the urban fringe/rural setting in terms of impact on the existing landscape and woodland network. The application proposes to provide an open space network on site in accordance with Council standards. It is considered that the design of the on-site open space as proposed safeguards the visual amenity of the area and connectivity across the site. The proposed development accords with Policy EQ21.

7a.44 Policy EQ22 'Landscape and Visual Assessment' states:

*"Development proposals which are likely to have a significant landscape impact must be accompanied by a comprehensive landscape and visual assessment as part of the Design Statement, which demonstrates that the setting is capable of absorbing the development, in conjunction with suitable landscape mitigation measures, and that best environmental fit has been achieved, in terms of the landscape character of the area."*

7a.45 The application is supported by a landscape and visual assessment. It is considered that the assessment satisfactorily demonstrates that the site is capable of absorbing the development as proposed, that a high level of environmental fit would be achieved and that the proposal is sympathetic to the character of the area. The proposed development accords with Policy EQ22.

7a.46 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.47 It is noted that there would be existing trees lost at the site which are located centrally within the proposed residential development area, at the eastern edge of the proposed residential area and at the proposed line of DEAR. However, the existing tree planting adjacent to Glasgow Road would be safeguarded and, furthermore, the proposed landscape planting at the residential area and DEAR would satisfactorily mitigate the loss of trees at the site. The proposed development accords with Policy EQ26.

7a.48 Policy EQ29 - ‘Outdoor Access’ states:

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

7a.49 The proposed development would impact on the line of several core paths. It is considered however that connectivity integrated into the development would provide good links to external paths and satisfactory movement. It is noted, however, that beyond phase 1 of the residential development, temporary access routes would require to be provided to co-ordinate with construction. Details of temporary access routes can be secured by condition. The proposed development accords with Policy EQ29.

7a.50 Policy EQ30 - ‘Agricultural Land’ states:

*“Development involving the loss of prime quality agricultural land (Classes 1, 2 and 3.1) will not be permitted unless the site is allocated for development in the Local Plan or there are overriding local or national circumstances.”*

7a.51 It is noted that the proposed development is identified in the Falkirk Council Local Plan as an opportunity for residential development and the development of the DEAR. The proposed development accords with Policy EQ30.

7a.52 Policy EQ30A - ‘Air Quality’ states:

*“The Council will seek to contribute to the improvement of air quality. Impacts on air quality will be taken into account in assessing development proposals, particularly within Air Quality Management Areas (AQMAs). Air Quality Assessments may be required for developments within AQMAs.”*

7a.53 The application site is not within an Air Quality Management Area. However, owing to the proposed layout with houses (i.e. receptors) potentially introduced close to the proposed DEAR, and the size of the development, an air quality assessment was requested. The applicant has demonstrated to the satisfaction of the Environmental Protection Unit that the proposed development would not have a significant impact on air quality. The proposed development accords with Policy EQ30A.

7a.54 Policy SC1 - 'Housing Land Provision' states:

- “(1) Through the Local Plan, the Council will aim to meet the housing land requirements of the Falkirk Council Structure Plan for at least the period up to 2012, as detailed in Table 4.1. Sites contributing towards the requirement are detailed under the relevant Settlement Statements.*
- (2) Sites identified as long-term development opportunities on the Proposals map will be the preferred locations for residential growth within the relevant settlements for the period 2012 - 2020. Consideration will only be given to bringing forward these sites for development prior to 2012 where clearly justified by supply, phasing and infrastructure factors.*
- (3) Within the areas identified as Special Initiatives for Residential-Led Regeneration (SIRRs) on the Proposals Map, housing development in addition to the base requirement will be supported subject to:*
  - the preparation of a satisfactory masterplan or development framework for the area; and*
  - demonstration that the necessary social and physical infrastructure requirements for the area will be met through a co-ordinated approach to developer contributions.”*

7a.55 It is noted that the residential development site is identified as housing opportunity H.DEN12. The proposed development accords with Policy SC1.

7a.56 Policy SC4 'Special Needs and Affordable Housing' states:

*“For large new housing developments, the Council will require a diversity of house types and tenures in order to create mixed communities. In particular there will be a requirement across the Council area for new housing sites of 100 units and over to provide 15% of the total number of units as affordable or special needs housing. In the settlement areas of Larbert/Stenhousemuir, Polmont and District and Rural North, where there is an identified shortfall in affordable housing provision, there will be a requirement for sites of 60 units and over to provide 25% of the total number of units as affordable or special needs housing. Acceptable approaches could include:*

- (1) Provision of general needs social rented houses;*
- (2) Provision of social housing for people with particular needs (specifically the elderly and physically disabled); or*
- (3) Provision of shared equity or shared ownership housing*

*Developers will be expected to work in partnership with the Council, Communities Scotland and Registered Social Landlords to comply with this policy.”*

7a.57 It is noted that the proposed housing development includes 46 (15%) affordable housing units in accordance with Policy SC4. Housing Management has indicated that the proposed mix of affordable housing is satisfactory. However, it would be appropriate to agree the means of delivery of affordable housing prior to the construction phase progressing beyond phase 1 in order that the proposal can continue to meet affordable housing needs over time. The means of delivery can be secured by means of a Section 75 Planning Obligation. The proposed development accords with Policy SC4.

7a.58 Policy SC6 - 'Housing Density and Amenity' states:

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

7a.59 The proposed residential development generally meets the 300 dwelling units envisaged by housing opportunity H.DEN12. The proposed housing development would provide a satisfactory mix of house types and the amenity and privacy of occupiers would be safeguarded. The proposed development accords with Policy SC6.

7a.60 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

*“Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:*

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996.”*

7a.61 It is noted that it is advised that the applicant contributes towards education provision at Denny Primary School, Denny High School and Nursery School provision. The applicant would also be required to contribute towards the cost of DEAR in accordance with SPG “Delivery of Denny Eastern Access Road (DEAR)”, and the provision of an adoptable footway at Nethermain Road. It is noted that on site provision of affordable housing is proposed. The applicant would be required to agree the delivery of the affordable housing by the conclusion of a Section 75 Planning Obligation. The applicant has agreed to meet the financial and physical infrastructure contributions. The proposed development accords with Policy SC11.

7a.62 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.63 There would be the loss of a small area of open space along the route of DEAR. This open space did not form an integral part of a previous development and its loss is accepted in the context of the benefits DEAR would provide. The housing site and associated DEAR do not have significant ecological value. In addition to this the existing network of footpaths to surrounding areas would be maintained although with some diversions where necessary. The proposal is considered to comply with Policy SC12.

7a.64 Policy SC13 ‘Open Space and Play Provision in New Development’ states:

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

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

- (2) *Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where*
- *existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
  - *in residential developments, the size of the development falls below the threshold of 10 houses indicated in Table 4.2, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
  - *as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*
  - *The required financial contribution per house will be set out in the SPG Note on ‘Open Space and New Development’.*
- (3) *The location and design of open space should be such that it:*
- *forms an integral part of the development layout, contributing to its character and identity;*
  - *is accessible and otherwise fit for its designated purpose;*
  - *links into the wider network of open space and pedestrian/ cycle routes in the area;*
  - *sensitively incorporates existing biodiversity and natural features within the site;”*
  - *promotes biodiversity through appropriate landscape design and maintenance regimes; and*
  - *enjoys good natural surveillance;*
- (4) *Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it.”*

7a.65 It is proposed to provide all open space on site. The layout and level of provision of both active and passive open space is considered to be satisfactory. Notwithstanding any details previously submitted, the provision of appropriate play equipment, together with a maintenance schedule, can be addressed by condition. The proposed development accords with Policy SC13.

7a.66 Policy SC14 ‘Education and New Housing Development’ states:

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

7a.67 Education Services has advised that the proposed development could have a significant impact on nursery school provision, Denny Primary School and Denny High School. A developer contribution would be appropriate. The level of contribution is detailed in section 4.13 of this report. The applicant has agreed to meet the developer contribution. Such a contribution would be secured by a means of a Section 75 Obligation. The proposed development accords with Policy SC14.



7a.68 Policy ST1 - 'Core Path Network' states:

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

7a.69 Sections 7a.44 - 7a.45 of this report in respect of outdoor access are noted. The proposed development accords with Policy ST1.

7a.70 Policy ST7 - 'Transport Assessments' states:

- "(1) Falkirk Council will require transport assessments of developments where the impact of that development on the transport network is considered likely to require mitigation.*
- (2) Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development.*
- (3) Developers will agree the scope of the assessment with Falkirk Council, then undertake the assessment in accordance with the scoping. In all cases, the assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over unnecessary use of the car.*
- (4) The Council will only grant planning permission where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified."*

7a.71 The application is supported by a Transport Assessment (TA). The TA assesses the impact of the proposed development on the transport infrastructure of the area including motor transport, cyclists, pedestrians and disabled access. The Transport Planning Unit (TPU) has advised that the TA is appropriately considered and that the integrity of the transport network would be safeguarded as a result of the proposed development. It is noted that in the short term, there would be an increase in the traffic generated at Denny Cross. The medium term benefits of DEAR in terms of the impact on Denny Cross is welcomed. The proposed development accords with Policy ST7.

7a.72 Policy ST11 - 'Sustainable Urban Drainage' states:

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

7a.73 The application is supported by a detailed drainage strategy. It is noted that Scottish Water has agreed in principle to the conclusion of an Agreement under the terms of Section 7 of the Sewerage Scotland Act 1968, see section 4.9 of this report, ensuring maintenance of the drainage system, including ponds, by Falkirk Council and Scottish Water in an agreed joint approach. The proposed development would accord with Policy ST11 on conclusion of a Section 7 Agreement. It is considered that the agreement of a drainage strategy can be addressed by condition.

7a.74 Policy ST12 - 'Flooding' states:

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

7a.75 The application is supported by a Flood Risk Assessment. It is considered that it has been demonstrated that, generally, the proposed development would not constitute a flood risk either within the application site or beyond. It remains, however, to be demonstrated that culverts to be developed or diverted at the site would have no flooding impact. The approval of details in respect of culverts can be addressed by condition. The proposed development accords with Policy ST12.

7a.76 The proposed development accords with the Falkirk Council Local Plan. Accordingly, the proposed development accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration to be assessed in respect of the proposed development are the Falkirk Local Development Plan Proposed Plan April 2013, Supplementary Planning Guidance Notes (SPG's) "Housing Layout and Design", "Design Statements", "Education and New Housing Development", "Trees and Development", "Affordable Housing", "Flooding and Sustainable Urban Drainage", "Public Open Space, Falkirk Greenspace and New Development" and "Delivery of Denny Eastern Access Road (DEAR)", Planning Advice Note (PAN) 68 "Design Statements", Circular 3/2009 "Notification of Planning Applications", Circular 3/2012 "Planning Obligations and Good Neighbour Agreements", Designing Streets Policy, consultation responses and letters of public representation.

### ***The Falkirk Local Development Plan Proposed Plan April 2013***

7b.2 The proposed Falkirk Local Development Plan 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.

7b.3 The relevant proposals/policies are:-

Proposals:

- H15 - Mydub 1.
- INE14 - Denny Eastern Access Road.

Policies:

- HSG01 - Housing Growth.
- HSG02 - Affordable Housing.
- HSG04 - Housing Design.
- INF01 - Strategic Infrastructure.
- INF02 - Developer Contributes to Community Infrastructure.
- INF04 - Open Space and New Residential Development.
- INF05 - Education and New Housing Development.
- INF07 - Walking and Cycling.
- INF10 - Transport Assessments.
- INF12 - Water and Drainage Infrastructure.
- GC01 - Countryside.
- GN01 - Falkirk Green Network.
- GN02 - Landscaping.
- GN03 - Biodiversity and Geodiversity.
- GN05 - Outdoor Access.
- D01 - Placemaking.
- D02 - Sustainable Design Principles.
- D04 - Low and Zero Carbon Developments.
- D08 - Sites of Archaeological Interest.
- RW05 - The Water Environment.
- RW06 - Flooding.
- RW07 - Air Quality.

7b.4 The proposals and policies of the Falkirk Local Development Plan Proposed Plan 2013 reflect the proposals and policies of the Development Plan. The proposed development accords with the emerging Local Development Plan.

***Supplementary Planning Guidance Note (PAN) “Housing Layout and Design”***

7b.5 The proposed development would provide a satisfactory level of active and passive open space, centred around a principal village green style area of open space. There would be strong, well defined edges to the development. The residential development would provide frontages onto roadways, including DEAR. Street design would be well proportioned, attractive and accessible.

7b.6 The proposed development accords with SPG “Housing Layout and Design”.

***SPG “Design Statements”***

7b.7 The proposed development is supported by a design statement. The design statement demonstrates that:-

- The development would be well proportioned in terms of the relationship between built form and open space.
- The development would be safe and accessible.
- The scale and mix of residential units would be appropriate.

- The urban fringe setting of the site would be safeguarded.
- The proposed development would fit well with the site's wider setting and community context.
- Community engagement was carried out.

7b.8 The proposed development accords with SPG "Design Statements".

### ***SPG "Education and New Housing Development"***

7b.9 The impact of the proposed development on the provision of education services in respect of nursery school provision, Denny Primary School and Denny High School is detailed in section 4.13 of this report. It is noted that the applicant has agreed to make a developer contribution to mitigate the impact of the proposed development.

7b.10 The proposed development accords with SPG "Education and New Housing Development".

### ***SPG "Trees and Development"***

7b.11 It is noted that there would be existing trees at the site, principally centrally located, removed in order to accommodate the proposed development. However, it is considered that the proposed landscaping plan would provide a satisfactory level of amenity and provide wildlife corridors around and through the site. There would be a strong western edge tree belt adjacent to Glasgow Road retained. The impact of the tree planting and landscape design would be that the housing development and DEAR would fit into the landscape with the minimum environmental impact and the urban fringe setting of the application site would be safeguarded.

7b.12 The proposed development accords with SPG "Trees and Development".

### ***SPG "Affordable Housing"***

7b.13 It is proposed to provide affordable housing on site at a level of 15%. Sections 7a.56 - 7a.57 of this report detail the issue of affordable housing. It is noted that the number and mix of affordable housing units is considered appropriate and that delivery of the affordable units can be secured by the conclusion of a Section 75 Planning Obligation.

7b.14 The proposed development accords with SPG "Affordable Housing".

### ***SPG "Flooding and Sustainable Urban Drainage"***

7b.15 The proposed development is supported by a drainage strategy which includes measures for the treatment of surface water runoff by sustainable urban drainage principles, which includes the formation of swales and settlement ponds. It is not considered that the proposed development would constitute a flood risk either on or off site. It is proposed that there would be an agreement concluded between Falkirk Council and Scottish Water in respect of maintenance responsibility for the drainage scheme. The implementation of maintenance of the drainage system can be addressed by condition.

7b.16 The proposed development accords with SPG "Flooding and Sustainable Urban Drainage".

### ***SPG “Public Open Space, Falkirk Greenspace and New Development”***

- 7b.17 It is proposed to provide both active and passive open space on site. Open space would meet the minimum standard as set out in the SPG of 40 square metres active open space and 20 square metres passive open space per residential unit. Furthermore, it is considered that the village green style central open space is a satisfactory means of providing both usable and safe open space provision. A satisfactory level of amenity would be provided at both the residential development and DEAR.
- 7b.18 The proposed development accords with SPG “Public Open Space, Falkirk Greenspace and New Development”.

### ***SPG “Delivery of Denny Eastern Access Road (DEAR)”***

- 7b.19 The SPG sets out proposals to secure the delivery of DEAR by developer contributions to be made in respect of a number of development sites identified in the SPG. Each identified site is assessed in terms of its impact on projected traffic movements through Denny town centre and, in some cases such as the current application, on DEAR. Each development site would be expected to secure a developer contribution, the percentage which equates to the level of impact. The proposed development site is identified in the SPG as a contributor site. The applicant has agreed to meet the percentage contribution identified in the SPG, the timing of which would be secured by means of a Section 75 Planning Obligation.
- 7b.20 The proposed development accords with the SPG.

### ***Planning Advice Note (PAN) 68 “Design Statements”***

- 7b.21 The proposed development is supported by a design statement. Sections 7b.7 - 7b.8 of this report provides details of the design statement. The design statement submitted has been prepared in accordance with the guidance of PAN 68.

### ***Circular 3/2009 “Notification of Planning Applications”***

- 7b.22 It is noted that the application site is partially owned by Falkirk Council. Falkirk Council own land at which it is proposed to construct the new roundabout at Glasgow Road. However, it is noted that:-
- The proposed development accords with the Development Plan.
  - There has not been an objection from a government agency.
- 7b.23 In the case that the Planning Committee was minded to grant planning permission, it would not be required to consequently notify the planning application to Scottish Ministers.

### ***Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”***

- 7b.24 It is noted that developer contributions and obligations are considered appropriate in respect of the proposed development. Contributions are appropriate in respect of the delivery of DEAR, the impact on education services and to secure the formation of a footpath at Nethermain Road to provide pedestrian access to public transport. An Obligation is considered appropriate in respect of provision and delivery of affordable housing.

- 7b.25 It is considered that the contributors and Obligations which have been requested, and agreed with the applicant, meet the policy tests specified in the circular. The contributions and obligations are considered necessary for a planning purpose. They relate directly to the proposed development, they are considered appropriate in scale and kind and they are reasonable. In respect of the contribution to DEAR, the cumulative impact of a combination of identified development sites, as identified in the SPG “Delivery of the Denny Eastern Access Road (DEAR)” has been assessed and the contribution calculated in respect of the proposed development is the percentage of the overall cost of DEAR which relates directly to the impact of the proposed development.
- 7b.26 The approach of Falkirk Council, as planning authority, to planning contributions and obligations is set out in the Development Plan and supported by supplementary guidance.
- 7b.27 The consideration of the proposed development accords with Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.

### ***Designing Streets Policy***

- 7b.28 It is noted that the proposed development includes road geometry measures which would encourage the reduction of traffic speeds and create a more interesting living environment.
- 7b.29 The proposed development accords with the principles of the Designing Streets policy.

### ***Consultation Responses***

- 7b.30 The comments of the Roads Development Unit (RDU) detailed in section 4.12 of this report are noted. It is considered that the issues raised can be addressed by condition. Furthermore, it is noted that a drainage maintenance schedule remains to be approved. It is noted that it has been proposed that an agreement under the terms of Section 7 of the Sewerage Scotland Act 1968 be reached between the Council, as roads authority, and Scottish Water to maintain drainage arrangements as a joint partnership. It is considered that the approval of a drainage maintenance schedule can be addressed by condition.
- 7b.31 Scottish Water has agreed in principle to enter into an agreement under the terms of section 7 of the Sewerage Scotland Act 1968, whereby the roads authority and Scottish Water would, as a joint partnership, be responsible for the maintenance of the proposed drainage system. It is considered that the approval of a drainage maintenance schedule can be addressed by condition.
- 7b.32 The Environmental Protection Unit (EPU) has advised that contamination can be addressed by condition.
- 7b.33 Housing Management is satisfied that the proposed mix of affordable housing units to be provided on site is appropriate. It is agreed that the delivery of the affordable housing can be secured by means of a Section 75 Planning Obligation which should ensure that delivery is concluded prior to the housing development site proceeding beyond phase 1.
- 7b.34 The consultation response from Education Services detailed in Section 4.13 of this report is noted. The developer contribution advised, and the phasing as proposed by Education Services, can be secured by means of a Section 75 Planning Obligation.

- 7b.35 The Transport Planning Unit has advised the level of developer contribution towards the delivery of DEAR. Furthermore, the advised provision of a footpath on the north side of Nethermains Road is noted. The contribution to DEAR and the provision of the footpath at Nethermains Road can be secured by means of a Section 75 Planning Obligation.
- 7b.36 The implementation of the scheme of archaeological work agreed by the Council's Keeper of Archaeology and Local History can be secured by condition.
- 7b.37 The Scottish Environment Protection Agency has advised that steps should be taken to ensure that the proposed box culvert at the point where DEAR meets the Little Denny Burn is designed to a 1 in 200 year flooding event standard.
- 7b.38 Scottish Natural Heritage, Historic Scotland, Stirling Council and The Coal Authority have raised no objections. Scottish Power and Police Scotland have made no comment.

### ***Letters of Objection***

- 7b.39 The issues of dust and noise from the construction of the site can be controlled by other legislation. There is no evidence to support any necessity for further control by planning conditions.
- 7b.40 The issue of view is not a material planning consideration. It is not considered that the impact of the proposed development in terms of visual amenity would be significantly detrimental to the urban fringe setting of the application site.
- 7b.41 It is noted that Education Services has advised that the impact on education services can be mitigated by developer contribution.
- 7b.42 There is no evidence to support the views that medical care services in Denny would not be able to provide for the proposed development.
- 7b.43 It is not considered that there would be an impact on any property bordering the application site in terms of overshadowing. The closest distance of any proposed dwellinghouse to dwellings at Demoreham Avenue to the north is in excess of 30 metres.
- 7b.44 It is noted that the Roads Development Unit has not objected to the proposed development. It is considered that the development of DEAR would mitigate traffic congestion concerns in Denny in the long term.

### **7c Conclusion**

- 7c.1 The proposed development accords with the Development Plan and the Falkirk Local Development Plan Proposed Plan April 2013.
- 7c.2 The number and proposed mix of affordable housing units to be provided on site is considered appropriate. The delivery of the affordable housing can be secured by means of a Section 75 Planning Obligation.

- 7c.3 The proposed development would have an impact on the provision of education services at Denny Primary School, Denny High School and nursery school provision. The applicant has agreed to make a developer contribution towards the provision of education services to mitigate against the impact of the proposed development. The developer contribution can be secured by means of a Section 75 Planning Obligation.
- 7c.4 The applicant has agreed to make a developer contribution towards the formation of a footpath at the north side of Nethermain Road to provide access to public transport. The contribution can be secured by means of a Section 75 Planning Obligation.
- 7c.5 In order to provide a satisfactory level of pedestrian access to and from the site, it will be necessary to widen parts of the existing footpath at Glasgow Road to 2 metres. The applicant has agreed to carry out this work. The identification of the necessary areas of the footpath, and the implementation of the work, can be secured by means of a condition.
- 7c.6 The applicant has agreed to make a developer contribution towards the delivery of the Denny Eastern Access Road in accordance with the Supplementary Planning Guidance Note "Delivery of the Denny Eastern Access Road (DEAR)". The contribution can be secured by means of a Section 75 Planning Obligation. Part of this contribution is likely to be "in kind" construction.
- 7c.7 The developer contributions and obligations which have been agreed with the applicant are considered to meet the terms of Circular 3/2012 "Planning Obligations and Good Neighbour Agreements".
- 7c.8 The design of the proposed development in terms of layout, open space and landscaping would safeguard the urban fringe setting in terms of visual amenity.
- 7c.9 Scottish Water has agreed to enter into an Agreement with the Council, as roads authority, under the terms of Section 7 of the Sewerage Act 1968 to secure maintenance of the proposed drainage system. The approval of drainage maintenance details can be secured by condition.
- 7c.10 There would be no significant impact on the amenity of any adjacent properties in terms of visual amenity, overlooking or privacy.

## **8. RECOMMENDATION**

- 8.1 It is recommended that the Committee indicate that it is minded to grant planning permission subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure the following, with sums indexed linked from the date of any minded to grant decision by the Committee:-
- A developer contribution towards education provision at Denny Primary School, Denny High School and nursery school provision. The developer contribution should consist of:-



Denny Primary School	£2600 per house	£798,200 for 307 dwellings
Denny High School	£2100 per house	£644,700 for 307 dwellings
Nursery Provision	£350 per house	£107,450 for 307 dwellings
Total		£1,550,350

The nursery provision contribution should be paid in full no later than completion of the 50<sup>th</sup> unit. The contribution towards education provision at Denny Primary School should be paid in full no later than the completion of the 150<sup>th</sup> unit, payment to be phased in four payments with the first payment on commencement of the development and the remaining 3 payments aligned to the completion of each 50 units. The contribution towards education provision at Denny High School to be paid in full no later than the 200<sup>th</sup> unit with an agreement to pay a pro-rata proportion before this, if the development stalls for an agreed period of time.

- A pro-rata developer contribution towards the construction of DEAR, in accordance with the terms of SPG “Delivery of Denny Eastern Access Road (DEAR)”. The developer contribution is calculated at £3,383,900. The payment shall be paid in full no later than:-
  - The completion of the 251<sup>st</sup> dwellinghouse, including the 46 affordable housing units; or
  - The completion of the 210<sup>th</sup> mainstream dwellinghouse, excluding the 46 affordable housing units;

whichever occurs first.

- Development of 46 affordable housing units, the type, tenure, mix and means of delivery to be agreed in writing with the Planning Authority. Development of the housing development shall not progress beyond phase 1, as detailed on the drawing bearing the Planning Authority’s reference 120A, until written agreement is secured.
- A developer contribution towards the development of an adoptable standard footway at the north side of Nethermain Road, Denny to provide adequate pedestrian access to public transport links. The contribution required is £20,000 and is to be paid prior to the commencement of development.

In the event that an agreement has not been concluded with the applicant in respect of any or all of the above within a period of 6 months from the date of the Committee's agreement to be minded to grant planning permission, the application shall be referred back to the Planning Committee for further consideration.

8.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission subject to the following conditions and informatives:-

- (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) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the development will minimise its energy use and, consequently, its carbon footprint through design, materials and any other integral features.
- (3) Development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating how the Falkirk Council Outdoor Access Network would be maintained free of obstruction during the development or, alternatively, what temporary arrangements would be put in place to mitigate any temporary closure. If temporary closure of any outdoor access footpath is proposed, the details to be submitted shall demonstrate how this would be achieved. For the avoidance of doubt, the outdoor access footpaths and access ways to be considered are numbered 012/327, 012/296, 012/340 and 012/343 as identified in the Falkirk Council Core Paths Plan May 2010.
- (4) There shall be no development which would have any physical impact on the Little Denny Burn until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the proposed box culvert to be formed at the Little Denny Burn shall be constructed to a satisfactory standard and designed to a 1 in 200 year flooding event standard.
- (5) Development shall not commence on site until such time as the scheme of archaeological work detailed in the Archaeological Written Scheme of Investigation has been carried out with the written approval of the Planning Authority.
- (6) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of drainage maintenance have been submitted to, and approved in writing by, the Planning Authority.
- (7) (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 11A 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.
- (8) Notwithstanding any details previously submitted, there shall be no development on site other than works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A until such time as further phasing details have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the further phasing details to be submitted shall demonstrate the means by which pedestrian access to the transport network for the households already occupied shall be maintained and the Council's core footpath network, as detailed in the Falkirk Council Core Paths Plan May 2010, shall be safeguarded.
- (9) Notwithstanding any details previously submitted, development shall not commence on site until such time as details have been submitted to, and approved in writing by, the Planning Authority demonstrating that the development of, and diversion of, culverts on site shall not constitute a flood risk either on or off site.
- (10) Notwithstanding any details previously submitted, there shall be no development on site, other than works falling within phase 1 of the development as detailed on the drawing bearing the Planning Authority's reference 120A, until such time as details of play equipment to be installed at the open space and a maintenance scheme have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the details shall include timing of installation of the play equipment with reference to phasing details to be submitted in compliance with condition 8.
- (11) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the implementation and future maintenance of the landscaping scheme have been submitted to, and approved in writing by, the Planning Authority.

- (12) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of external finishes in respect of the proposed residential development have been submitted to, and approved in writing by, the Planning Authority.
- (13) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of boundary treatments along the length of the proposed Denny Eastern Access Road have been submitted to, and approved in writing by, the Planning Authority.
- (14) There shall be no development of dwellinghouses, other than within phase 1 of the residential development as shown on the drawing bearing the Planning Authority's reference 120A, until such time as the temporary vehicular access to phase 1 of the residential development has been closed off with the written approval of the Planning Authority, in accordance with the drawing bearing the Planning Authority's reference 03B.
- (15) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the first junction within the proposed residential development have been submitted to, and approved in writing by, the Planning Authority, demonstrating that service vehicles shall be able to negotiate the junction.
- (16) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of final surfacing of roads and hard landscaped areas within the proposed residential development have been submitted to, and approved in writing by, the planning authority.
- (17) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation and surfacing of the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121, have been submitted to, and approved in writing by, the planning authority.
- (18) No dwellinghouse shall be occupied until such time as the footpath at the east side of Glasgow Road, as shown on the drawing bearing the planning authority's reference 121 and referred to in condition 17, has been finished with the written approval of the planning authority.
- (19) Notwithstanding any details previously submitted, development shall not commence on site until such time as details of the formation of the footpath to be constructed from the proposed new roundabout at Glasgow Road running between plots 25 and 26 to the internal roadway at the proposed residential development have been submitted to, and approved in writing by, the planning authority.

**Reason(s):-**

- (1) As these drawings and details constitute the approved development.
- (2) To ensure that the proposed development is energy efficient.
- (3) In order that satisfactory pedestrian access to the transport network and the Core Path Network is maintained.
- (4) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (5) To safeguard archaeological remains.
- (6) To ensure adequate drainage is safeguarded.
- (7) To ensure the ground is suitable for the proposed development.
- (8) In order that the Planning Authority can control phasing of the development beyond phase 1.
- (9) To ensure that the proposed development does not constitute a flood risk either on or off the site.
- (10) To ensure a satisfactory standard of play equipment is installed.
- (11) To ensure that a satisfactory standard of landscape quality is maintained.
- (12-13) In the interests of visual amenity.
- (14-16) In the interests of safety of highway users.
- (17-19) To ensure the formation of pedestrian links to, form the proposed residential development.

**Informative(s):-**

- 1) For the avoidance of doubt, the plans to which this decision refers bears the approved drawing numbers indicated on the Council's web site

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Director of Development Services

Date: 19 February 2014

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan Proposed Plan April 2013.
4. Notice of Intention to Develop 05/0904/LA.
5. Supplementary Planning Guidance Note (SP) ) “Housing and Layout Design”.
6. SPG “Design Statements”.
7. SPG “Education and New Housing Development”.
8. SPG “Trees and Development”.
9. SPG “Affordable Housing”.
10. SPG “Flooding and Sustainable Urban Drainage”.
11. SPG “Public Open Space, Falkirk Greenspace and New Development”.
12. SPG “Delivery of Denny Eastern Access Road (DEAR)”.
13. Planning Advice Note (PAN) 68 “Design Statements”.
14. Circular 3/2009 “Notification of Planning Applications”.
15. Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.
16. Letter of Objection from Mr Scott Waller, Gibson Street, Denny, FK6 5BG on 9 October 2012
17. Letter of Representation from Mr Colin Duguid, 6 Demoreham Avenue, Denny FK6 5BJ on 9 October 2012

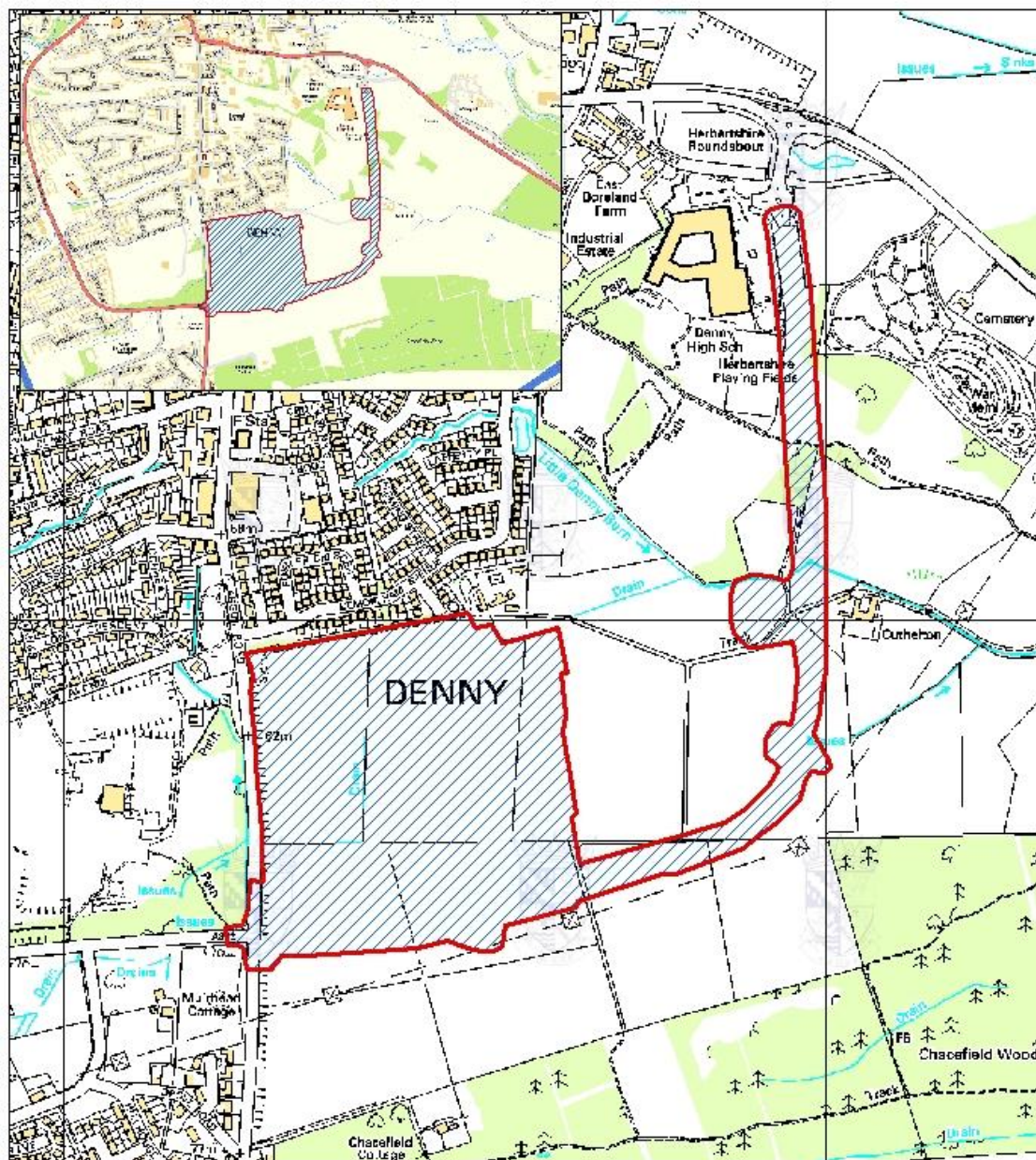
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/12/0546/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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