



Agenda Item

9

**MODIFICATION OF PLANNING OBLIGATION
UNDER SECTION 75 OF THE TOWN AND
COUNTRY PLANNING
(SCOTLAND) ACT 1997 ATTACHED TO
PLANNING PERMISSION P/12/0546/FUL,
INSOFAR AS THE REQUIREMENT TO
PROVIDE 46 UNITS OF AFFORDABLE
HOUSING IS REMOVED IN LIEU OF
PAYMENT OF AN AFFORDABLE HOUSING
COMMUTED SUM OF £805,000 AT LAND TO
THE SOUTH OF MYDUB FARM, GLASGOW
ROAD, DENNY, FOR AVANT HOMES
(SCOTLAND MK) LTD - P/17/0356/75M**

FALKIRK COUNCIL

Subject: MODIFICATION OF PLANNING OBLIGATION UNDER SECTION 75 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 ATTACHED TO PLANNING PERMISSION P/12/0546/FUL, INsofar AS THE REQUIREMENT TO PROVIDE 46 UNITS OF AFFORDABLE HOUSING IS REMOVED IN LIEU OF PAYMENT OF AN AFFORDABLE HOUSING COMMUTED SUM OF £805,000 AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY, FOR AVANT HOMES (SCOTLAND MK) LTD - P/17/0356/75M

Meeting: PLANNING COMMITTEE

Date: 16 August 2017

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock
Councillor Jim Blackwood
Councillor Fiona Collie
Councillor Paul Garner
Councillor Nigel Harris

Community Council: Denny and District

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks to modify the Section 75 Planning Obligation attached to planning permission P/12/0546/FUL, so that the requirement to provide 46 units of affordable housing on the site is removed in lieu of the payment of a commuted sum of £805,000 to the Council for the provision of affordable housing within the Council area.
- 1.2 Guidance on the delivery of affordable housing is provided in Supplementary Guidance SG 12, 'Affordable Housing'. The supplementary guidance sets out that a sequential approach is applied to the delivery of affordable housing. The first preference being for on-site provision but where this proves not to be achievable the payment of a financial contribution to the Council to support the provision of affordable housing is acceptable. In this instance it was the developers original intention to provide affordable housing on the site. The delivery of affordable housing on site aimed to take a partnership approach between the Council and a Housing Association. Negotiations took place over a 10 month period. However, despite best efforts by both the Council and a Housing Association, agreement could not be reached on the unit specifications. The units proposed by the Developer did not meet Housing for Varying Needs Standards. Therefore they were not eligible for funding supported through the Scottish Government Affordable Housing Supply Programme. Therefore, Avant Homes and Corporate & Housing Services have advised that their preference is now for a financial contribution to be paid in lieu of on-site provision. This contribution will be used to assist the delivery of proposed affordable housing projects in the Denny area identified in the Council's Strategic Housing Investment Plan (SHIP).

1.3 It is proposed that the commuted sum would be paid in five equal payments of £161,000. The first payment would be due within ten days of the date of the signing of the proposed modification. The remaining four payments would be due prior to the completion of the 100th, 150th, 200th and 250th house. The level of commuted sum has been set following consultation with the District Valuer Service.

1.4 The application site is located at Mydub Farm, at Glasgow Road, Denny, south of Demoreham Avenue.

2. REASON FOR COMMITTEE CONSIDERATION

2.1 The application requires consideration by the Planning Committee as the application to which the Section 75 Planning Obligation relates (ref P/12/0546/FUL) was determined by the Planning Committee on 26 March 2014.

3. SITE HISTORY

3.1 Planning application P/12/0546/FUL for 307 new homes (including 46 affordable houses) and Denny Eastern Access Road (DEAR), including provision of greenspace, sustainable urban drainage and associated infrastructure was approved on 28 May 2014.

3.2 Planning application P/16/0633/FUL for the erection of 48 dwellinghouses (amendment to planning permission P/12/0546/FUL) was approved on 4 May 2017.

4. CONSULTATIONS

4.1 Falkirk Council Corporate and Housing Services advise that the proposal to address affordable housing requirements related to the Mydub development (P12/0546/FUL) by means of a commuted sum is satisfactory. The level and proposed phasing of payment(s) is also satisfactory.

4.2 The District Valuer Service has advised the appropriate level of commuted sum payment. The proposed commuted sum payment accords with the District Valuer Service advice.

5. COMMUNITY COUNCIL

5.1 The Denny and District Community Council has not made any representation on this application.

6. PUBLIC REPRESENTATION

6.1 No representations have been received.

7. DETAILED APPRAISAL

- 7.1 Under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006), planning obligations are secured through an appropriate legal document to bind the owners and future owners of particular objects. They may secure payment of a financial contribution to mitigate the impacts of development on land use, the environment and infrastructure.
- 7.2 Section 75A of the 2006 amendment establishes a formal process by which a party to the planning obligation may apply to discharge or modify the obligation.
- 7.3 Scottish Government Circular 3/2012 (Planning Obligations and Good Neighbour Agreements) sets out the circumstances in which planning obligations and good neighbour agreements can be used. The circular states that planning obligations should only be sought where they meet all of the following tests: -
- Necessary to make the proposed development acceptable in planning terms (the necessity test).
 - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to Development Plans (the planning purpose test).
 - Relate to the proposed development either as a consequence of the development or arising from the cumulative impact of the development in the area (the relationship to the proposed development test).
 - Fairly and reasonably relate in scale and kind to the proposed development (the scale and kind test).
 - Be reasonable in all other aspects (the reasonable test).
- 7.4 The proposed modification to the planning obligation is considered to meet all the tests of circular 3/2012.
- 7.5 The purpose of the modification is to secure the provision of affordable housing in accordance with the requirements of policy HSG02, 'Affordable Housing' of the Falkirk Local Development Plan and related supplementary guidance set out in SG12, 'Affordable Housing'. The planning obligation and the proposed modification are necessary to meet the objectives of the Development Plan, taking into account changed circumstances. The proposed amendment secures monies for the development of affordable housing projects within the Denny area identified in the SHIP. It is therefore necessary, serves a clear planning purpose and is related to the impacts of the Mydub development. The sum of money sought has been set by the District Valuer and is therefore considered to be fair and reasonably related in scale and kind to the proposed housing development

8. CONCLUSION

- 8.1 This application seeks to modify the section 75 planning obligation attached to planning permission P/12/0546/FUL, so that the provision of affordable housing can be addressed by means of the payment of a commuted sum. The modification would satisfactorily address consequential amendments to other provisions in the planning obligation.
- 8.2 The application accords with the Falkirk Local Development Plan. The proposed modification would allow for the satisfactory and flexible provision of affordable housing in the area of the application site. The proposed modification meets the policy tests of the Scottish Government Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements).
- 8.3 The proposed modification is considered to be appropriate and it is recommended that Committee agree to modify the planning obligation.

9. RECOMMENDATION

- 9.1 **It is therefore recommended that Committee agree to modify the Section 75 Planning Obligation attached to planning permission P/12/0546/FUL in accordance with the details as set out within the application. The reason being that the proposed modification is considered to satisfy all of the policy tests of Scottish Government Planning Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”.**

.....
Director of Development Services

Date: 8 August 2017

LIST OF BACKGROUND PAPERS

1. Planning permission P/12/0546/FUL.
2. Planning Permission P/16/0633/FUL.
3. Falkirk Council Local Development Plan.
4. Scottish Government Planning Circular 3/2012 “Planning Obligations and Good Neighbour Agreements.”

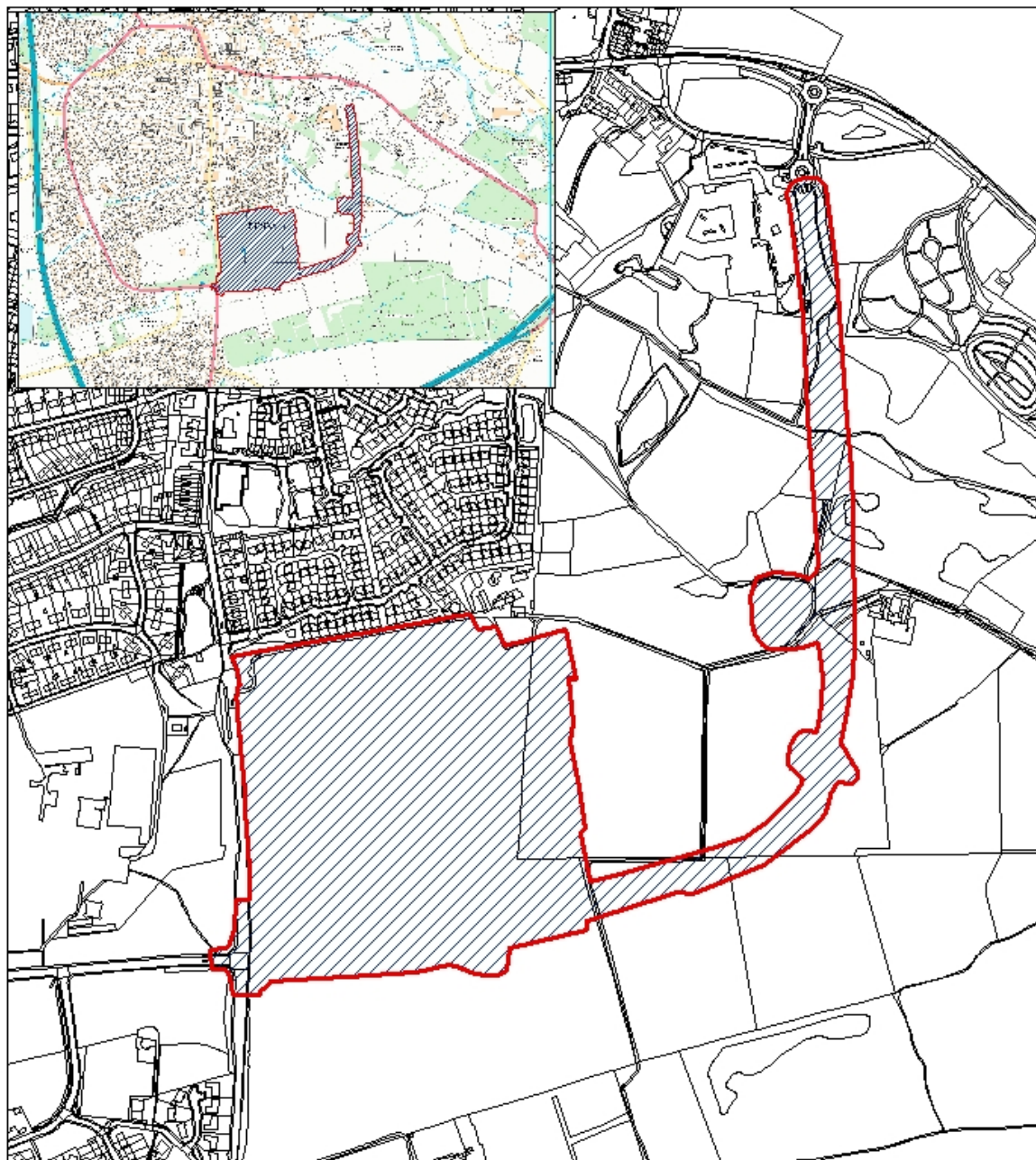
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

Planning Committee

Planning Application Location Plan

P/17/0356/75M

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



Reproduced by permission of Ordnance Survey on behalf of HMSO.
© Crown copyright and database right 2017. All rights reserved.
Ordnance Survey Licence number 100023384