

# **AGENDA ITEM**

**12**

**Erection of 43 Social Houses  
including all Associated Roads,  
Footpaths and Services at Land to  
the West of Falkirk High School,  
Blinkbonny Road, Falkirk, for Falkirk  
Council – P/17/0715/CPL**

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**FALKIRK COUNCIL**

**Subject:** ERECTION OF 43 SOCIAL HOUSES INCLUDING ALL ASSOCIATED ROADS, FOOTPATHS AND SERVICES AT LAND TO THE WEST OF FALKIRK HIGH SCHOOL, BLINKBONNY ROAD, FALKIRK, FOR FALKIRK COUNCIL - P/17/0715/CPL

**Meeting:** PLANNING COMMITTEE

**Date:** 24 January 2018

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South  
Councillor Lorna Binnie  
Councillor John Patrick  
Councillor Pat Reid

**Community Council:** None

**Case Officer:** Katherine Chorley (Planning Officer), Ext. 4704

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

- 1.1 The applicant seeks confirmation that an application for planning permission is not required for the proposed development of 43 dwellings including 19 x 2 bed houses, 10 x 3 bed houses, 2 x 4 bed houses, 8 x 2 bed flats and 4 x 1 bed flats. The Town and Country (General Permitted Development Procedure) (Scotland) Order 1992 (As Amended) states that an application for planning permission will not be required for works for the erection of dwellings, so long as those works conform to an adopted local development plan and are works carried out by a Local Authority. The following report details an assessment of the proposal against the relevant policies in the Falkirk Local Development Plan.
- 1.2 The application site consists of an area of brownfield land in Falkirk. The site used to be occupied by a school and its associated infrastructure. The school was demolished some time ago. A replacement school was constructed to the rear of the application site, leaving this land vacant. The site is accessed from Blinkbonny Road and is surrounded by a mix of uses including residential, educational and a small element of commercial. There are a mix of property types in the area, with older properties to the West and South and a more recent housing development to the North. The site itself has an area of hard surfacing with few other features. It is somewhat overgrown with a low brick wall fronting Blinkbonny Road.

- 1.3 The application has been made on behalf of Falkirk Council Corporate and Housing Services who propose the construction of 43 affordable units on the site. The Housing Need and Demand Assessment for Falkirk area predicts that households will increase by 12% between 2012 and 2037. Household sizes are predicted to fall by 5% over the same period. It is estimated that over the period 2016/17 to 2020/21 there will be a need for 519 affordable properties in the Falkirk sub area. Extensive Housing Site Design Feasibility Studies have been undertaken to identify suitable sites for Council built affordable social housing. Of the sites assessed, this site was considered the most suitable for development in this area.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to the Planning Committee by Councillor Reid as a result of 'complaints from residents regarding the lack of consultation on the part of the applicant – and re the certification as a lawful permitted development'. Councillor Reid confirmed he would not be requesting a site visit.

## **3. SITE HISTORY**

- 3.1 Planning permission was granted on the 1<sup>st</sup> November 2006 under reference 06/0651/FUL to demolish the secondary school, erect a new secondary school with associated landscaping, car parking, playing fields, fencing, electrical substation, bin store, CCTV cameras, external lighting, synthetic pitch floodlighting, signage and temporary classroom/storage units.
- 3.2 Prior to the above application, two outline planning applications were granted for the erection of the school and the development of land for housing. The references for these are provided below.

|                             |            |  |
|-----------------------------|------------|--|
| F/2004/0991 Outline Granted | 28.02.2006 | Erection of School                       |
| F/2004/1022 Outline Granted | 21.12.2004 | Development of Land for Housing Purposes |

## **4. CONSULTATIONS**

- 4.1 The Coal Authority have no objections to the proposals.
- 4.2 Scottish Water have no objections to the proposals but cannot reserve capacity at their facilities to accommodate development.
- 4.3 Falkirk Council's Transport and Planning Unit do not object to the proposals but require a commuted payment of £27,000 to A803 corridor improvement works.
- 4.4 Falkirk Council's Roads Development Unit do not object to the proposals.
- 4.5 Falkirk Council's Childrens Services advise that a commuted payment will be required to address nursery education facility provision. This will amount to;-

£700/house & £300/flat (1 bedroom flats are excluded) = £24,100 for 43 units

- 4.6 The Environmental Health Unit do not anticipate any noise or air quality issues associated with the development.

## **5. COMMUNITY COUNCIL**

- 5.1 There is no active community council in this area.

## **6. PUBLIC REPRESENTATION**

- 6.1 The application is for a certificate of proposed lawful development. The legislation does not make provision for the public to make comment on these applications. The proposal must be assessed purely on the basis of compliance with the Local Development Plan and cannot include other material considerations. There is no obligation under the legislation which requires the applicants to submit this application. Nevertheless, Corporate and Housing Services have submitted the application and prior to this they carried out an extensive consultation process. This is their standard consultation procedure which they carry out prior to submitting any formal scheme for consideration, including other applications for certificates which have been determined in the same manner.
- 6.2 A public consultation event was organised in Camelon Housing office on Thursday 29th June 2017 from 09:00 until 16:30 with council officers in attendance. Prior to the consultation, a letter was sent to all affected households adjacent to the site, using the same criteria as a formal planning application. During the consultation, drawings of the site layout plan; typical block plans and elevations were presented. Feedback forms were distributed to all visitors and a total of 28 comments were received regarding the development. Of the feedback received 86% were fully supportive of the scheme. In addition to the consultation, a number of face to face meetings took place between various Falkirk Council officers, Local Members and some local residents. Planning officers also met with a number of residents and further meetings were offered to the residents but were not taken up.

## **7. DETAILED APPRAISAL**

Section 151(1) of the Town and Country Planning (Scotland) 1997 Act enables anyone (not just the landowner or a person with an interest in the land) to apply to the planning authority for a decision on whether a specified proposed use or operational development, would be lawful for planning purposes. Part 12, Class 33(a) of The Town and Country (General Permitted Development Procedure) (Scotland) Order 1992 (As Amended) states that an application for planning permission will not be required for works for the erection of dwellings, so long as those works conform to an adopted local development plan and are works carried out by a Local Authority. The following report details an assessment of the proposal against the relevant policies in the Falkirk Local Development Plan.

Accordingly,

### **7a The Development Plan**

- 7a.1 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 policies:

7a.2 Policy HSG01 – ‘Housing Growth’ states: -

*The layout, design and density of the new housing development should conform with any relevant site-specific design guidance, Supplementary Guidance SG02 'Neighbourhood Design' and the Scottish Government's policy on 'Designing Streets'. Indicative site capacities in the site schedules may be exceeded where a detailed layout demonstrates that a high quality design solution, which delivers the requisite level of residential amenity, has been achieved.*

- 7a.3 Policy HSG01 of the Local Development Plan (LDP) sets out specific sites (through the site schedule) where new housing will be promoted. The site is allocated through the site schedule as H29. The site comments advise that the site has an indicative site capacity of 30 units. It is an existing supply site which is part of the former Falkirk High School site. In addition, there are general comments on development which are set out in the community schools planning brief. The site is being assessed for Council new build, however if this were not the case there would be a 15% affordable housing requirement. Developer contributions towards the A803 corridor improvements would be required.
- 7a.4 The Community Schools Planning Brief was produced at a time when a number of school sites were being redeveloped by the Council. It included a brief statement about the potential future development on the remainder of the Falkirk High School site. Given the age of this document and that it is not Supplementary Guidance, although a material consideration, it carries little weight in the assessment of the proposal. The document recommended two possible development sites. It encouraged two storey detached or semi-detached properties, frontages to Blinkbonny Road and adherence to building lines to the North. Materials were to include render, masonry, slate or a grey tile. Amenity space was to be provided on site and a 3 metre wide footway along the frontage. Sustainable urban drainage was to be provided on site or linked with the schools provision. In addition adequate space was to be provided for bin and recycling storage. The proposed development complies with the general thrust of this document, picking up many of the recommendations.
- 7a.5 The scheme would be for 43 houses which is 13 above the indicative site capacity provided in Appendix 1 of the LDP. The associated text advises that housing capacity is based on planning permission or masterplans where available. Otherwise they are based on broad assessments of site capacity based on standard residential densities. It specifically states that figures are indicative and may be exceeded where a detailed masterplan demonstrates that this can be achieved whilst achieving a high quality design solution and the requisite level of residential amenity. It is considered that a high quality design solution has been provided and the suitable residential amenity created/retained. These issues are considered in more detail, later in the report.
- 7a.6 In addition to this, there is an acknowledged shortfall in the effective housing land supply and the Council will consider supporting sustainable development proposals that are effective. The application is for development on a brownfield site and is in a sustainable location. The additional units on this site would make a small positive contribution to the shortfall in effective land supply. The development complies with policy HSG01.
- 7a.7 The applicants have confirmed that they will make a contribution towards the A803 corridor improvement works and this is discussed in more detail below.
- 7a.8 The proposed development is considered to comply with the principles of policy HSG01.

7a.9 Policy HSG02 – ‘Affordable Housing’: -

*New housing developments of 20 units and over will be required to provide a proportion of the units as affordable or special needs housing as set out in Figure 5.1[of the LDP]. The approach to provision should comply with Supplementary Guidance SG12 ‘Affordable Housing’.*

7a.10 Policy HSG02 requires new housing development of 20 units and over, to contribute to affordable or social needs housing. The entirety of the site will be used for social housing and therefore makes a positive contribution to the demand for affordable housing. The proposal complies with policy HSG02.

7a.11 Policy HSG04 – ‘Housing Design’ states: -

*The layout, design and density of the new housing development should conform with any relevant site-specific design guidance, Supplementary Guidance SG02 ‘Neighbourhood Design’ and the Scottish Government’s policy on ‘Designing Streets’. Indicative site capacities in the site schedules may be exceeded where a detailed layout demonstrates that a high quality design solution, which delivers the requisite level of residential amenity, has been achieved.*

7a.12 Policy HSG04 requires that the layout, design and density of new development complies with supplementary guidance SG02 – Neighbourhood Design and Scottish Government policy on Designing Streets. The proposal complies with the principles of Designing Streets, there are a mix of surface materials and the streets have been designed to give pedestrians priority. There are windows on gable elevations where these face on to streets and they generally have dual frontage designs.

7a.13 The development includes a recreational ground measuring approximately 700m<sup>2</sup> in the centre of the site. It would face directly on to Blinkbonny Road and provide a positive landscaped space for the wider residential area. There are a variety of dwelling types in the local area, including detached, flats, semi-detached and terraces. The site itself is a mix of terraced houses, semi-detached and flats, which is appropriate in the context. The buildings themselves have an appropriate design theme. The proposed roof materials are grey, which is not uncommon in this area. The elevations would be a mix of render, replica stone (a mix of limestone, cement and other aggregates) and cement weatherboard feature walls. Where there are boundaries directly fronting on to the street these are finished with walls rather than fencing. The development would generally be in character with the newer housing development to the North. This is appropriate given its proximity to this existing development.

7a.14 The development would be in an appropriate location, being adjacent to other residential properties and within walking distance of local amenities and transport links. It would have an appropriate density for the size of the site and accommodates a large and attractive area of recreation space.

7a.15 The amenity of the occupants of the new dwellings would be acceptable. The gardens would all be adequate in size, with the larger units having larger gardens. All properties have sufficient space for sitting out, hanging washing and the storage of bins.

- 7a.16 There are a number of properties opposite the frontage of the site, these are a sufficient distance away and would not be impacted in terms of loss of light or a reduction in privacy. Block 9 would back on to the properties in Fordyce Gardens. The back to back distances would be a minimum of 19.5m at first floor level. This would be sufficient to prevent an unacceptable level of overlooking between properties or a loss of light. The ground floors are slightly closer, with existing conservatories and extensions at Fordyce Gardens. Due to the existing boundary fences and the change in levels (the application site being lower than Fordyce Gardens) there would be no significant impact on neighbouring properties. There is one property in Fordyce Gardens which has a large two storey rear extension. The new development has been designed to ensure that there are no houses backing on to this property, which may potentially have had a reduced back to back distance.
- 7a.17 Block 1 sits in-line with the front elevation of number 2 Fordyce Gardens. It would be slightly longer than number 2 however it would not be so significant that there would be an impact on the level of daylight or sunlight reaching this property. Due to the layout of the properties it is not considered that there would be an increase in overlooking of habitable rooms at existing neighbouring dwellings.
- 7a.18 The site sits lower than the properties in Fordyce Gardens which is of additional benefit to the residents of these existing properties. There is also a secure walkway between the two developments which would reduce the potential for future issues with boundary maintenance.
- 7a.19 The drawing notes show that all bathroom windows are to be obscure glazed.
- 7a.20 The dwellings within the site generally have back to back distances which are acceptable. The side elevations of blocks 1 and 2 and blocks 3 and 4 are slightly closer than the standard. However the development significantly benefits from having windows on these side elevations, in design terms. Given the presence of a 1.5m high boundary wall along the side of this property the impact would not be significant. The first floor window lights a hallway and not a habitable room. A similar situation exists between blocks 1/3 and 2/1. The second window in the kitchen/dining room of 2/1 and 1/3 both sit behind 1.5m high boundary walls and the opportunity for overlooking would be limited to an acceptable level. The windows in the living rooms of these properties are corner windows, which wrap around to the front and the occupants would be directed towards the larger part of the window which is on the frontage rather than the side. At first floor level the same situation applies to the corner windows in bedroom 3. There are hallway windows directly opposite each other, but as these would not be habitable, the impact would be limited. The side windows in to bedroom 2 of each of these properties sit opposite each other. One of these windows could be obscure glazed, high level or removed, as it is a secondary window in to the habitable space. However this would seem excessive, given the design benefits of having windows on the side elevations which front a street.
- 7a.21 There would be no overlooking issues between these properties. There are adequate distances between habitable room windows elsewhere and adequate levels of light are attained throughout the site.
- 7a.22 The site is in a sustainable location, within walking distance of shops and amenities and bus links. Physical infrastructure and flooding issues are discussed in further detail below.

7a.23 The scale, density, disposition and design of the proposed dwellings respects the townscape character. Adequate garden ground would be provided for each unit and adequate privacy would be provided for the new residents and retained for nearby residents. The proposal complies with policy HSG04.

7a.24 Policy INF02 – ‘Developer Contributions to Community Infrastructure’ states: -

*Developers will be required to contribute towards the provision, upgrading and maintenance of community infrastructure where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The nature and scale of developer contributions will be determined by the following factors:*

1. *Specific requirements identified against proposals in the LDP or in development briefs;*
2. *In respect of open space, recreational, education and healthcare provision, the general requirements set out in Policies INF04, INF05 and INF06;*
3. *In respect of physical infrastructure any requirements to ensure that the development meets sustainability criteria;*
4. *In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
5. *Where a planning obligation is the intended mechanism for securing contributions, the principles contained in Circular 3/2012.*

*In applying the policy, consideration of the overall viability of the development will be taken into account in setting the timing and phasing of payments.*

7a.25 Developers are required to contribute towards the provision, upgrading and maintenance of community infrastructure where development would create or exacerbate deficiencies or place increased burdens on existing infrastructure.

7a.26 The developers have agreed to pay a contribution of £70,707 to open space provision in the area. The development would not have a detrimental impact on healthcare or community facilities. Education contributions would be required for £24,100 and a contribution of £27,000 for A803 corridor improvement works would also be necessary. The proposal complies with policy INF02.

7a.27 Policy INF04 – ‘Open Space and New Residential Development’ states: -

*Proposals for residential development of greater than 3 units will be required to contribute to open space and play provision. Provision should be informed by the Council's open space audit, and accord with the Open Space Strategy and the Supplementary Guidance SG13 on 'Open Space and New Development', based on the following principles:*

1. *New open space should be well designed; appropriately located; functionally sized and suitably diverse to meet different recreational needs in accordance with criteria set out in Supplementary Guidance SG13 'Open Space and New Development'.*

2. Where appropriate, financial contributions to off-site provision, upgrading, and maintenance may be sought as a full or partial alternative to direct on-site provision. The circumstances under which financial contributions will be sought and the mechanism for determining the required financial contribution is set out in Supplementary Guidance SG13 'Open Space and New Development'.
3. Arrangements must be made for the appropriate management and maintenance of new open space.

7a.28 No open space of a size which would comply with the requirements of policy INF04 and its associated SG is provided on site. As such a contribution has been agreed to open space of £70,707. This is in accordance with policy INF04 and the associated supplementary guidance SG13 – Open Space and New Development. The proposal complies with this policy.

7a.29 Policy INF05 – ‘Education and New Housing Development’ states: -

*Where there is insufficient capacity within the catchment school(s) to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one, the basis of which is set out in Supplementary Guidance SG10 'Education and New Housing Development'. Where proposed development impacts adversely on Council nursery provision, the resourcing of improvements is also addressed through the Supplementary Guidance.*

*In circumstances where a school cannot be improved physically and in a manner consistent with the Council's education policies, the development will not be permitted.*

7a.30 Policy INF05 requires contributions from developers where capacity issues exist or would be created in catchment areas associated with the site. The latest roll projections for St Mungo’s High School confirms capacity risks are reducing and existing agreements are sufficient for what is required. Nursery provision requirements are changing and so to accommodate the additional burden a contribution to nursery provision has been agreed at £24,100 (8 flats x £300 and 31 houses x £700 with one bedroom flats being excluded).

7a.31 Policy INF06 – ‘Healthcare and New Housing Development’ states: -

*In locations where there is a deficiency in the provision of health care facilities identified by NHS Forth Valley, developer contributions will be sought to improve the quantity and quality of such provision commensurate with the impact of the new development. The approach to the improvement of primary healthcare provision will be set out in Supplementary Guidance SG11 'Healthcare and New Housing Development'.*

7a.32 Policy INF06 requires contributions from developers where capacity issues exist or would be created in areas where there is a deficiency in the provision of healthcare facilities. No capacity issues are expected as a result of the development. The proposal complies with this policy.

7a.33 Policy INF07 – ‘Walking and Cycling’ states: -

1. *The Council will safeguard and promote the development of the core path network. Where appropriate, developer contributions to the implementation of the network will be sought.*
2. *New development will be required to provide an appropriate standard of pedestrian and cycle infrastructure, including cycle parking, which complies with current Council guidelines and meets the following criteria:*
  - *Where appropriate, infrastructure supporting the two modes of walking and cycling should be combined and support objectives in agreed Travel Plans helping to support active travel;*
  - *Pedestrian and cycle facilities in new developments should offer appropriate links to existing networks in surrounding areas, in particular to facilitate school journeys and provide connections to public transport, as well as links to other amenities and community facilities;*
  - *The surfacing, lighting, design, maintenance and location of pedestrian and cycle routes should promote their safe use. Particular emphasis should be given to the provision of suitable lighting, and the provision of suitably designed and located crossing facilities where routes meet the public road network;*
  - *Where practical, no pedestrian route should be obstructed by features that render it unsuitable for the mobility impaired.*

7a.34 Policy INF07 requires that new developments provide an appropriate standard of pedestrian and cycle infrastructure, including cycle provision. The gardens are large enough to accommodate cycle parking and there are good pedestrian links to other areas. Cycle parking facilities for general use are proposed at the recreation ground. The proposal complies with this policy.

7a.35 Policy INF08 – ‘Bus Travel and New Development’ states:-

1. *New development will be required to provide appropriate levels of bus infrastructure or suitable links to existing bus stops or services, as identified within travel plans, taking account of the 400m maximum walking distance required by SPP. This provision will be delivered through direct funding of infrastructure and/ or the provision of sums to support the delivery of bus services serving the development.*
2. *Bus infrastructure should be provided at locations and to phasing agreed with the Council, and designed in accordance with the standards set out in current Council guidelines.*
3. *New development, where appropriate, should incorporate routes suitable for the provision of bus services. Bus facilities within new developments should offer appropriate links to existing pedestrian networks in surrounding areas. Alternatively, new development should be linked to existing bus infrastructure via pedestrian links as described in Policy INF07.*

7a.36 The site is in a sustainable location within walking distance of regular bus routes. Additional infrastructure provision is therefore not necessary. The development complies with this policy.

7a.37 Policy INF10 – ‘Transport Assessments’ states: -

1. *The Council will require transport assessments of developments where the impact of the development on the transport network is likely to result in a significant increase in the number of trips, and is considered likely to require mitigation. The scope of transport assessments will be agreed with the Council and in the case of impact on trunk roads, also with Transport Scotland.*
2. *Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development. The assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over use of the car.*
3. *The Council will only support development proposals where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified.*

7a.38 The development requires the submission or a travel plan, due to its scale. The assessment has been reviewed and is considered acceptable. New occupants will be provided with travel packs.

7a.39 Policy INF11 – ‘Parking’ states: -

*The Council will manage parking provision as an integral part of wider transport planning policy to ensure that road traffic reduction, public transport, walking, cycling and safety objectives are met.*

1. *The scale of public parking provision in Falkirk Town Centre will be maintained broadly at its current level and any proposed change to parking provision will be assessed against its effect on the vitality and viability of the centre.*
2. *The feasibility of promoting Park and Ride facilities on the road corridors into Falkirk Town Centre will continue to be investigated.*
3. *Parking in District and Local Centres will be managed to promote sustainable travel and the role of the centres.*
4. *New parking will be provided to support the strategic role of railway stations, with priority given to new provision at Falkirk High. Where possible, the provision of new off street parking facilities will be associated with traffic management and other measures to reduce uncontrolled on-street parking.*
5. *The maximum parking standards set out in the SPP will be applied to new development, where relevant, in tandem with the Council's minimum standards. Where the minimum standards cannot be met, developer contributions to enhance travel plan resources may be required in compensation.*

7a.40 Policy INF11 requires that adequate parking be provided on site. The proposal complies with the minimum parking standards set out in the National Roads Design Guidance. Adequate tenant and visitor parking is proposed on site. The development complies with this policy.

7a.41 Policy INF12 – ‘Water and Drainage Infrastructure’ states: -

1. *New development will only be permitted if necessary sewerage infrastructure is adopted by Scottish Water or alternative maintenance arrangements are acceptable to SEPA.*
2. *Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation.*
3. *A drainage strategy, as set out in PAN61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment.*

7a.42 Scottish Water confirmed that sufficient infrastructure exists to accommodate the development within their network. The drainage details have been assessed and are considered acceptable. The proposal complies with policy INF12.

7a.43 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).*
1. *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.*
2. *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.*

3. *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.44 The policy advises that the Council will protect and enhance habitats and species of importance and will promote amongst other things, biodiversity. A phase I habitat survey was not considered necessary in this case given the limited potential of the site to accommodate protected species. The proposal would comply with the requirements of the policy and associated supplementary guidance, SG05 – Biodiversity and Development.

7a.45 Policy GN04 – ‘Trees, Woodland and Hedgerows’ states: -

*The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

1. *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
2. *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
3. *Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development', including the preparation where appropriate of a Tree Survey, Constraints Plan, and Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
4. *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare and implement an appropriate Management Plan; and*

5. *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.*

7a.46 There are no trees of value on the site. However new planting is proposed and this consists of native species, in accordance with part 5 of this policy. The proposal complies with policy GN04.

#### 7a.47 Policy D02 - Sustainable Design Principles

*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.48 New development is required to achieve a high standard of design quality and compliance with the principles of sustainable development. There are no built or cultural heritage features or landscape features worthy of retention on the site. The design, accessibility of the site, and infrastructure demands have been discussed elsewhere and are considered acceptable. Climate change and resource use are dealt with below. The public areas would be retained by the Council and managed by them. The proposal complies with policy D02.

7a.49 Policy D03 – ‘Urban Design’ states: -

*New development should create attractive and safe places for people to live, work and visit. Accordingly:*

1. *Development proposals should conform with any relevant development framework, brief or masterplan covering the site. Residential proposals should conform with Supplementary Guidance SG02 ‘Neighbourhood Design’;*
2. *The siting, density and design of new development should create a coherent structure of streets, public spaces and buildings which respects and complements the site’s context, and creates a sense of identity within the development;*
3. *Street layout and design should generally conform with the Scottish Government’s policy document ‘Designing Streets’;*
4. *Streets and public spaces should have buildings fronting them or, where this is not possible, a high quality architectural or landscape treatment;*
5. *Development proposals should include landscaping and green infrastructure which enhances, structures and unifies the development, assists integration with its surroundings, and contributes, where appropriate, to the wider green network;*
6. *Development proposals should create a safe and secure environment for all users through the provision of high levels of natural surveillance for access routes and public spaces; and*
7. *Major development proposals should make provision for public art in the design of buildings and the public realm.*

7a.50 The design has been considered in detail above. The proposal is acceptable in design terms and will sit comfortably with its surroundings. The proposal complies with the principles of designing streets, and landscaped areas are incorporated in to the design. It would have high levels of natural surveillance with all areas being overlooked. The streets would have buildings fronting on to them and where appropriate, dual aspect frontages are proposed. The development is acceptable in design terms and complies with policy D03.

7a.51 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.52 Policy D04 requires that all new buildings should incorporate on-site low and zero carbon generating technologies. Applicants must demonstrate through an Energy Statement that 10% of the overall reduction in CO<sub>2</sub> emissions will be achieved by on-site low and zero carbon generating technologies. The applicants have confirmed that photovoltaic panels are to be used and the development will comply with the policy. The energy statement confirms that the 10% reduction can be achieved.

7a.53 Policy RW06 – ‘Flooding’ states: -

1. *Development on the functional flood plain should be avoided. In areas where there is significant risk of flooding from any source (including flooding up to and including a 0.5% (1 in 200 year) flood event), development proposals will be assessed against advice and the Flood Risk Framework in the SPP. There will be a presumption against new development which would:*
  - *be likely to be at risk of flooding;*
  - *increase the level of risk of flooding for existing development; or*
  - *result in a use more vulnerable to flooding or with a larger footprint than any previous development on site.*

2. *Development proposals on land identified as being at risk from flooding, or where other available information suggests there may be a risk, will be required to provide a flood risk assessment that demonstrates that:*
  - *any flood risks can be adequately managed both within and outwith the site;*
  - *an adequate allowance for climate change and freeboard has been built into the flood risk assessment;*
  - *access and egress can be provided to the site which is free of flood risk; and*
  - *water resistant materials and forms of construction will be utilised where appropriate.*
3. *Where suitably robust evidence suggests that land contributes or has the potential to contribute towards sustainable flood management measures development will only be permitted where the land's sustainable flood management function can be safeguarded.*

7a.54 The development would not be negatively impacted by flooding, or have an impact on flooding elsewhere in the area. The proposal complies with the requirements of policy RW06.

7a.55 Policy RW09 – ‘Waste Reduction in New Development’ states: -

*All new development (including residential, commercial, business and industrial uses) should seek to minimise the production of construction waste and seek to recycle as much waste as possible, in accordance with the Zero Waste Plan. Proposals should:*

1. *Identify the amount of construction waste to be produced and recycled;*
2. *Identify what measures are proposed to reduce the production of construction waste and to maximise the use of recycled materials on site;*
3. *Include appropriate provision for the collection and storage of waste and recyclable materials, including composting facilities.*
4. *Locate communal recycling facilities in an accessible and convenient location.*

7a.56 It is in the applicant’s interest to prevent as much waste going to landfill as possible. Sufficient areas have been provided for the storage of waste and recyclable materials. As such the development complies with the principles of waste reduction in new development and policy RW09.

7a.57 Policy RW10 – ‘Vacant, Derelict Unstable and Contaminated Land’ states: -

*Proposals that reduce the incidence of vacant, derelict, unstable and contaminated land will be supported, subject to compliance with other LDP policies, particularly those relating to development in the countryside. Where proposals involve the development of unstable or contaminated land, they will only be permitted where appropriate remediation or mitigation measures have been undertaken.*

7a.58 The proposal would reduce the level of vacant, contaminated land within the council area and this is a positive outcome. The proposed development complies with policy RW10.

7a.59 Accordingly, the proposals are considered to accord with Development Plan policies.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the status of the site in terms of the Falkirk Local Development Plan, reflection of the application in terms of Supplementary Planning Guidance, and the points raised by consultees.

### ***Points raised by consultees***

7b.2 There are no objections to the proposals raised through consultation. Conditions cannot be imposed on a certificate of proposed lawful development. However, a number of informatics are recommended which cover the points raised during consideration of the application.

## **7c Conclusion**

7c.1 The proposed development has been assessed against the relevant policies in the Local Development Plan and associated Supplementary Planning Guidance. The development complies with the Local Development Plan and as such it is recommended that the application for a certificate of proposed lawful development be granted.

## **8. RECOMMENDATION**

**8.1 It is recommended that Committee agree that a Certificate of Lawfulness be issued for the following reason(s):-**

- 1. The proposed development complies with Part 12, Class 33(a) of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 as Amended, in that the works for the erection of dwellings conform to the Falkirk Local Development Plan 2015.**

### **Informative(s):-**

- 1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03A, 04A, 05A, 06, 07A, 08, 09A, 10, 11, 12, 13, 14, 15, 16, 17 and 18.**
- 2. For the avoidance of doubt the development must be carried out in accordance with all of the supporting documents and plans submitted as part of the application.**
- 3. All windows marked with obscure glazed should be constructed as such and retained thereafter as obscure glazed.**

- 4. The applicant shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:**

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

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

- 5. A developer contribution of £27,000 shall be paid towards A803 Corridor Improvement Works.**

**A developer contribution of £70,707 shall be paid towards Open Space Improvement Works.**

**A developer contribution of £24,100 shall be paid towards Nursery Provision.**

**All contributions are to be paid in accordance with a timetable to be agreed by the applicant and Local Planning Authority, prior to commencement of development on site.**

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**Director of Development Services**

**Date: 15 January 2018**

**LIST OF BACKGROUND PAPERS**

- 1. Falkirk Local Development Plan.**

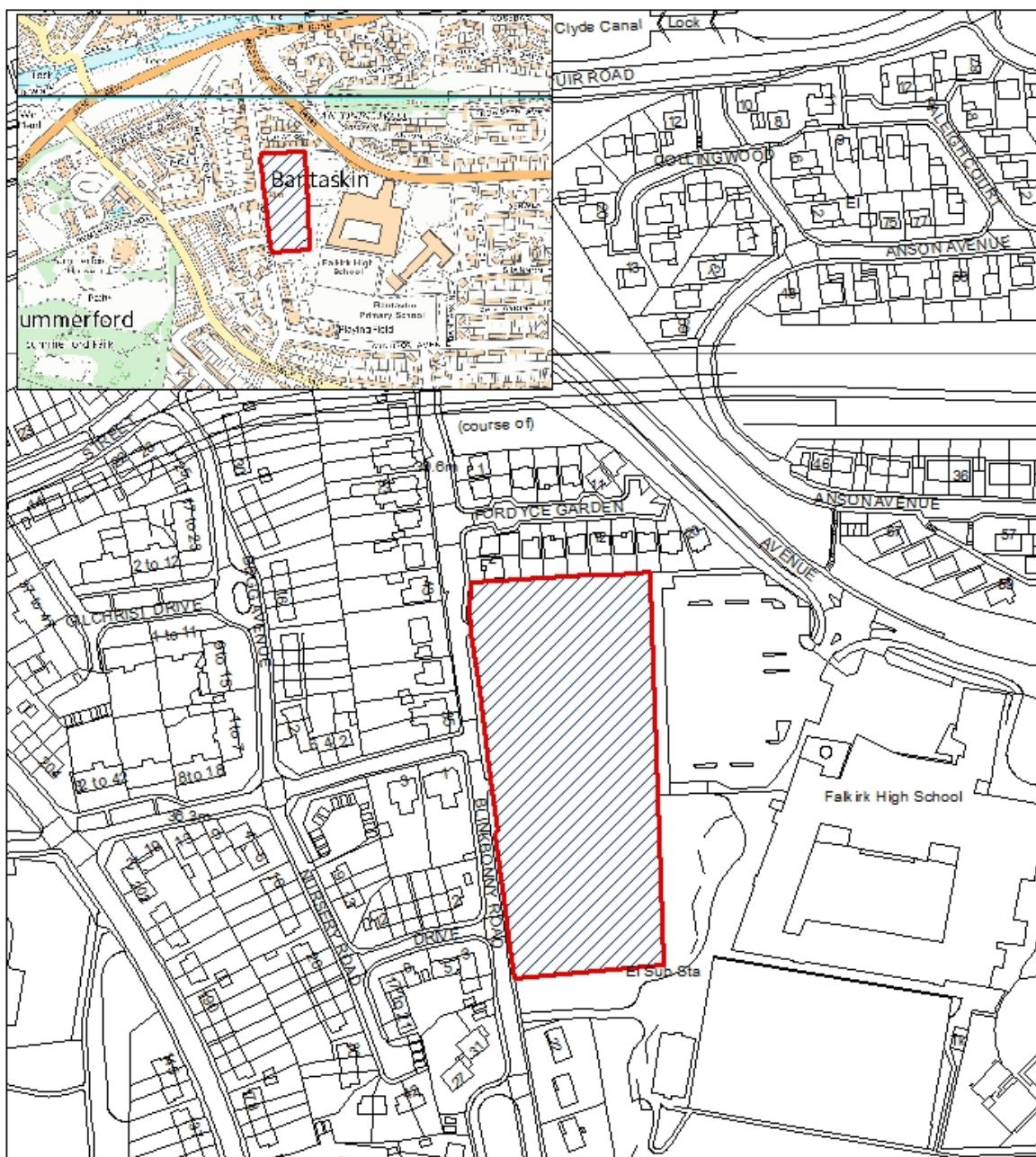
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Katherine Chorley, Planning Officer.

# Planning Committee

## Planning Application Location Plan

P/17/0715/CPL

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



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