

FALKIRK COUNCIL

Subject: CHANGE OF USE OF PUBLIC OPEN SPACE TO PRIMARY SCHOOL GROUNDS AND ERECTION OF FENCE (RETROSPECTIVE) AT LAND TO THE NORTH OF BANKIER PRIMARY SCHOOL, BANKIER ROAD, BANKNOCK FOR FALKIRK COUNCIL - P/15/0460/FUL

Meeting: PLANNING COMMITTEE

Date: 25 November 2015

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock

Councillor Jim Blackwood

Councillor Brian McCabe

Councillor Paul Garner

Councillor Martin Oliver

Community Council: Banknock, Haggs and Longcroft

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

UPDATE REPORT

1. Members will recall that this application was considered by the Planning Committee on 28 October 2015 (copy of previous report attached), when it was agreed to continue the application to request information from the applicant on measures to mitigate the loss of open space in the area from this proposal.
2. Under Supplementary Guidance SG13 'Open Space and New Development', the compensatory sum for the loss of the subject open space is £63,420 (see paragraph 7a.9 of the previous report). In response to the Committee's concerns, the prospect of the applicant offering a compensatory sum to be used for local open space improvements was discussed with the applicant. However, the applicant has reluctantly advised that they are unable to make any payment and have made the following comments: -
 - Given the budgetary pressures that currently exist within the Council, neither Children's Services or Bankier Primary School are able to identify any money for the investment as suggested; and
 - If the view remains that the only way to proceed with the application is with a monetary contribution then Children's Services would have no alternative but to remove the fence, reinstate the area to public open space and advise the school that they will be unable to proceed with their playground expansion.
3. Members will note that the previous report assessed the application as contrary to the Development Plan (by virtue of the sum of £63,420 not being met) but considered that there were material considerations to outweigh the terms of the Development Plan in this instance. Those material considerations are: -

- The Banknock North SIRR development includes significant areas of new open space. This was considered to justify annexation of the land to Bankier Primary School as part of the Banknock North proposals; and
- The proposal affords recreational and other benefits to the school / local community. The applicant has advised that the new school area could potentially be made available for use by the local community, via the Council's formal letting process.

4. Whilst the securing of a contribution to fund open space improvements in the local area would have been an added benefit, the circumstances and further submissions of the applicant are noted and it would seem unfortunate if the school and local community could not benefit at this present time from the playground extension when there is the prospect of the Banknock North SIRR development delivering future open space improvements to the local area (which was the justification for the annexation of the land to Bankier Primary School being included in the Banknock North proposals in the first place).

5. The following recommendation is therefore reiterated as follows: -

6. RECOMMENDATION

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

- (1) Within three months of the date of this permission (or any other timescale that may be agreed in writing by this Planning Authority), the details of a scheme of soft landscaping works shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include (as appropriate):-
 - i. An indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
 - ii. The location of all new trees, shrubs, hedges and grassed areas;
 - iii. A schedule of plants to comprise species, plant sizes and proposed numbers/densities; and
 - iv. A programme for completion and subsequent maintenance.

Thereafter, the scheme of soft landscaping shall be carried out in accordance with the approved details.

Reason(s):-

- (1) To safeguard the visual amenity of the area.

LIST OF BACKGROUND PAPERS

1. The Falkirk Local Development Plan.
2. Falkirk Council Supplementary Guidance SG13, July 2015, Open Space and New Development.
3. Representation received from Banknock Hags & Longcroft Community Council, F.A.O. Dan Henderson on 10 September 2015.

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

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Meeting: PLANNING COMMITTEE

Date: 28 October 2015

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock

Councillor Jim Blackwood
Councillor Brian McCabe
Councillor Paul Garner
Councillor Martin 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 for a change of use of public open space to primary school grounds and erection of a fence (retrospective).
- 1.2 The application site consists of a grass amenity area within an existing open space adjacent to Bankier Primary School, Banknock. The site has been enclosed by a 2.8 metre high steel mesh fence. The application therefore seeks retrospective planning permission to regularise the enclosure of this ground and its annexation to Bankier Primary School.
- 1.3 The application site previously contained an equipped play facility and was crossed by a public path. The play equipment was removed some time ago and the path has been re-routed along the western and northern perimeter of the new fence. Other recent development within the open space is the Bankier Sports Hall.
- 1.4 The applicant has made the following submissions in support of the application: -
 - An extension to Bankier Primary School is planned to support the proposed housing growth in the Banknock area (700 properties allocated in the SIRR). The planned extension is sited on the existing school playground therefore the land adjoining to the north has been annexed to provide sufficient outdoor space for the future expanded school;

- The provision of sufficient outdoor space will allow the school to develop its curriculum further in relation to key national and local priorities. This includes expanding opportunities for outdoor learning and providing greater scope for activities that contribute to high quality physical education and help achieve health targets;
- The school plan to develop the enclosed area by installing a cycle track (that could also be used for running), a super swinger, a double zip wire and a tree house;
- The school also intend to ‘seed bomb’ the area enclosed by the cycle track which would increase biodiversity in the area;
- Once the development is completed, it is envisaged that the area would be available for use by community groups via a formal letting process;
- The school are in discussions with neighbours to extend the line of lime trees at the Bog Road end to further conceal the fence from the residents in this street. A planting plan is to be produced that can be phased over the upcoming years; and
- The open space area had very little (if any) recreational use and was poorly maintained. Whilst in the past it had a small amount of play equipment, this equipment had come to the end of its useful life and the Council’s Corporate and Neighbourhood Services took the decision to focus efforts on improving facilities at Hollandbush Crescent. Some of the reasons for this were the infrequent use of the play space, the area being prone to water logging at times and the area being prone to repeated vandalism.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as it is considered to be contrary to the Development Plan.

3. SITE HISTORY

- 3.1 Planning application P/09/0706/FUL for the erection of a community sports hall was granted on 4 December 2009.
- 3.2 Planning application P/10/0360/PPP for the development of up to 550 houses, a neighbourhood centre including retail and community uses, access junctions, new access roads, provision of a nature conservation area, associated roads and infrastructure has the status of ‘minded to grant’ subject to the satisfactory conclusion of a Section 75 Planning Obligation. The minded to grant decision was made on 7 March 2012 and negotiations in respect of the Section 75 Planning Obligation are ongoing.
- 3.3 The application site for P/10/0360/PPP included Bankier Primary School and the amenity space between the school and Kilsyth Road, in recognition of the development proposals within this area as part of the Banknock regeneration scheme. These proposals included the extension of Bankier Primary School and the current proposal to annex open space to the north of the school into the school grounds.

4. CONSULTATIONS

- 4.1 No consultations were carried out in respect of this application.

5. COMMUNITY COUNCIL

5.1 The Banknock, Haggs and Longcroft Community Council have made a representation in respect of the application. Their comments are as follows: -

- The application lacks detail in terms of both the layout and proposed future use of the area, and the actual fencing has been erected. The plans and supporting statement are scant therefore it is difficult to make informed comment;
- The Community Council supports improvements to Bankier Primary School and would welcome information on the 'early' proposals for extension;
- The Community Council considers that open space / play provision in the Banknock, Haggs and Longcroft area is poor compared to other Falkirk Council areas;
- The area to be developed previously accommodated a children's swing park / play area which was removed but not replaced and the current proposal to incorporate the public open space into the school grounds will remove a large grassed, generally safe, kick-about / play area;
- A replacement facility or upgraded facility funded from the Education budget or Capital budget, perhaps at Viewfield, should be provided in lieu of the loss of the facilities at Bankier Primary School; and
- There is open space at Bog Road (to the east of Gary Baxter garage) which is neglected, with grass uncut etc., and another possible outcome would be for the Council to 'adopt' / accept responsibility for this area and provide a facility thereon.

6. PUBLIC REPRESENTATION

6.1 No representations from any other parties have been received in respect of the application.

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

7a.1 The Falkirk Local Development Plan (LDP) was adopted on 16 July 2015. It replaces the previous Falkirk Council Structure Plan and Falkirk Council Local Plan and includes a number of Supplementary Guidance documents which now have statutory status.

7a.2 Under the LDP, the application site lies within the Banknock urban limits and an area designated as Open Space. In addition, the location is identified as New Proposal INF28 for significant enhancements to Bankier Primary School to support community growth in the catchment area.

7a.3 Policy INF03 - 'Protection of Open Space' states:

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

1. *Development involving the loss of urban open space will only be permitted where:*
 - *There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
 - *There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
 - *The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
 - *Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*
2. *Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*
 - *The proposed development is ancillary to the principal use of the site as a playing field; or*
 - *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*
 - *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*
 - *The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7a.4 This policy protects all urban open space, including parks, playing fields and other areas of urban green space, which is considered to have landscape, amenity, recreational or ecological value. Under Part 1 of the policy, development involving the loss of urban open space will only be permitted if four criteria are satisfied.

7a.5 First, it has to be demonstrated that there would be no adverse effect on the character and appearance of the area. In this instance, a large proportion of the open space area has been enclosed by a steel mesh fence and the school plan a variety of facilities and activities within the fenced off area. The scale of the enclosure and the appearance of the fence raise some concerns in terms of its effect on the character of the area. However, it is considered that the existing mature trees, which would be augmented by new planting, would screen and soften the impact of the development to a satisfactory level. In addition, the nature of the proposed use of this area is in keeping with the character of recreational use of this open space area. On balance, the effect of the development on the character and appearance of the area is considered to be acceptable.

- 7a.6 Second, it has to be demonstrated that there would be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy). In this instance, the scale of the annexation is likely to compromise the functionality of this open space for recreational use by the general public and lead to a reduction in its overall capacity. As a consequence, the number of households in Banknock within 400 metres of a 'fit for purpose' open space would reduce. Whilst the applicant contends that the open space has little, if any, recreational use and was poorly maintained, the site was most recently assessed in February 2013 (after the play facilities had been removed) as 'fit for purpose'. This assessment was part of the Council's open space audit and the site scored particularly well for quality of access and health and wellbeing, with a kick-about area being noted as present on the site. As a result of the compromise to functionality (due to loss of the kickabout area), it is likely that the open space would no longer be considered to be fit for purpose in any future fitness for purpose assessment. Within the terms of Policy INF03, it is therefore considered that the development would have a significant adverse effect on the overall recreational amenity of the local area. The application is therefore contrary to this aspect of the policy.
- 7a.7 In addition, the second bullet point in Part 1 of the policy requires the release of the site for development to be compensated for by qualitative improvements to other parts of the green network in the local area. Guidance for calculating a compensatory figure to fund improvements to other areas is contained in Supplementary Guidance SG13 Open Space and New Development. The compensatory sum is calculated at £21 per square metre. The application site is 3020m² (this is the area that would be lost as public open space) therefore the compensatory sum is £63,420. The applicant does not propose to make this contribution therefore the application is also contrary to this aspect of the policy. The applicant's justification for not making the contribution is that the Banknock North SIRR proposals included the annexation of this land to Bankier Primary School and the creation of new open space on the north side of Kilsyth Road in compensation (see paragraphs 1.4, 3.2, 3.3, 7b.2 and 7b.3).
- 7a.8 Third, it has to be demonstrated that the area is not of significant ecological value. It is considered that the application site is not of significant ecological value.
- 7a.9 Fourth, it has to be demonstrated that connectivity within, and functionality of, the wider green would not be threatened and public access routes in or adjacent to the open space would be safeguarded. In this instance, the application site was crossed by a core path and a new path has been constructed around the perimeter of the extended playground to replace the existing path severed by the fence. The replacement path is of whinstone construction and is difficult for use by wheelchairs or buggies. However, the path is to be upgraded to Core Path standard as part of the Council's Community Links Core Paths investment programme or similar. The path will therefore be upgraded to an appropriate standard.
- 7a.10 Under Part 2 of the policy, a number of matters must be demonstrated where the development would also involve the loss of playing fields or sports pitches. The development does not involve the loss of any playing field or sports pitch and therefore Part 2 of the policy is not relevant.
- 7a.11 Accordingly, the application is considered to be contrary to the Development Plan, for the reasons detailed in paragraphs 7a.6 and 7a.7.

7b Material Considerations

- 7b.1 The material considerations to be assessed in respect of this application are the planning history, the benefits of the proposal and the representation received.

Planning History

- 7b.2 The planning history for the site is summarised in Part 3 of this report. As detailed in paragraph 3.3, planning application P/10/0360/PPP included an extension to Bankier Primary School to accommodate pupils from the new development and annexation of open space to the north of the school into the school grounds. The annexation of this land was considered to be justified, primarily on the basis of the creation of significant areas of new open space within the Banknock North SIRR on the north side of Kilsyth Road. Within this context the application is considered to be acceptable in principle, but whether it is acceptable at this present time requires to be considered.
- 7b.3 As detailed in paragraph 3.2, planning application P/10/0360/PPP for the Banknock North SIRR has the status of minded to grant subject to the satisfactory conclusion of a Section 75 Planning Obligation. The Planning Obligation is at an advanced stage of drafting and the applicant has intimated their desire to conclude the Planning Obligation by the end of this year (which would then enable planning permission in principle to be issued). According to the indicative phasing plan which accompanies the application, it is likely that new open space would be delivered in conjunction with Phase 1 of the development. In addition, according to the Council's Housing Land Audit, Phase 1 of the development should be delivered by 2019/20. Whilst it cannot be said with any certainty when the new open space will be delivered, it is considered reasonable in the circumstances to give weight to the adverse effect on the overall recreational amenity in Banknock, as a consequence of the current proposal, being likely to be relatively short term.

Benefits of the Proposal

- 7b.4 The applicant has made a number of submissions in support of the proposal. These are summarised in paragraph 1.4 of this report and include the benefits of the proposal to the school children and the opportunity the use of this area provides to further develop the school curriculum to achieve key targets and priorities. The potential for the area to be available for use by the wider community, via the Council's formal letting process, is also an obvious benefit. These benefits add weight to the early development of this ground by the primary school, which otherwise could be several years away if development of the Banknock North SIRR is awaited.

Representation Received

- 7b.5 The comments made in the representation to the application by the Community Council are summarised in paragraph 5 of this report. In response, the following comments are considered to be relevant:-
- The applicant's submissions in support of the application are summarised in paragraph 1.4 of this report. They provide further information about the proposals and the intended use of the annexed area;
 - The Community Council's support for improvements to Bankier Primary School and their concerns about the provision of open space/play facilities in the Banknock, Haggs and Longcroft area are noted;
 - The applicant's supporting statement explains why the previous equipped play area was not replaced in favour of focusing efforts on improving the park at Hollandbush Crescent; and

- The Banknock North SIRR proposals include an extension to Bankier Primary School and the provision of significant areas of new open space on the north side of Kilsyth Road. These proposals were considered to justify the annexation of the open space area into the school grounds and loss of an existing informal grass kick-about/play area. The delivery of the extension to the school grounds in advance of the Banknock North SIRR is considered in this report.

7c Conclusion

- 7c.1 The application is considered to be contrary to the Development Plan, for the reasons detailed in this report. However, it is considered that these are material considerations to outweigh the terms of the Development Plan in this instance. These considerations are discussed in this report. Namely they are the proposals for significant areas of new open space within the Banknock North SIRR (which would compensate for the loss of this informal grass kick-about/play area), the benefits of the proposal to the school and wider community, and a judgement that the adverse effect on the overall recreational amenity of the local area, as a consequence of this application, may be relatively short term, pending development of the Banknock North SIRR. On balance, the application is therefore recommended for approval subject to appropriate conditions.

8. RECOMMENDATION

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

- (1) Within three months of the date of this permission (or any other timescale that may be agreed in writing by this Planning Authority), the details of a scheme of soft landscaping works shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include (as appropriate):-

- An indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
- The location of all new trees, shrubs, hedges and grassed areas;
- A schedule of plants to comprise species, plant sizes and proposed numbers/densities; and
- A programme for completion and subsequent maintenance.

Thereafter, the scheme of soft landscaping shall be carried out in accordance with the approved details.

Reason(s):-

- (1) To safeguard the visual amenity of the area.

LIST OF BACKGROUND PAPERS

1. The Falkirk Local Development Plan.
2. Falkirk Council Supplementary Guidance SG13, July 2015, Open Space and New Development.
3. Representation received from Banknock Hags & Longcroft Community Council, F.A.O. Dan Henderson on 10 September 2015.

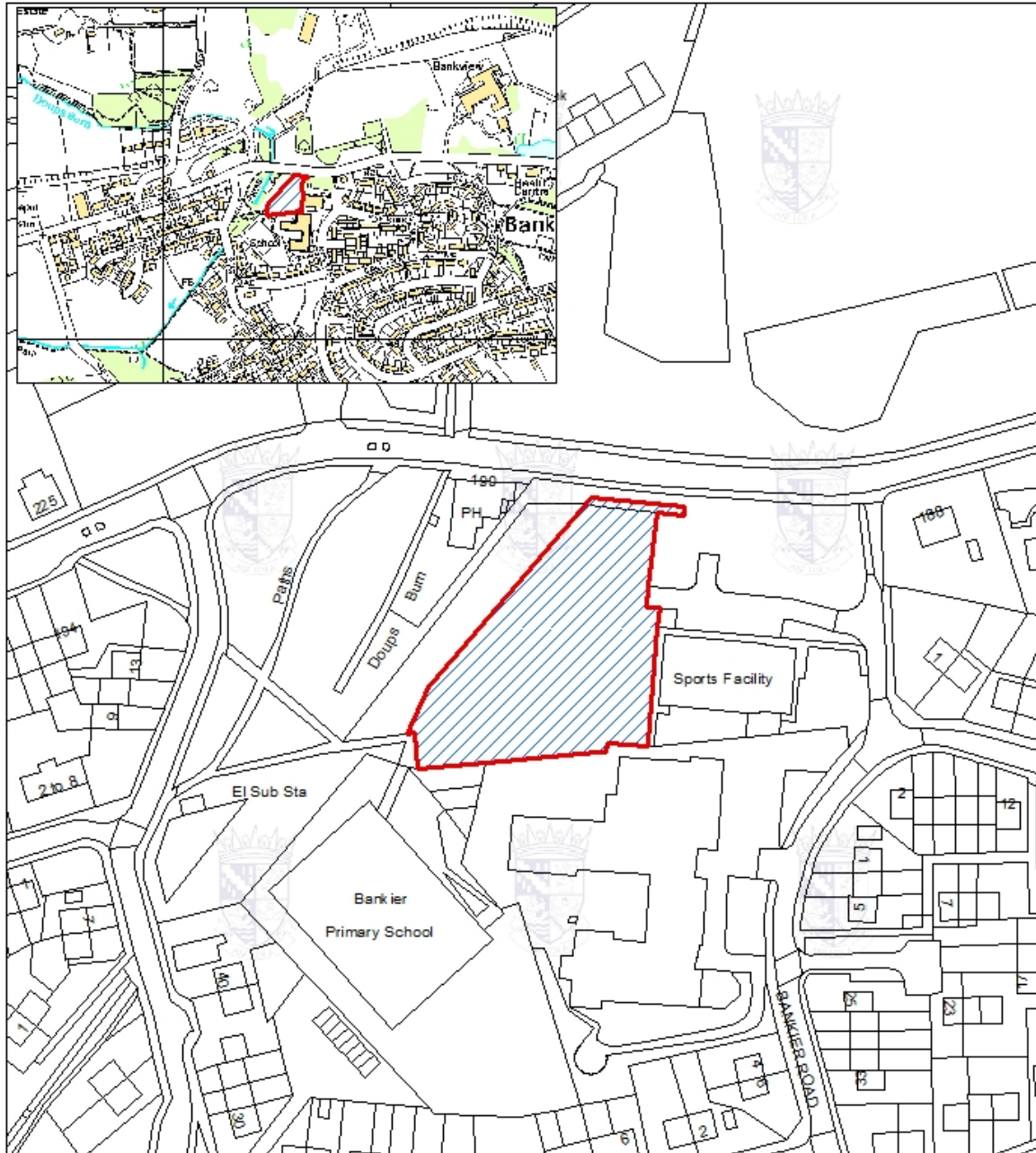
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/15/0460/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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