



# **AGENDA ITEM**

**6**

**Demolition of Kiln and Erection of 2  
Dwellinghouses at Land to the South East  
of Whitstonedge, Falkirk for Mr Douglas  
MacMillan – P/17/0490/FUL**

**FALKIRK COUNCIL**

**Subject:** DEMOLITION OF KILN AND ERECTION OF 2  
DWELLINGHOUSES AT LAND TO THE SOUTH EAST OF  
WHITSTONEDGE FOR MR DOUGLAS MACMILLAN -  
P/17/0490/FUL  
**Meeting:** PLANNING COMMITTEE  
**Date:** 24 January 2018  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Upper Braes

Councillor Gordon Hughes  
Councillor James Kerr  
Councillor John McLuckie

**Community Council:** Avonbridge and Standburn

**Case Officer:** Julie Seidel (Planning Officer), Ext. 4880

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

- 1.1 This application relates to the demolition of a former kiln and the erection of two dwellinghouses and associated infrastructure. The kiln benefits from planning permission (Ref: P/11/0095/FUL) for the conversion to form two dwellinghouses. However, it is no longer capable of conversion and requires to be demolished for safety reasons.
- 1.2 Access would be taken via the existing access serving the former Candie Brickworks, kiln and completed refectory building (which is now a dwellinghouse).

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 Granting planning permission the application would be contrary to the Falkirk Local Development Plan.

**3. SITE HISTORY**

- 3.1 P/08/0904/OUT - Development of Land for Residential Purposes - refused on 25 June 2009.
- 3.2 P/11/0095/FUL - Conversion of Derelict Brickworks to Form 3 No. Dwellinghouses, Erection of Garage / Shed and Access Road - granted on 11 April 2011.

- 3.3 P/13/0624/FUL - Siting of Temporary Residential Accommodation - granted on 22 November 2013.
- 3.4 P/16/0681/FUL - Siting of Temporary Accommodation (Renewal of Planning Permission P/13/0624/FUL) – granted on 11 January 2017.

#### **4. CONSULTATIONS**

- 4.1 Scottish Water do not object the proposed development.
- 4.2 The Roads Development Unit do not object the proposed development.
- 4.3 The Environmental Protection Unit do not object the proposed development.
- 4.4 Scottish Natural Heritage do not object the proposed development.
- 4.5 The Coal Authority do not object the proposed development.

#### **5. COMMUNITY COUNCIL**

- 5.1 No comments were received in relation to the application.

#### **6. PUBLIC REPRESENTATION**

- 6.1 No representations were received in relation to 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**

The Falkirk Local Development Plan was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies:

7a.1 Policy CG01 - Countryside states:-

*The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside, within which development will be assessed in the terms of the relevant supporting countryside policies (Policies CG03 and CG04), and Supplementary Guidance SG01 'Development in the Countryside'.*

7a.2 The application is located in the countryside as identified in the FLDP. Policy CG01 'Countryside' advises that the proposed development should be assessed in relation to policy CG03.

7a.3 Policy CG03 - Housing in the Countryside states:-

*Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:*

- 1. Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;*
- 2. Restoration or replacement of houses which are still substantially intact, provided the restored/replacement house is of a comparable size to the original;*
- 3. Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;*
- 4. Appropriate infill development;*
- 5. Limited enabling development to secure the restoration of historic buildings or structures; or*
- 6. Small, privately owned gypsy/traveller sites which comply with Policy HSG08.*

*Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'. Proposals will be subject to a rigorous assessment of their impact on the rural environment, having particular regard to policies protecting natural heritage and the historic environment.*

7a.4 Policy CG03 contains criteria where housing development in the countryside will be supported. This includes housing required for the pursuance of a rural activity; restoration and replacement of existing houses, conversion of non-domestic rural buildings, infill development, enabling development and traveller sites. The application does not fit any of the relevant criteria where development is acceptable in the countryside and therefore is contrary to policy CG03 'Housing in the Countryside'.

7a.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.*

7a.6 The application site lies within a Special Landscape Area as identified in the FLDP. It is considered that the site is screened in relation to the natural landform and mature landscaping. It is also noted that the proposed development would be on the same footprint and have a similar form to the existing kiln building. As such, the development would not have a significant landscape impact, and therefore accords with policy GN02 'Landscape'.

7a.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 features 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 Wildlife and Countryside Act 1981 (as amended), or a species of bird protected under the Wildlife and Countryside Act 1981 (as amended) 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'.*

7a.8 The applicant has submitted a Protected Species Report (previously submitted to support planning application Ref: P/11/0095/FUL) which concludes that there would be no impact or risk to badgers and that the development area has the potential for summer roosting by bats. The applicant has submitted an addendum to the Protected Species Report which states that a further bat emergence and mitigation survey was carried out in the summer of 2011 where one Pipistrelle bat was seen emerging from a shed on site but no bats were seen emerging from the kiln over three consecutive nights. The applicant has erected two bat boxes on site but no bat activity has been seen. The report recommends a further inspection for signs of roosting bats and this is considered acceptable to address by condition, in accordance with policy GN03 'Biodiversity and Geodiversity'.

7a.9 Policy D02 - 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, distinctive, welcoming, adaptable, 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. *Climate Change & Resource Use. Development should promote the efficient use of natural resources and the minimisation of greenhouse gas emissions through 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.*

*Masterplans will be required for significant development proposals requiring a co-ordinated approach to design and infrastructure, and should demonstrate how the above principles have been incorporated into the proposals. Masterplans should be informed by a development framework or brief where relevant.*

*Figure 5.3, Sustainable Design Principles - Supporting Policies/Guidance provides further guidance.*

7a.10 It is considered that the proposed development would respond positively and sympathetically in its proposed design and visual impact to the site's surroundings and create buildings that would be attractive, of a high design standard and sustainable, in accordance with policy D02 'Sustainable Design Principles'.

7a.11 Policy D04 - Low and Zero Carbon Development states:-

1. *All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 10% of the overall reduction in CO<sub>2</sub> emissions as required by Building Standards has been achieved via on-site LZCGT. This proportion will be increased as part of subsequent reviews of the LDP. All proposals must be accompanied by an Energy Statement which demonstrates compliance with this policy. Should proposals not include LZCGT, the Energy Statement must set out the technical or practical constraints which limit the application of LZCGT. Further guidance will be contained in Supplementary Guidance SG15 'Low and Zero Carbon Development'. Exclusions from the requirements of this policy are:*
  - *Proposals for change of use or conversion of buildings;*
  - *Alterations and extensions to buildings;*

- *Stand-alone buildings that are ancillary and have an area less than 50 square metres;*
  - *Buildings which will not be heated or cooled other than by heating provided solely for the purpose of frost protection;*
  - *Temporary buildings with consent for 2 years or less; and*
  - *Where implementation of the requirement would have an adverse impact on the historic environment as detailed in the Energy Statement or accompanying Design Statement.*
2. *The design and layout of development should, as far as possible, seek to minimise energy requirements through harnessing solar gain and shelter;*
  3. *Decentralised energy generation with heat recycling schemes (combined heat and power and district heating) will be encouraged in major new developments, subject to the satisfactory location and design of associated plant. Energy Statements for major developments should include an assessment of the potential for such schemes.*

7a.12 The Design Statement advises that a 15% reduction in CO<sub>2</sub> emissions would be achieved and it refers to construction materials and the use of air source heat pumps. It is appropriate to progress the application with a planning condition in relation to low and zero carbon development, in accordance with policy D04 'Low and Zero Carbon Development'.

### ***Supplementary Guidance forming Part of Local Development Plan***

7a.13 SG01 'Development in the Countryside' gives detailed guidance in relation to appropriate development in the countryside. The application fails to accords with SG01.

7a.14 The application accords with the guidance contained in SG09 'Landscape Character and Landscape Designations'.

7a.15 The application can progress with a condition in relation to low and zero carbon development, in accordance with SG15 'Low and Zero Carbon Development'.

7a.16 Accordingly, and on balance, the application is contrary to the Falkirk Local Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are Scottish Planning Policy (SPP), the site history, consultation responses and additional planning considerations.

### ***Scottish Planning Policy***

7b.2 The Falkirk Council area is an accessible or pressurised rural area, where Scottish Planning Policy (SPP) (2014) advocates a more restrictive approach to new housing development in the countryside.



7b.3 SPP advises that most new development should be guided to locations within or adjacent to settlements and sets out the circumstances in which new housing out with settlements, may be appropriate. Policy CG03 of the FLDP clearly sets out the circumstances where housing development in the countryside would be acceptable. As the application is contrary to the FLDP, it is not supported by Scottish Planning Policy.

### ***Site History***

7b.4 It is considered however that the site history lends support to the application. The site has a historic rural industrial use, with an established site access and buildings on site. The site also benefits from planning permission (Ref: P/11/0095/FUL) for the conversion of existing buildings on site to 3 dwellinghouses. The kiln is in an advanced state of collapse and can no longer be converted. It is considered that the development of two new dwellinghouses of a high design standard, would not have an unacceptable impact, in visual terms, on the landscape character of the countryside.

### ***Consultation Responses***

7b.5 The Environmental Protection Unit advise of informatives in relation to noise and ground contamination. There are no other issues raised through consultation which require to be addressed.

### ***Information Submitted in Support of the Application***

7b.6 The applicant has submitted a Structural Report, Coal Mining Risk Assessment, Protected Species Report, Design Statement and Planning Statement to support their application. The following matters were raised in the Planning Statement:

- The development site benefits from extant planning permission, but cannot be implemented due to the poor structural condition of the kiln. There is also concern that the approved scheme would not accord with building regulations;
- The Local Development Plan does not make provision for the replacement of rural industrial buildings or the reuse of brownfield land in the countryside;
- The Design Statement gives a rationale for how the new houses would fit the landscape and make best use of the degraded brownfield land. The buildings would be high quality, sited within the footprint of the kiln and using materials to complement the natural setting and historic use of the site;
- The development would have the appearance of belonging to the site as a result of proposed planting the existing topography and mature trees; and
- The development does not fully accord with the housing in the countryside policy, but is considered to be supported by the wider aims and objectives of the Local Development Plan and National Policy. The quality of the proposed architecture would balance the presence of the refectory building which is now a dwellinghouse and would ensure a living legacy for the former brickworks site.

## ***Additional Planning Considerations***

- 7b.7 As discussed in this report, there are fundamental policy concerns in relation to the principle of development within this countryside location, particularly as the existing kilns need to be demolished. As such, material planning considerations are required to outweigh the terms of the Local Development Plan to justify the granting of planning permission.
- 7b.8 Candie (or Avonbridge) Brickworks operated from 1852 to 1977. The kiln, chimney and refectory building remaining on site until 2011 when planning permission (Ref: P/11/0095/FUL) was granted for conversion of the refectory building and kiln into 3 dwellinghouses. The refectory building was fully developed and is now a habitable dwellinghouse. It is also noted that the applicant and his family have been living on site, in temporary living accommodation, since 2013.
- 7b.9 The applicant has submitted a structural report which concludes that the kiln is in an advanced stage of complete collapse and regrettably there is no reasonable hope of the structure being saved. As such, the applicant has presented a proposal for two new dwellinghouse on the same site, as opposed to the conversion of two dwellinghouses, which could have been implemented had the kiln remained structurally sound.
- 7b.10 It is considered that the site has the character of an established development site, having historically been used as a brickworks over a long period of time and more recently for residential use. The site is well screened, with a clearly defined boundary and there is an established vehicular access. The redevelopment of the kiln with two replacement buildings, on the same general footprint and of a similar massing, would replicate and maintain the character and settlement pattern of development within the site. The demolition of the kiln would result in the refectory building being visually prominent, without the adjoining building to visually balance development and maintain the established development footprint. As such, it is considered that the redevelopment of the site with replacement buildings is acceptable and would not have an adverse visual impact on the setting of the countryside or landscape character of the area.
- 7b.11 It is considered that the proposed development would result in the erection of two dwellinghouses of a high design standard. It is considered that the development has been carefully designed to take best advantage of site constraints, in relation to the location of the existing kiln and surrounding landscape. The proposed palette of materials would reflect the character of traditional rural buildings. No objections have been raised by consultees (paragraph 4 refers).

## **7c Conclusion**

- 7c.1 The application has been assessed as being contrary to the Falkirk Local Development Plan and Scottish Planning Policy. As such material planning considerations are required to outweigh the terms of the Falkirk Local Development Plan to justify the granting of planning permission.

- 7c.2 It is considered that the redevelopment of the kiln with the proposed replacement dwellinghouses, would respect the rural character of the area, fit within the landscape setting and established development pattern. It would also achieve a high design and environmental standard. It is considered that the previous development of the site and high design standards proposed would mitigate the impact of development in the rural area and outweigh any concerns that the proposed development does not accord with the provisions of the Falkirk Local Development Plan.

## **8. RECOMMENDATION**

- 8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following condition(s):-**

- 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. The development hereby approved will not be occupied or brought into use until the following documents have been submitted to and approved in writing by the Planning Authority:**
  - i) a copy of the appropriate sustainability label (i.e. at least Bronze Active); and**
  - ii) a Statement of Conformity which confirms that 10%, of the required CO<sub>2</sub> emissions reduction is achieved through the installation of low and zero carbon generating technologies.**

**Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by Falkirk Council. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.**

- 3. No development shall commence on site until a full specification for all exterior materials and boundary enclosures has been submitted to and approved in writing by the Planning Authority. Thereafter, development shall proceed in accordance with the approved details.**
- 4. No development shall commence on site until a specification for the re-use of all retained brick (where suitable for re-use) is submitted to and approved in writing by the Planning Authority. Thereafter development shall proceed in accordance with the approved details.**
- 5. Should any evidence of bats or their roosts be witnessed prior to or during the course of demolition of the kiln, all work shall cease and immediate contact be made with Scottish Natural Heritage.**

**Reason(s):-**

1. As these drawings and details constitute the approved development.
2. To ensure the development achieves the required CO<sub>2</sub> emission reduction as a result of development.
3. To safeguard the visual amenity of the countryside.
4. To ensure that brick from the former kiln is retained and used in the development.
5. To ensure potential biodiversity interests are safeguarded.

**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) 01B, 02A, 03, 04 and Supporting Documents.
3. The applicant shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

Monday to Friday	08:00 - 19:00 Hours
Saturday	08:00 - 13:00 Hours
Sunday / Bank Holidays	No noise audible at site boundary

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

4. For advice in relation to biodiversity interests during construction, you can contact Scottish Natural Heritage on 01786 450362 or email [enquiries@snh.gov.uk](mailto:enquiries@snh.gov.uk).

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**Director of Development Services**

**Date: 15 January 2018**

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan.
2. Scottish Planning Policy 2014.

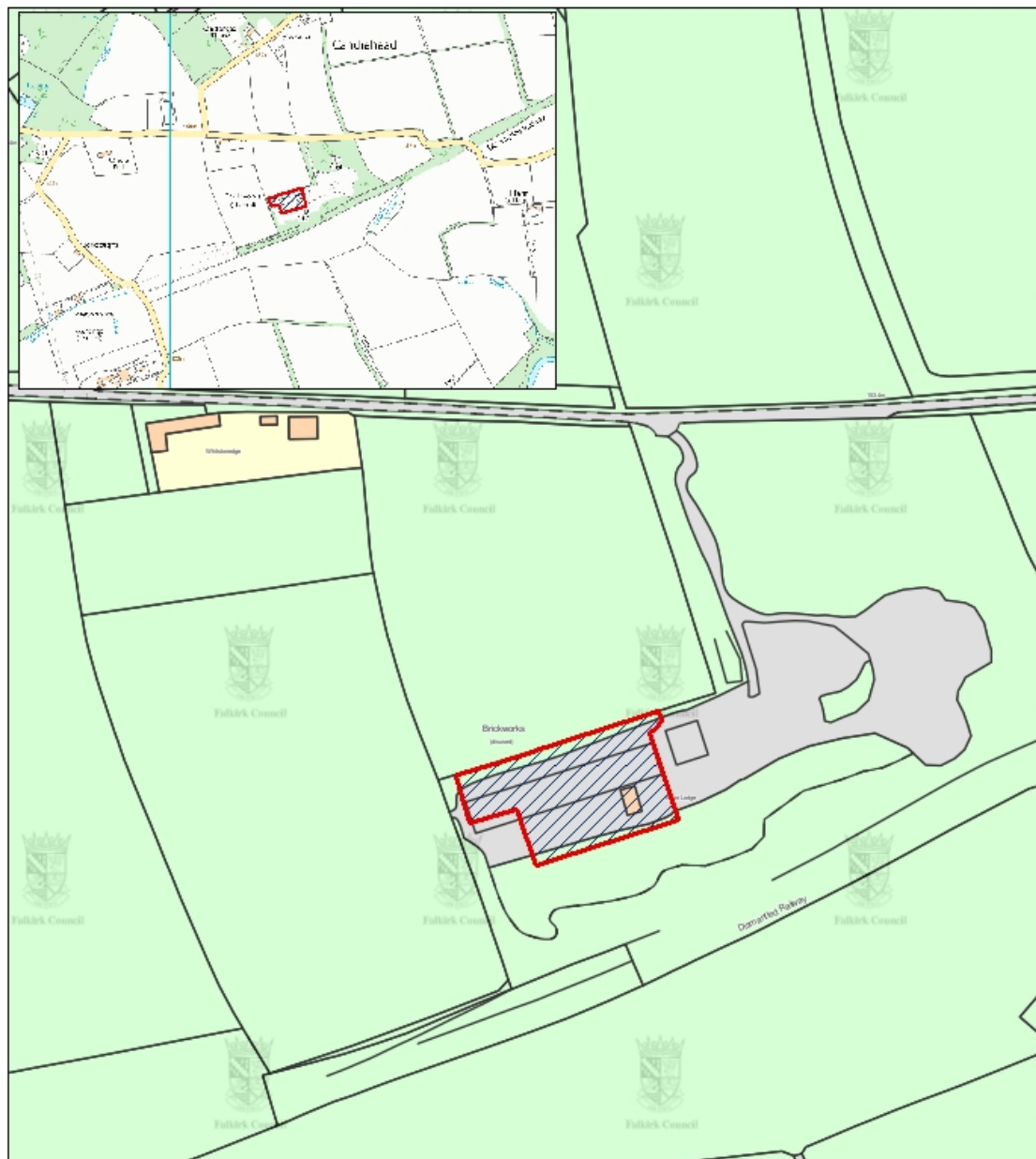
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/17/0490/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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