

FALKIRK COUNCIL

Subject: CONSTRUCTION OF UNDERGROUND ATTENUATION
TANK AT LAND TO THE EAST OF 53 HAZEL ROAD,
AUCHINCLOCH DRIVE, BANKNOCK, FOR LINK GROUP –
P/14/0349/FUL

Meeting: PLANNING COMMITTEE

Date: 27 November 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: Banknock, Hags and Longcroft

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 29 October 2014 (copy of previous report appended), when it was agreed to continue the application for a site visit. The site visit took place on 10 November 2014.
2. At the site visit, the case officer summarised his report, the applicant's agent and the site manager (from Cruden) spoke and the Banknock, Hags and Longcroft Community Council's representative reiterated and expanded on the concerns raised by the Community Council in their objection to the application.
3. The agent explained that the approved attenuation scheme is for large culverts beneath the roadway and that technical issues had arisen which had led to the current application for surface water attenuation to be provided beneath the grass amenity space. He explained what an attenuation tank is.
4. The Community Council's representative suggested that the proposed attenuation tank is three times as large as it needs to be and a reduction in its size would allow it to be moved further away from the nearest house and lessen disturbance to local residents, as the construction period would be reduced and there would be less heavy vehicle movements associated with removal of material to construct the underground tank. He suggested that the retained boundary trees could be removed to facilitate moving the tank to the east and there could be new compensatory planting.

5. The agent advised that the construction period for the tank would be post Christmas for 14 weeks (weather dependent), and the construction period would coincide with a drop off in construction traffic associated with the house build. He advised that a street cleaning regime and parking restrictions for the workers are in place.
6. The site manager advised that Cruden had commissioned their own technical assessment which suggested that the size of the proposed attenuation tank may be able to be reduced. The case officer intimated that a proposed change to the scheme, contained within the same application site, may be able to be dealt with as an amendment to the current application.
7. Local Members noted the controversial nature of this housing development and were concerned at such a fundamental change to the approved scheme at this stage of the development. They questioned whether assurances would be given on such matters as subsidence.
8. It was advised that matters such as subsidence and damage to properties were civil matters and the agent advised that the applicant relies upon its technical consultants who provide collateral warranties in perpetuity and carry professional indemnity insurance. In addition, the agent confirmed that the location of the surface water attenuation was dictated by a need to connect into a sewer outfall at the west end of the site.
9. At the time of writing this update report, the submission of full details of an amended proposal for a smaller attenuation tank were awaited. The information received to date indicates that the smaller tank would be located within the existing application site and its footprint would be significantly reduced and located further away from the nearest property to the west. On this basis, it is considered that the amended proposal could be treated as an amendment to the current application and neighbour re-notification would not be required, but there would need to be further consultation with the Council's flood consultant. The existing row of trees would not be affected by the amended proposal. Any update in relation to this matter will be reported to the Committee at its meeting.
10. The applicant has advised that the amended proposal to reduce the size of the attenuation tank is their preferred option. In addition, it is acknowledged that a reduction in the size of the tank would address concerns raised in the objections. Banknock, Haggs and Longcroft Community Council has now advised that it welcomes the revised proposal as it is an improvement upon the original scheme. Taking these matters into account, but noting that further information was awaited at the time of writing this update report, the previous recommendations is amended to read as follows:

7. RECOMMENDATION

- 7.1 **It is therefore recommended that the Planning Committee indicate that it is minded to grant planning permission subject to:**
 - (a) **The submission to and the approval in writing by the Planning Authority of full details of an amended proposal to reduce the size of the attenuation tank, at a location within the application site boundaries but further to the east than the original proposal.**

- (b) Thereafter, subject to the satisfactory conclusion of the foregoing matter, remit to the Director of Development Services to grant planning permission subject to the following conditions:-
1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
 2. Within one month of completion of the attenuation tank, or any other timescale that may be agreed in writing by this Planning Authority, the application site shall be fully reinstated in accordance with details approved in writing by this Planning Authority.
 3. The existing tree protection fencing as indicated on drawing no. 3611/800 Revision C shall not be removed until the development is completed and no level changes, excavation or storage of materials, vehicles, plant or machinery shall occur within the fenced off area.

Reason(s):-

1. As these drawings and details constitute the approved development.
2. To safeguard the visual amenity of the area.
3. To prevent damage to trees to be retained.

Informative(s):-

1. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
2. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02C, 03 and 04.
3. The applicant is advised to cease all work on the affected part of the site if unexpected contamination is encountered following the commencement of the development. In such circumstances the applicant is advised to notify the Planning Authority, undertake any necessary remediation works and only recommence works with the prior written approval of the Planning Authority.
4. The applicant is advised to ensure that noisy works which are audible at the site boundary are only conducted within the following hours:-

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1700 hours
Sunday/ Bank Holidays	1000 to 1600 hours

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

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Director of Development Services

Date: 17 November 2014

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan
3. Falkirk Local Development Plan (Proposed Plan)
4. Letter of objection received from Mr David Paton, 53 Hazel Road, Banknock, FK4 1LQ on 26 June 2014.
5. Letter from Banknock, Haggs and Longcroft Community Council received on 9 July 2014.

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

FALKIRK COUNCIL

Subject: CONSTRUCTION OF UNDERGROUND ATTENUATION
TANK AT LAND TO THE EAST OF 53 HAZEL ROAD,
AUCHINCLOCH DRIVE, BANKNOCK, FOR LINK GROUP –
P/14/0349/FUL

Meeting: PLANNING COMMITTEE

Date: 29 OCTOBER 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: Banknock, Haggs and Longcroft

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks full planning permission to construct an underground attenuation tank to receive surface water from a housing development currently under construction on land adjoining to the east.
- 1.2 The application site currently forms part of a works compound area for the construction of the new housing development. Prior to this, the site formed part of a maintained grass area contributing to the public open space network in the area. The site would be reinstated to grass amenity space following construction of the underground tank and completion of the housing development. There is a public path and housing to the west and a row of trees adjoining to the east.
- 1.3 The proposal subject to this application is a substitution for a previously approved surface water drainage scheme which provided for attenuation by a large culvert below the roadway (see paragraph 3.1). The applicant has advised that a subsequent review of the surface water management strategy was undertaken which led to the current proposal within land which is also owned by the applicant. According to the applicant, the current proposal would provide safer access for maintenance personnel as the approved location (below the road) would have required traffic management when maintenance work was being carried out.

- 1.4 In addition, maintenance related works in relation to the approved surface water drainage scheme would have potentially interfered with safe access along the footway and to the private driveways of the new properties, and introduced a risk for maintenance personnel having to work in proximity to live services. The applicant considers that the revised surface water management strategy addresses or mitigates these health and safety concerns.

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

- 3.1 Planning application P/09/0386/FUL for the erection of 30 dwellinghouses was granted in July 2011 on appeal to Scottish Ministers. The permission provided for surface water attenuation by use of large underground culverts, whilst the current proposal is a substitute for the previously approved drainage scheme.
- 3.2 Planning application P/14/0216/75M for modification of the Section 75 Planning Obligation attached to planning permission P/09/0386/FUL to the extent that all references to and requirements for the Education Payment are removed, was refused in August 2014. An appeal against the Council's refusal was received by Scottish Ministers on 19 September 2014 and was under consideration at the time of writing this report.
- 3.3 Planning application P/14/0223/75M for modification of the Section 75 Planning Obligation attached to planning permission P/09/0386/FUL to the extent that all references to and requirements for the Transport Payment are removed, was refused in August 2014. An appeal against the Council's refusal was received by Scottish Ministers on 19 September 2014 and was under consideration at the time of writing this report.

4. CONSULTATIONS

- 4.1 The Roads Development Unit are satisfied with the proposals as informed by the Council's consultants, who have advised that the applicant has provided calculations for a 1 in 200 year flood event (with an allowance made for climate change) which demonstrate that maximum water levels would not encroach within 600mm of any adjacent property ground floor level.
- 4.2 Scottish Water has not responded to the application. However, the applicant has forwarded a letter from Scottish Water which confirms that Scottish Water have completed a successful technical assessment of the development which includes the proposed attenuation tank.
- 4.3 The Environmental Protection Unit have advised that a contaminated land assessment would be required if any unexpected contamination is encountered and that noisy works audible at the boundary shall only be conducted during certain hours.

5. COMMUNITY COUNCIL

5.1 The Banknock, Haggs and Longcroft Community Council have objected to the application on the following grounds:

- Lack of information;
- The tank is too close to existing houses;
- The proposal (capacity etc) may be excessive/unnecessary; and
- The SUDS system should be either retained within the Link site or consideration be given to using the fields to the south and east.

6. PUBLIC REPRESENTATIONS

6.1 One public representation was received in respect of the application. This was an objection to the application on the following grounds:

- Surely if the site was assessed properly then planning permission would have already have been given for the attenuation tank?
- Why was the work not carried out prior to the building works for the site?
- The work could affect the integrity of an adjoining house;
- Noise associated with its construction; and
- What safeguards will be in place if the tank fails?

7. DETAILED APPRAISAL

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

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

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

Falkirk Council Local Plan

7a.2 The application site lies within the urban limits and housing opportunity site H.B & B14 under the Falkirk Council Local Plan.

7a.3 Policy EQ1 'Sustainable Design Principles' states:

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

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

7a.4 This policy requires new development to achieve a high standard of design and comply with principles of sustainable development. The proposal forms part of a range of measures to treat and release surface water from the new housing development, which are considered to satisfy sustainable urban drainage design (SUDS) principles and address flood risk issues. In addition, maintenance issues are addressed as Scottish Water is to adopt the new surface water system. The application is therefore considered to accord with this policy.

7a.5 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.6 This policy protects all urban open space which is considered to have landscape, amenity, recreational and ecological value. The application site forms part of an open space area which is considered to have local amenity value. Following completion of the development, the amenity space would be reinstated to grass, albeit that there would be new manholes at surface level. In addition, the proposed attenuation tank would be a sufficient distance from the adjacent row of trees to avoid impact on their root protection area. The application is therefore considered to accord with this policy.

7a.7 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.8 This policy requires surface water management for new development to comply with current best practice on sustainable urban drainage systems. The proposal forms part of a range of measures to treat and release surface water from the new housing development, which are considered to satisfy sustainable urban drainage design (SUDs) principles and address flood risk issues. In addition, maintenance issues are addressed as Scottish Water is to adopt the new surface water system. The application is therefore considered to accord with this policy.

7a.9 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed in respect of this application are the Falkirk Local Development Plan (Proposed Plan), the consultation responses and the representations received.

Falkirk Local Development Plan (Proposed Plan)

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 view in relation to Development Plan Policy and constitutes a material consideration in the determination of planning applications.

7b.3 The application site lies within the urban limits and forms part of a designated Open Space area under the Proposed Plan. The relevant policies of the Proposed Plan are similar to those of the Falkirk Council Local Plan, which the application has been assessed as complying with in this report. The application is therefore similarly considered to accord with the Proposed Plan.

Consultation Responses

7b.4 The consultation responses are summarised in Section 4 of this report. No objections have been raised in the consultation responses and the advice of the Environment Protection Unit (in respect of contaminated land) would be the subject of an informative of any grant of planning permission.

Representations

7b.5 The following comments are considered to be relevant in respect of the concerns raised in the public representation and by Banknock, Hags and Longcroft Community Council: -

- The application site is currently being used as part of the works compound area for the house construction which is a factor in the programming of the surface water attenuation works;
- The contractor would be liable for any damage to property caused during construction;
- An advisory would be attached to any grant of planning permission in respect of hours of construction activity and any noise complaints would be investigated as appropriate by the Council's Environmental Protection Unit;
- The surface water drainage infrastructure is to be adopted by Scottish Water who would be liable for ongoing maintenance;
- An appropriate level of information accompanies the application which has been reviewed by the Council's consultants as detailed in this report;
- The surface water drainage has been designed to satisfy requirements which include a capacity to accommodate a 1 in 200 year flood event with an allowance made for climate change; and
- The proposed attenuation tank is located within the Link site as identified in the original application for the housing (P/09/0386/FUL) and represents a change to the surface water drainage arrangements approved under the original application as detailed in paragraph 1.3 of this report.

7c CONCLUSION

- 7c.1 The application is considered to accord with the Development Plan, for the reasons detailed in this report. It is therefore recommended for approval subject to appropriate conditions. There are not considered to be any material planning considerations to set aside the terms of the Development Plan in this instance.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:
1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
 2. Within one month of completion of the attenuation tank, or any other timescale that may be agreed in writing by this Planning Authority, the application site shall be fully reinstated in accordance with details approved in writing by this Planning Authority.
 3. The existing tree protection fencing as indicated on drawing no. 3611/800 Revision B shall not be removed until the development is completed and no level changes, excavation or storage of materials, vehicles, plant or machinery shall occur within the fenced off area.

Reason(s):

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2. To safeguard the visual amenity of the area.
3. To prevent damage to trees to be retained.

Informative(s):

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Director of Development Services

Date: 20 October 2014

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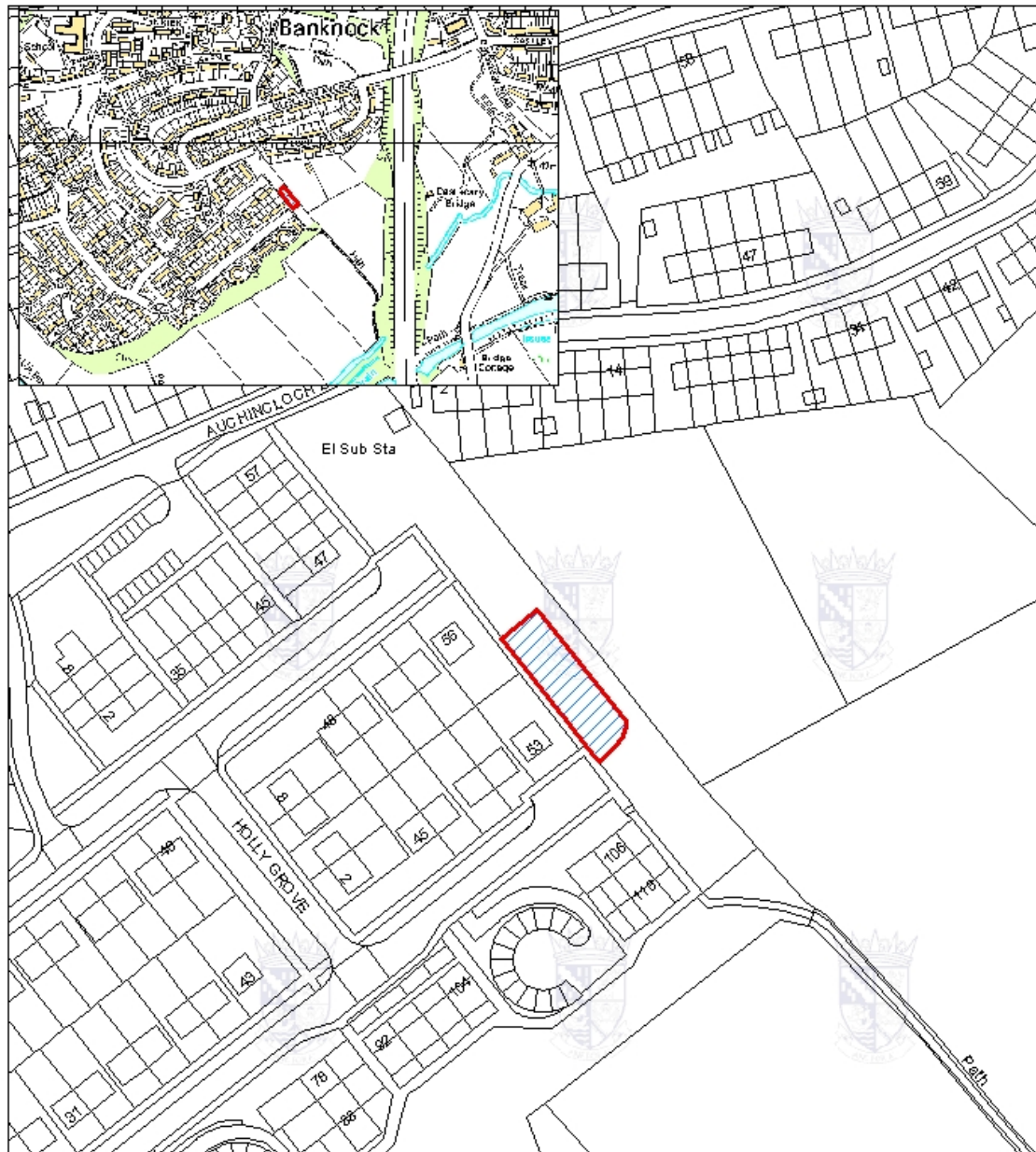
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/14/0349/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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