

FALKIRK COUNCIL

Subject: ERECTION OF SINGLE WIND TURBINE, 87 METRES TO TIP,
CRANE PAD AND ANCILLARY INFRASTRUCTURE AT SITE
TO THE NORTH OF UPPER KINNEIL BUNGALOW,
LINLITHGOW FOR KINNEIL POWER LLP - P/14/0729/FUL
Meeting: PLANNING COMMITTEE
Date: 25 June 2015
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bo'ness and Blackness

Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: Bo'ness

Case Officer: Kevin Brown (Planning Officer), Ext. 4701

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 27 May 2015 (copy of previous report appended), when it was agreed to continue the application for a site visit. This site visit took place on Monday 8 June 2015.
2. Following a summary of the proposal by the case officer, the applicant's agent, in support of the proposal, summarised their opinion on the relevant landscape and visual impacts as well as their interpretation of policies and designations in respect of the Antonine Wall World Heritage Site and Kinneil House, a category A listed building set within a Designed Landscape. The applicant's agent highlighted the lengthy site selection process undertaken which included the identification of a number of constraints to development in the surrounding area.
3. Objectors present, were then afforded an opportunity to contribute to proceedings. In addition to the 11 objectors who had previously made written submissions, two additional late representations have now been received from the Trustees of the Charity 'The Friends of Kinneil' and from an individual. The points of objection raised mainly focus on visual impacts upon important cultural heritage sites within the vicinity of the proposed turbine and upon the landscape character of the area. Councillor Mahoney makes specific reference during the site visit to the fact that UNESCO has the power to remove World Heritage Site status should unacceptable development affecting the World Heritage Site be granted through the planning process.

A number of initial objectors also contributed to site proceedings and discussion on these points focussed on the visual impacts of the proposal. One objector raised concern in respect of the structural and mechanical stability of wind turbines in general. However this aspect is not a material planning consideration.

4. Members of the Planning Committee sought clarification in respect of consultee objections from the Joint Radio Company Ltd. (JRC) on behalf of Ofcom in light of the applicant's claims that the points of objection can usually be mitigated. At the time of writing this report no such mitigation solution has been provided by the applicants and as such the JRC objection remains outstanding. A late objection was also received from Edinburgh Airport in relation to impacts on Radar. The applicants have provided an additional Radar Impact Assessment aimed at demonstrating that there are no areas of concern. However, following additional consultations, Edinburgh Airport have responded to confirm that they maintain their objection to the proposal.
5. The main points of discussion on site focussed primarily on the landscape visual impacts of the proposal and in particular from areas along the line of the Antonine Wall to the west of the site and from Kinneil Estate through an area of recently cleared woodland. Members of the Planning Committee requested that additional photomontages be provided from these locations. At the time of writing this report these have not yet been received. A verbal update on this matter will be provided at the meeting on 25 June.
6. Reference was made at the site visit by the applicant to documents and plans submitted by the applicant's agent following completion of the officer's initial report and just prior to the committee meeting of 27 May 2015. These documents included additional constraints drawings detailing the position of nearby pipelines, microwave and telecommunications links and land ownership boundaries. The submissions also included additional supporting information on cultural heritage and landscape visual impacts as well as rebuttal comments in respect of consultation responses from Historic Scotland, The Community Trust and council's landscape officer. Further consultations on these additional submissions have now been concluded and have not resulted in any change in response from any consultee. The application remains contrary to the Development Plan and no additional matters have been raised which would alter the previous recommendation: -

7. RECOMMENDATION

7.1 It is recommended that the Committee refuse planning permission for the following reason(s):-

- 1) The wind turbine, by virtue of its height and location would have an unacceptable visual impact on the setting of the Antonine Wall World Heritage Site, Kinneil House and its designated landscape setting and the South Bo'ness Special Landscape Area. The proposed development is therefore contrary to policies ENV1, ENV2, ENV5, and ENV13 of the Falkirk Council Structure Plan, policies ST20, ST21, EQ1, EQ14, EQ17, EQ20, EQ22 and EQ23 of the Falkirk Council Local Plan and policies RW01, GN02, D07, D09, D12 and CG02 of the Falkirk Local Development Plan – Proposed Plan, as well as being contrary to the terms of SPP – Scottish Planning Policy, Falkirk Council Supplementary Planning Guidance Note – Spatial Framework and Guidance for wind Energy Development and Falkirk Council Draft Supplementary Guidance 14 – Spatial Framework for Wind Energy Development.

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pp Director of Development Services

Date: 16th June 2015

LIST OF BACKGROUND PAPERS

- 1) Falkirk Council Structure Plan
- 2) Falkirk Council Local Plan
- 3) Falkirk Local Development Plan – Proposed Plan
- 4) SPP – Scottish Planning Policy
- 5) Falkirk Council Supplementary Planning Guidance – Spatial Framework and Guidance for Wind Energy Development.
- 6) Draft Falkirk Council Supplementary Guidance 14 – Spatial Framework for Wind Energy Development
- 7) Letter of Objection received from A H Hunter and Son, Stuart Hunter, Rousland Farm, Linlithgow, EH49 7RJ, on 20 January 2015
- 8) Letter of Objection received from Mr Clark Cross, 138 Springfield Road, Linlithgow, EH49 on 20 January 2015
- 9) Letter of Objection received from Mr Andrew Vivers, Arniefoul, Glamis, Forfar, DD8 1UD on 25 January 2015
- 10) Letter of Objection received from A H Hunter and Son, Andrew Hunter, Rousland, Linlithgow, EH49 7RJ, on 4 February 2015
- 11) Letter of Objection received from Bo'ness Community Council, FAO Joan Boyd, Acting Secretary, on 23 February 2015
- 12) Letter of Objection received from Mr Simon Stewart, on 17 February 2015
- 13) Letter of Objection received from Ian Ross, on 24 February 2015
- 14) Letter of Objection received from Mr John Owens, Rose Cottage, Rousland Farm, Linlithgow, EH49 7RJ on 10 February 2015
- 15) Letter of Objection received from Mr Barry Hearse, Old Filter House, Bo'mains, Linlithgow, EH49 7RJ on 5 February 2015
- 16) Letter of Objection received from Mrs Jean Turnbull, Craigallion, Linlithgow, EH49 7RJ on 3 February 2015
- 17) Letter of Objection received from Mr Stuart Hunter, Rousland Farmhouse, Linlithgow, EH49 7RJ on 4 February 2015
- 18) Letter of Objection received from Mr Stuart Hunter, Rousland Farmhouse, Linlithgow, EH49 7RJ on 4 February 2015
- 19) Letter of Objection received from A H Hunter and Son Stuart Hunter, Rousland, Linlithgow, EH49 7RJ, on 4 February 2015
- 20) Letter of Objection received from Mr Stuart Hunter, Rousland Farm, Linlithgow, EH49 7RJ on 4 February 2015
- 21) Letter of Objection received from Fred Robinson, Hamilton Lodge, Linlithgow, EH49 7RJ, on 4 February 2015
- 22) Letter of Objection received from Miss Jennifer Hunter, Flat 3, 64 Cow Wynd, Falkirk, Fk1 5ea on 6 February 2015
- 23) Letter of Objection received from Ms Gina Young, Nether Kinneil Farmhouse, Bo'ness, EH51 0QA, on 12 February 2015
- 24) Letter of Objection received from Jean Fiona Turnbull, Craigallion, Linlithgow, EH49 7RJ, on 12 February 2015
- 25) Letter of Objection received from Ms Gina Young, Nether Kinneil Farmhouse, Bo'ness, EH51 QA on 4 February 2015
- 26) Letter of Objection received from Mr Adrian Mahoney, 5 Craigallan Park Bo'ness EH51 9QY on 5 June 2015
- 27) Letter of Objection received from Mrs Maria Ford, 16 Craigallan Park Bo'ness EH51 9QY on 8 June 2015 on behalf of the Trustees of the Charity The Friends of Kinneil.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

APPENDIX 1

FALKIRK COUNCIL

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed application proposes the erection of a single wind turbine measuring 60m to hub and 87m to blade tip on farmland to the north of Upper Kinneil Farm, to the south west of Bo'ness.
- 1.2 The proposal includes the formation of a 4m wide access track routed from the turbine to the public road some 220m to the west of the site and includes crane hardstanding, paved assembly areas and car parking totalling around 850m² in addition to the concrete turbine foundation measuring 16.8m in diameter.
- 1.3 The turbine is being proposed for the purposes of farm diversification allowing the existing farmer to sell energy produced back to the national grid while having a minimal impact on existing arable farming operations at the site.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Sandy Turner.

3. SITE HISTORY

- 3.1 None relevant to this application.

4. CONSULTATIONS

- 4.1 Atkins Windfarm Support acting on behalf of Ofcom have no objection to the proposal.
- 4.2 BAA Glasgow Airport have no objection to the proposal.
- 4.3 Historic Scotland have objected to the proposal on the basis that the development would adversely impact upon the Antonine Wall World Heritage Site and its buffer zone as well as Kinneil House (a category B listed building) and its designated landscape setting.
- 4.4 Joint Radio Company Ltd. on behalf of Ofcom, have objected to the proposal due to its impact upon their infrastructure.
- 4.5 The Ministry of Defence has no objection to the proposal.
- 4.6 Falkirk Community Trust Museum Services have objected to the proposal due to its impact upon the setting of the Antonine Wall.
- 4.7 Scottish Natural Heritage have no objection to the proposal but have indicated that an Appropriate Assessment requires to be undertaken.
- 4.8 Scottish Water have no objection to the proposal.
- 4.9 West Lothian Council have objected to the proposal on grounds of visual impact upon sensitive viewpoints in and around Linlithgow.
- 4.10 The Civil Aviation Authority has no objection to the proposal.
- 4.11 Police Scotland have no objection to the proposal.
- 4.12 NATS have no objection to the proposal.
- 4.13 Ofcom Spectrum Licensing have not responded to consultation.
- 4.14 Edinburgh Airport have not responded to consultation.
- 4.15 Environmental Protection Unit has no objection to the proposal however they have indicated that the applicant should monitor noise emission. Contamination can be addressed by means of an informative.
- 4.16 The Roads Development Unit have requested a swept path analysis be provided regarding the access route to the site.
- 4.17 Transport Scotland have no objection to the proposal.

5. COMMUNITY COUNCIL

- 5.1 Bo'ness Community Council has objected to the proposed development based on the size of the turbine, its visual impact on surrounding rural scenery and proximity of the turbine to the Antonine Wall, Fortlet and Kinneil House. Concerns have also been expressed in relation to potential impacts on the nearby nature reserve and bird migratory routes.

6. PUBLIC REPRESENTATION

6.1 During the course of this application 18 letters of objection were received in addition to the letter of objection from Bo'ness Community Council. Of these 18 letters, numerous submissions were made by the same individuals and the total number of objectors actually stands at 11. The main points of objection can be summarised as follows:

- Visual impact on rural scenery and skyline;
- Impact upon tourism;
- Impact upon Antonine Wall World Heritage Site;
- Impact upon Kinneil House;
- Operational safety of turbine;
- Sustainability of materials used during construction and manufacturing of the turbine;
- Aftercare of the site and removal of concrete foundations;
- Encroachment on land outwith applicant's ownership;
- Infrasound and low frequency noise impacts;
- Health impacts of living close to turbines;
- Noise pollution;
- Proximity of dwellinghouses;
- Biodiversity impacts;
- Impact on greenbelt;
- Shadow flicker;
- Excessive size of turbine;
- Lack of detail in respect of grid connection method;
- Scepticism regarding the proposed community fund element.

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 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.2 The application site is located within the countryside in an area of greenbelt and within Bo’ness South Special Landscape Area (Formerly Area of Great Landscape Value (AGLV)). The site is also located within the Antonine Wall World Heritage Site Buffer Zone.

7a.3 Policy ENV.2 ‘Green Belt’ states:

“There will be a system of Green Belts in the areas generally described in Schedule ENV.1 and indicated on the Key Diagram. Within these there will be a long term presumption against development in order to prevent the coalescence of settlements, protect their landscape setting, and avoid prejudicing future proposals for landscape enhancement and countryside recreation.

The detailed boundaries will be defined in Local Plans, having regard, where appropriate, to the Strategic Development Opportunities set out in Policy Econ.1 and Schedule Econ.1 and other structure plan policies.”

7a.4 The proposal by reason of visual impacts associated with scale and location, would not protect the landscape setting of the Green Belt in this location and as such the proposal would be contrary to the terms of policy ENV.2.

7a.5 Policy ENV.5 ‘Built Environment and Heritage’ states:

“Important Archaeological Sites, Scheduled Ancient Monuments, Listed Buildings, Conservation Areas, sites included in the Inventory of Historic Gardens and Designed Landscapes and trees will be protected and enhanced. Local Plans will identify these assets and incorporate policies appropriate to the significance of the area or individual feature, including the following range of measures:

- (1) Measures to ensure that assets are maintained in a good state of repair.*
- (2) Promotion of appropriate new uses for buildings.*
- (3) Promoting sensitive interpretation of heritage assets.*
- (4) Protection of the assets and their setting from inappropriate development.*
- (5) Where development would damage, or result in the loss of the asset, that provision is made for adequate recording of the current status of the asset.”*
- (6) Reviewing the boundaries of areas to ensure their continuing relevance.”*

7a.6 The proposal, by reason of visual impacts associated with scale and location, would adversely impact upon the setting of the Antonine Wall World Heritage Site and the Designed Landscape of Kinneil House and Gardens. The proposal would be contrary to the terms of policy ENV5.

7a.7 Policy ENV.13 ‘General Principles for Renewable Energy’ states:

“Proposals for the generation of energy from renewable sources will generally be supported subject to an assessment of individual proposals in relation to Structure Plan Policies ENV.1-ENV.7.

The council will work in partnership with other agencies to set out, in the local plan, the criteria for the location and design of renewable energy developments.”

7a.8 Policy ENV.13 sets out the general principles for renewable energy development and states that proposals will generally be supported subject to assessment against Policies ENV 1 – ENV7. For the reasons outlined in paragraphs 7a.1 – 7a.7 of this report, the proposal fails to accord with policy ENV.13.

Falkirk Council Local Plan

7a.9 Policy ST20 - ‘Renewable Energy Development’ states:

“The Council will support development required for the generation of energy from renewable sources, and the utilisation of renewable energy sources as part of new development, subject to assessment of proposals against other Local Plan policies. Renewable energy development will be viewed as an appropriate use in the countryside where there is an operational requirement for a countryside location.”

7a.10 Policy ST20 gives broad support for renewable energy proposals subject to assessment against other local plan policies.

7a.11 Policy ST21 - ‘Wind Energy’ states:

“Wind energy developments will be assessed in relation to the following factors:

- (1) The visual impact of the development, having regard to the scale and number of turbines, existing landscape character, and views from settlements, main transport corridors and other key vantage points. Development will not necessarily be excluded from Green Belts or Areas of Great Landscape Value, but must demonstrate particular sensitivity in terms of scale and design where these designated areas are affected;*
- (2) The ecological impact of the development, having regard to Policies EQ24 and EQ25, including impacts on both designated sites and protected species. In particular, developers will be required to demonstrate that there will be no adverse impact on migratory birds;*
- (3) The impact on the cultural heritage and the landscape setting of cultural features, having regard to Policies EQ12, EQ14, EQ16, EQ17 and EQ 18;*
- (4) The impact on aviation and telecommunications, with particular regard to the safeguarding zones and operational needs associated with Edinburgh, Glasgow and Cumbernauld airports;*
- (5) The impact on settlements and residential properties by virtue of noise and ‘shadow flicker’; and*
- (6) Cumulative impacts in relation to the above factors, where there are existing developments in the area, or the development is one of a number of proposals for an area.”*

7a.12 Policy ST21 sets out specific factors against which wind energy applications should be assessed and identifies other Local Plan policies which a proposal should be assessed against.

7a.13 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.14 The proposed development is not considered to integrate sensitively with the existing natural and built heritage of the area and would have adverse impacts upon the setting of the Antonine Wall World Heritage Site and the Designed Landscape of Kinneil House. The proposal is therefore contrary to Policy EQ1.

7a.15 Policy EQ14 ‘Listed Buildings’ states:

“The Council will seek to preserve the character and appearance of listed buildings. Accordingly:

- (1) Development affecting a listed building, or its setting, shall preserve the building or its setting, or any features of special architectural or historic interest which it possesses. The layout, design, materials, scale, siting and use of any development shall be appropriate to the character and appearance of the listed building and its setting.*
- (2) Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping it. This will be demonstrated by inclusion of evidence to the Council that the building:*
 - has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a purchaser; and*
 - is incapable of physical repair and re-use through the submission and verification of a thorough structural condition report; and*
- (3) RCAHMS shall be formally notified of all proposals to demolish listed buildings to enable features to be recorded.”*

7a.16 The application site is located to the south east of Kinneil House, a category B listed building surrounded by a large designed landscape. Insufficient information has been provided in reference to visualisations demonstrating the potential visibility from the house itself. However, given the scale of the turbine proposed, the development would have an adverse impact on the views from within and appreciation of the parkland which forms the setting of Kinneil House. The proposal is therefore contrary to the terms of Policy EQ14.

7a.17 Policy EQ17 - 'Antonine Wall' states:

"The Council will seek to retain, protect, preserve and enhance the Antonine Wall, its associated archaeology, character and setting. Accordingly:

- (1) There will be a presumption against development which would have an adverse impact on the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' as defined on the Proposals Map;*
- (2) There will be a presumption against development within the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' buffer zones, as defined on the Proposals Map, which would have an adverse impact on the Site and its setting, unless mitigating action to the satisfaction of the Council in consultation with Historic Scotland can be taken to redress the adverse impact, and there is no conflict with other Local Plan policies; and*
- (3) The Council, in association with partner Councils and Historic Scotland, will prepare Supplementary Planning Guidance on the criteria which will be applied in determining planning applications for development along the line, or within the setting, of the Antonine Wall."*

7a.18 Owing to the scale and location of the turbine, its presence would detract from the appreciation of the line of the Antonine Wall and its setting as well as having significant adverse impact on the topographical setting of the wall due to its dominant appearance on the skyline. The proposed development is located within the Antonine Wall World Heritage Site buffer zone which was specifically designed to protect the setting of the wall in this location. The proposal is contrary to the terms of Policy EQ17.

7a.19 Policy EQ20 - 'Green Belt states:

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

- (1) The proposal satisfies Policy EQ19 and any relevant countryside policies as set out in Table 3.3; and*
- (2) The proposal will not undermine the role of the Green Belt by detracting from its existing landscape character; reducing the visual separation between settlements; or compromising its existing or potential future use for countryside recreation.*

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

7a.20 The application site is located within the Green Belt as identified in the adopted Local Plan. The proposal would undermine the role of the Green Belt in this location by detracting from its existing landscape character. The proposal is contrary to the terms of Policy EQ20.

7a.21 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.22 The submitted Landscape and Visual Impact Assessment (as part of the submitted Environmental Statement) refers to, and is based on, outdated wind energy guidance and outdated landscape character assessment for the Falkirk Council Area. The submitted assessment is therefore incomplete and the proposal fails to accord with the terms of Policy EQ22.

7a.23 Policy EQ23 - 'Areas Of Great Landscape Value' states:

"The Council will protect Areas of Great Landscape Value from development which would be detrimental to its amenity and distinctive landscape quality. In addition to satisfying other relevant countryside policies, proposals within these areas will only be permitted where accompanied by a landscape and visual assessment demonstrating that the development can be accommodated without adverse impact on the landscape quality."

7a.24 The application site is located within an Area of Great Landscape Value (AGLV) as identified by the adopted Local Plan. The submitted landscape and visual impact assessment has been assessed, and whilst it is comprehensive in its assessment of potential impacts, it has been based on outdated information. It is considered that the turbine would have a high level of visibility from the surrounding area and would represent a considerable break on the skyline. The proposed turbine would be detrimental to the amenity and distinctive landscape quality of the area. The proposal is contrary to Policy EQ23.

7a.25 Policy EQ24 - 'Ecological Sites and Features' states:

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

7a.26 The applicants have undertaken a suitable level of assessment in relation to European Protected Species, species identified within the Local Biodiversity Action Plan as well as having carried out a Phase 1 Habitat Survey. No adverse impacts have been identified in relation to habitat provision, breeding birds, Raptors or Geese. The site is demonstrated to have only limited connectivity with the Firth of Forth SPA and RAMSAR sites and an Appropriate Assessment has been undertaken following advice from Scottish Natural Heritage. No adverse ecological impacts have been identified. The proposal accords with Policy EQ24.

7a.27 Accordingly, the proposed development fails to accord with the terms of the Development Plan.

7b Material Considerations

7b.1 The material considerations in relation to this application are the Falkirk Local Development Plan (Proposed Plan), Supplementary Guidance Notes, Scottish Planning Policy consultation responses and representations received.

Falkirk Local Development Plan (Proposed Plan)

7b.2 The Proposed Falkirk Local Development Plan (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in 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 Policy RW01 - 'Renewable Energy' states:

"1. Renewable energy developments will be supported subject to

- *satisfactory assessment of their impacts on the environment and communities; and*
- *compliance with other relevant LDP policies and statutory supplementary guidance, which will embody all the principles in Scottish Planning Policy 2014 and will set detailed policy considerations against which all proposals for renewable energy infrastructure developments will be assessed*
- 2. *Wind energy developments will be assessed in relation to the following factors, as well as against the detailed spatial framework, policies and guidance contained in Supplementary Guidance SG14 'Spatial Framework and Guidance for Wind Energy Developments' prepared in full accord with Scottish Planning Policy 2014:*
 - *Landscape and visual impacts;*
 - *Ecological impacts;*
 - *Impact on green belt objectives;*
 - *Impact on carbon rich and rare soils;*
 - *Impact on the water environment;*
 - *Impacts on the historic environment;*
 - *Impacts on aviation and telecommunications interests;*
 - *Impacts on communities, whether settlements or individual residential properties, including issues of noise, shadow flicker and air quality;*
 - *Cumulative impacts in relation to the above factors, arising from the combined effect of the proposal with other existing or approved wind energy developments;*
 - *Net economic impacts, including local and community socio-economic benefits;*
 - *The scale of contribution to renewable energy generation targets and the effect on greenhouse gas emissions; and*
 - *Tourism and recreation impacts, including for public access and for long distance walking, cycling and scenic routes."*

7b.4 Similar to policy ST20 of the adopted Local Plan, Policy RW01 sets out the factors and guidance against which proposals of this nature should be assessed. General support for wind energy projects is given where these factors are satisfactorily addressed. Specific reference is made to a requirement to assess proposals against Supplementary Guidance SG14 ‘Spatial Framework and Guidance for Wind Energy Developments’.

7b.5 Policy GN02 - ‘Landscape’ states:

“1. The Council will seek to protect and enhance landscape character and quality throughout the Council area in accordance with Supplementary Guidance SG09 ‘Landscape Character Assessment and Landscape Designations.’

2. Priority will be given to safeguarding the distinctive landscape quality of the Special Landscape Areas identified on the Proposals Map.

3. Development proposals which are likely to have a significant landscape impact must be accompanied by a landscape and visual assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit will be achieved.”

7b.6 The proposal is not considered to protect and enhance landscape character and quality and would have a particularly detrimental impact upon the distinctive landscape quality of the South Bo’ness Special Landscape Area. It is not considered that the submitted Landscape and Visual Impact Assessment demonstrates an appropriate landscape fit can be achieved. The proposal is contrary to the terms of Policy GN02.

7b.7 Policy GN03 - ‘Biodiversity and Geodiversity’ states:

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

1. Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Qualifying interests of a Natura 2000 site may not be confined to the boundary of a designated site. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions, and there are imperative reasons of overriding public interest. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).

2. Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.

3. Development likely to have an adverse effect on European protected species; a species listed in Schedules 5, 5A, 6, 6A and 8 of the Wildlife and Countryside Act 1981 (as amended); or badgers as per section 10 of the Protection of Badgers Act 1992, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.

4. Development affecting Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites (as identified in Supplementary Guidance SG08 ‘Local Nature Conservation and Geodiversity Sites’), and national and local priority habitats and species (as identified in the Falkirk Local Biodiversity Action Plan) will not be permitted unless it can be demonstrated that the overall integrity of the site, habitat or species will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.

5. *Where development is to be approved which could adversely affect any site or species of significant nature conservation value, the Council will require appropriate mitigating measures to conserve and secure future management of the relevant natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required, along with provision for its future management.*
6. *All development proposals should conform to Supplementary Guidance SG05 'Biodiversity and Development'."*

7b.8 The applicant has provided sufficient information to demonstrate that the proposal would protect existing biodiversity and geodiversity in the area whilst not impacting upon bird migratory routes, protected species or nearby wildlife sites. The proposal accords with Policy GN03.

7b.9 Policy D07 - 'Antonine Wall' states:

"The Council will seek to retain, protect, preserve and enhance the Antonine Wall, its associated archaeology, character and setting. Accordingly:

1. *There will be a presumption against development which would have an adverse impact on the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' as defined on the Proposals Map;*
2. *There will be a presumption against development within the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' buffer zones, as defined on the Proposals Map, which would have an adverse impact on the Site and its setting, unless mitigating action to the satisfaction of the Council in consultation with Historic Scotland can be taken to redress the adverse impact, and there is no conflict with other LDP policies; and*
3. *Supplementary Guidance SG07 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' will be applied in assessing development proposals along the line, or affecting the setting, of the Antonine Wall."*

7b.10 Policy D07 reiterates the terms of policy EQ17 of the adopted Falkirk Council Local Plan. It is considered that the proposal would have an adverse impact on the character and setting of the Antonine Wall World Heritage Site and as such fails to comply with the terms of policy D07.

7b.11 Policy D09 - 'Listed Buildings' states:

"The Council supports the sustainable re-use and management of the historic built environment, and on that basis there is a presumption against demolition or any other works that would adversely affect the special interest or setting of a listed building. The Council recognises, however, that listed buildings will require alteration, extension and adaptation from time to time to remain in beneficial use and encourages creative and sensitive development where there are no such adverse effects. Accordingly:

1. *The layout, design, materials, scale, siting and use of any development affecting a listed building, or its setting, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, shall be appropriate to the character and appearance of the building and its setting, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
2. *Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been made by all concerned to find practical ways of keeping it. In particular it should be demonstrated that:*
 - *the existing building is no longer of special interest;*
 - *the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report;*

- *the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*
 - *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community.*
3. *RCAHMS will be formally notified of all proposals to demolish listed buildings to enable features to be recorded.”*

7b.12 Policy D09 reiterates the terms of policy EQ14 of the adopted Falkirk Council Local Plan. It is considered that the development would have an adverse impact on the setting of Kinneil House, a category B listed building, and as such the proposal is contrary to the terms of Policy D09.

7b.13 Policy D12 - ‘Historic Gardens and Designed Landscapes’ states:

- “1. *There will be a presumption against development which would adversely affect the character or setting of sites identified in the ‘Inventory of Gardens and Designed Landscapes in Scotland’, as identified on the Proposals Map.*
2. *The value of other historic gardens and designed landscapes not listed in the Inventory will be given due weight in the planning process, having regard to their historical significance, integrity and condition. Non-inventory sites will be identified within Supplementary Guidance SG09 ‘Landscape Character and Assessment’.*
3. *The Council will seek to encourage sensitive restoration and management of historic gardens and designed landscapes.”*

7b.14 Policy D1 echoes the terms of policy EQ18 of the Falkirk Council Local Plan but also now provides protection for non-inventory sites identified in SC09 ‘Landscape Character and Assessment’. Kinneil forms one of these sites and the proposed development would have an adverse impact on the landscape character of this site, as such the proposal is contrary to Policy D12.

7b.15 Policy CG02 - ‘Green Belt’ states:

- “1. *The following areas, as indicated generally on Map 3.1 and detailed on the Proposals Map, are designated as Green Belt:*
 - *Falkirk/Stenhousemuir/Grangemouth/Laurieston Corridor*
 - *Polmont/Grangemouth/Bo’ness/Linlithgow Corridor*
 - *Falkirk/Larbert/Denny/Bonnybridge Corridor*
 - *Callendar Park/Woods*
2. *The purpose of the Green Belt is:*
 - *To maintain the separate identity and visual separation of settlements*
 - *To protect the landscape setting of settlements; and*
 - *To protect and give access to greenspace for recreation*
3. *Within the Green Belt, development will not be permitted unless it can be demonstrated that the proposal satisfies the relevant countryside policies, and it can be demonstrated that it will not undermine any of the strategic purposes of the Green Belt as set out in sub section (2) above.”*

7b.16 The proposal fails to protect the landscape setting of this area and is therefore contrary to the terms of CG02.

Supplementary Planning Guidance - Spatial Framework and Wind Energy / Draft Supplementary Guidance SG14

7b.17 The Falkirk Council Landscape Capacity Study for Wind Energy Development, adopted Supplementary Planning Guidance – Spatial Framework and Guidance for Wind Energy Development and draft Supplementary Guidance – Spatial Framework for Wind Energy Development and draft SG14, identifies the site as falling within the revised Bo’ness Coastal Hills Local Landscape Character Area (Type 6i LLCA). This LLCA is identified as an area of low to moderate capacity for wind energy development and that turbines of heights above 50m are unlikely to be acceptable. Additionally, draft SG14 – Spatial Framework identifies the site as being within an ‘Area of Significant Protection’ for wind energy development of over 50m to blade tip. The submitted Landscape and Visual Impact Assessment fails to take account of these existing and emerging landscape characteristics and constraint areas. The proposal fails to accord with the guidance set out in the existing Supplementary Planning Guidance – Spatial Framework and Wind Energy or the draft Supplementary Guidance SG14 Spatial Framework.

Scottish Planning Policy

7b.18 Scottish Planning Policy (SPP) gives general support to the development of a diverse range of renewable energy technologies including on-shore wind developments in order to meet targets for change towards a low carbon economy. Emphasis is however put on the importance that development plan spatial frameworks play in guiding developers towards areas most suitable for wind development. SPP makes it clear that proposals for energy infrastructure should always take account of spatial frameworks where these are relevant. In relation to the current application, the applicants have not fully taken account of the available spatial frameworks when preparing their Landscape and Visual Impact Assessment. When assessing the proposal against the current spatial framework for Falkirk District, it is clear that the proposed turbine height and location do not accord with this framework. The proposal is therefore considered to be contrary to SPP.

Representations Received

- 7b.19 Concerns raised in relation to visual impact and impacts upon the setting of the Antonine Wall World Heritage Site and Kinneil House are noted and have been addressed elsewhere in this report.
- 7b.20 The operational safety of the turbine and issues relating to materials and methods used during the construction or manufacturing of the turbine are not material planning considerations.
- 7b.21 Concerns in relation to the restoration and aftercare of the site are noted. However, the applicant has indicated, within their Environmental Statement, their intention for restoration of the site which include leaving the concrete foundations on site and covering these over with topsoil. This is widely accepted as common practice on wind development across the country. Further matters relating to restoration and aftercare could be controlled by conditions applied to any planning permission granted.
- 7b.22 Issues relating to land ownership disputes are not material planning considerations.
- 7b.23 Potential health concerns associated with living close to wind turbine developments are noted, but these are not material considerations in the assessment of this application.
- 7b.24 Noise impacts have been assessed by the Council’s Environmental Protection Unit (EPU) who have no immediate concerns in this respect. EPU have however requested that noise emission be monitored during operation to prevent unacceptable levels of noise being generated.
- 7b.25 Biodiversity concerns and impacts upon the Green Belt are noted and are addressed in this report.

- 7b.26 Shadow flicker issues have been considered as part of the site selection process highlighted within the submitted Environmental Statement. The site has been selected to ensure that all of the properties within 1km of the turbine are either located further than 10 rotor diameters from the turbine, or within the area to the south of the turbine where shadow flicker cannot occur due to the orientation of the turbine in relation to the sun. This site selection process is in line with government guidelines in respect of shadow flicker.
- 7b.27 The proposed community benefit agreement of £2000 per installed MW to go towards local agencies serving the wider community is not a determining factor in the assessment of this application. The applicant has suggested this voluntarily and intends to discuss arrangements further with Falkirk Council should planning permission be granted.

Consultation Response

- 7b.28 West Lothian Council has raised specific concerns in relation to the visual impact of the proposals when viewed from sensitive locations within Linlithgow, specifically the impact that the proposal would have on views towards Arngarth Hill which is identified within the adopted West Lothian Masterplan (2009) as forming ‘an attractive backdrop to the loch and the town’. West Lothian Council also has a landscape capacity study (2011) which further emphasises the sensitivity of Arngarth Hill and views towards it from Linlithgow Palace and Peel. West Lothian Council state that they feel the proposed turbine would be incongruous and out of scale with this sensitive area.
- 7b.29 The concerns raised by West Lothian Council in respect of the visual impact of the proposal from sensitive viewpoints within West Lothian are shared.
- 7b.30 The Joint Radio company Ltd has objected on grounds of technical impacts and potential interference to radio systems operated by Scottish Power within the vicinity of the application site and both Falkirk Community Trust Museum Services and Historic Scotland have objected on the grounds of visual impacts of the proposal on the setting of the Antonine Wall World Heritage sites and Kinneil House and its designated landscape setting. These objections have not been overcome by the applicant’s submissions and would contribute towards a refusal of planning permission in this instance.
- 7b.31 The Roads Development Unit have requested swept path analysis details be provided regarding the proposed access route to the site. This is not however considered to be a material planning consideration. The site can be fully accessed via the public road network and the planning authority has no control over any proposed change to construction methods or delivery access routes. It would not therefore be reasonable or enforceable to apply any conditions of this nature to any permission granted on the site.

7c Conclusion

- 7c.1 The proposal represents an unacceptable form of development which would be contrary to the terms of the Development Plan due to significant concerns over the visual impact of the proposed turbine. There are no material planning considerations that warrant granting planning permission in these circumstances.

8. RECOMMENDATION

8.1 It is recommended that the Committee refuse planning permission for the following reason(s):-

- 1) The wind turbine, by virtue of its height and location would have an unacceptable visual impact on the setting of the Antonine Wall World Heritage Site, Kinneil House and its designated landscape setting and the South Bo'ness Special Landscape Area. The proposed development is therefore contrary to policies ENV1, ENV2, ENV5, and ENV13 of the Falkirk Council Structure Plan, policies ST20, ST21, EQ1, EQ14, EQ17, EQ20, EQ22 and EQ23 of the Falkirk Council Local Plan and policies RW01, GN02, D07, D09, D12 and CG02 of the Falkirk Local Development Plan – Proposed Plan, as well as being contrary to the terms of SPP – Scottish Planning Policy, Falkirk Council Supplementary Planning Guidance Note – Spatial Framework and Guidance for wind Energy Development and Falkirk Council Draft Supplementary Guidance 14 – Spatial Framework for Wind Energy Development.**

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pp Director of Development Services

Date: 18 May 2015

LIST OF BACKGROUND PAPERS

- 1) Falkirk Council Structure Plan
- 2) Falkirk Council Local Plan
- 3) Falkirk Local Development Plan – Proposed Plan
- 4) SPP – Scottish Planning Policy
- 5) Falkirk Council Supplementary Planning Guidance – Spatial Framework and Guidance for Wind Energy Development.
- 6) Draft Falkirk Council Supplementary Guidance 14 – Spatial Framework for Wind Energy Development
- 7) Letter of Objection received from A H Hunter and Son, Stuart Hunter, Rousland Farm, Linlithgow, EH49 7RJ, on 20 January 2015
- 8) Letter of Objection received from Mr Clark Cross, 138 Springfield Road, Linlithgow, EH49 on 20 January 2015
- 9) Letter of Objection received from Mr Andrew Vivers, Arniefoul, Glamis, Forfar, DD8 1UD on 25 January 2015
- 10) Letter of Objection received from A H Hunter and Son, Andrew Hunter, Rousland, Linlithgow, EH49 7RJ, on 4 February 2015

- 11) Letter of Objection received from Bo'ness Community Council, FAO Joan Boyd, Acting Secretary, on 23 February 2015
- 12) Letter of Objection received from Mr Simon Stewart, on 17 February 2015
- 13) Letter of Objection received from Ian Ross, on 24 February 2015
- 14) Letter of Objection received from Mr John Owens, Rose Cottage, Rousland Farm, Linlithgow, EH49 7RJ on 10 February 2015
- 15) Letter of Objection received from Mr Barry Hearse, Old Filter House, Bo'mains, Linlithgow, EH49 7RJ on 5 February 2015
- 16) Letter of Objection received from Mrs Jean Turnbull, Craigallion, Linlithgow, EH49 7RJ on 3 February 2015
- 17) Letter of Objection received from Mr Stuart Hunter, Rousland Farmhouse, Linlithgow, EH49 7RJ on 4 February 2015
- 18) Letter of Objection received from Mr Stuart Hunter, Rousland Farmhouse, Linlithgow, EH49 7RJ on 4 February 2015
- 19) Letter of Objection received from A H Hunter and Son Stuart Hunter, Rousland, Linlithgow, EH49 7RJ, on 4 February 2015
- 20) Letter of Objection received from Mr Stuart Hunter, Rousland Farm, Linlithgow, EH49 7RJ on 4 February 2015
- 21) Letter of Objection received from Fred Robinson, Hamilton Lodge, Linlithgow, EH49 7RJ, on 4 February 2015
- 22) Letter of Objection received from Miss Jennifer Hunter, Flat 3, 64 Cow Wynd, Falkirk, Fk1 5ea on 6 February 2015
- 23) Letter of Objection received from Ms Gina Young, Nether Kinneil Farmhouse, Bo'ness, EH51 0QA, on 12 February 2015
- 24) Letter of Objection received from Jean Fiona Turnbull, Craigallion, Linlithgow, EH49 7RJ, on 12 February 2015
- 25) Letter of Objection received from Ms Gina Young, Nether Kinneil Farmhouse, Bo'ness, EH51 QA on 4 February 2015

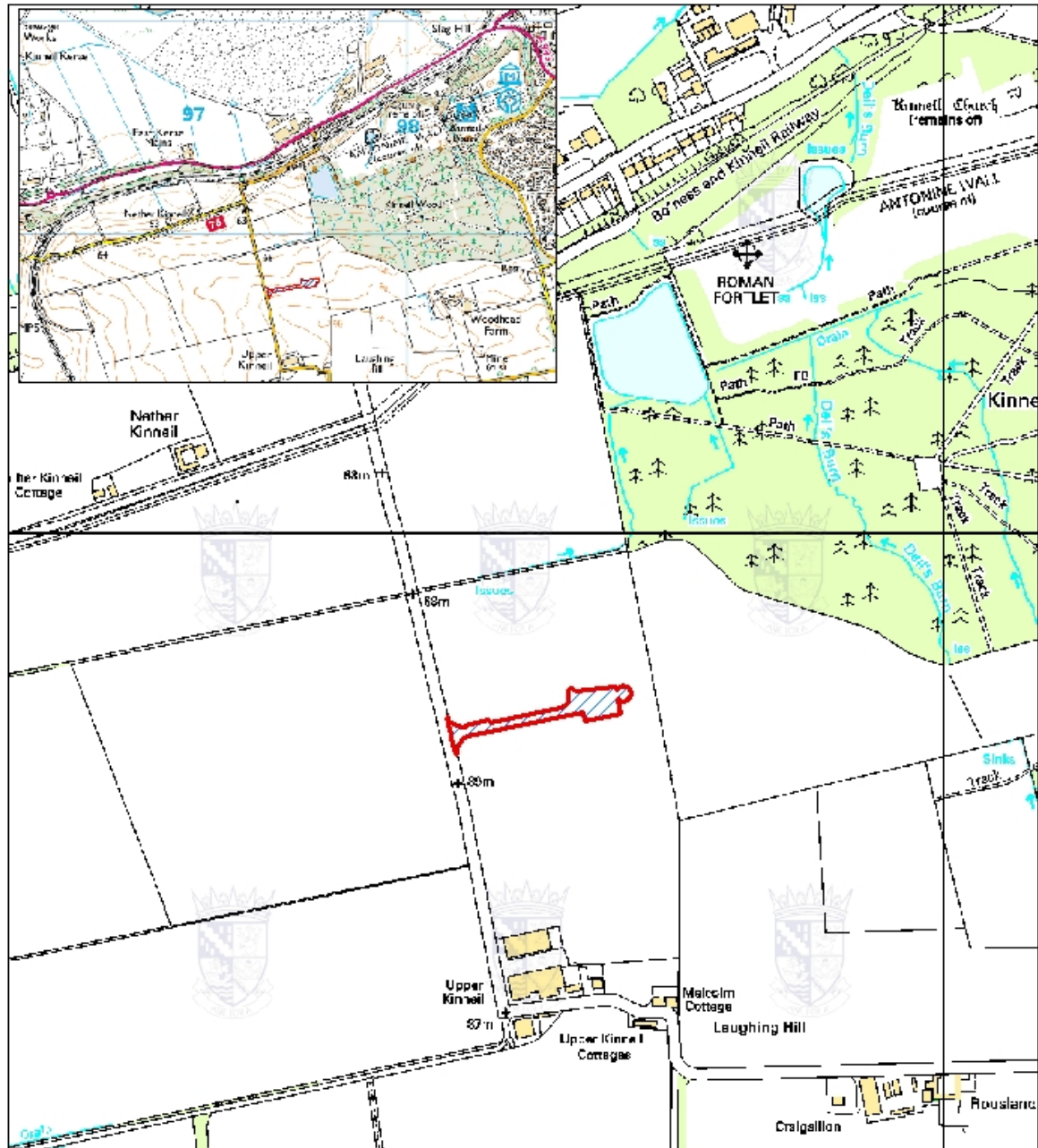
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

Planning Committee

Planning Application Location Plan

P/14/0729/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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