



Agenda Item 9

**SUBSTITUTION OF HOUSE TYPES
AND AMENDMENT OF LAYOUT
(AMENDMENT TO PLANNING
PERMISSION P/12/0546/FUL) AT LAND
TO THE SOUTH OF MYDUB FARM,
GLASGOW ROAD, DENNY FOR
AVANT HOMES (SCOTLAND) LTD -
P/18/0025/FUL**

FALKIRK COUNCIL

Subject: SUBSTITUTION OF HOUSE TYPES AND AMENDMENT OF LAYOUT (AMENDMENT TO PLANNING PERMISSION P/12/0546/FUL) AT LAND TO THE SOUTH OF MYDUB FARM, GLASGOW ROAD, DENNY FOR AVANT HOMES (SCOTLAND) LTD - P/18/0025/FUL
Meeting: PLANNING COMMITTEE
Date: 15 August 2018
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 The application site forms part of the Mydub residential development, currently under construction under the terms of planning permission P/12/0546/FUL, at the east side of Glasgow Road, Denny, and at the north side of the Denny Eastern Access Road, which is partially developed.
- 1.2 The application site forms the area of the site which accommodated the affordable housing element of the development approved under P/12/0546/FUL. It is noted that the Section 75 Obligation under P/12/0546/FUL has been modified under the terms of planning permission P/17/0356/75M to secure the removal of the requirement to provide 46 affordable housing units in lieu of payment of an affordable housing commuted sum of £805,000.
- 1.3 This application proposes to amend the layout of the residential development to provide mainstream housing at the affordable housing plots. The proposed development consists of a mix of detached, semi-detached and terraced two, three and four bedroom housing units. The number of units at the site would increase from the original 46 affordable units to 49 mainstream units.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 This application requires consideration by the Planning Committee as the proposed development relates directly to application P/18/0223/75M to modify the Section 75 Obligation attached to planning permission P/12/0546/FUL. Application P/18/0223/75M requires consideration by the Planning Committee and is also on this Planning Committee agenda.

3. SITE HISTORY

- 3.1 Planning application P/12/0546/FUL for 307 new homes (including 46 affordable homes) and Denny Eastern Access Road (DEAR), including provision of greenspace, sustainable urban drainage and associated infrastructure was granted on 12 May 2015.
- 3.2 Planning application P/16/0633/FUL for the erection of 78 dwellinghouses (amendment to planning permission P/12/0546/FUL) was granted on 4 May 2017.
- 3.3 Planning application P/17/0356/75M for the 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 was granted on 16 August 2017.
- 3.4 Planning application P/18/0223/75M to modify the Section 75 Obligation attached to planning permission P/12/0546/FUL, detailed above, to provide a mechanism which allows the contribution amounts payable to reflect the final number of consented units on site is a current application (see section 2.1 of this report).

4. CONSULTATIONS

- 4.1 The Roads Development Unit has raised no objections and has advised that no conditions need be attached.
- 4.2 The Environmental Protection Unit has advised that contamination, construction noise and dust can be addressed by means of informatives. No air quality issues raised.
- 4.3 Children's Services advise that the proposed development would generate a developer contribution towards provision of education services, which should accord with Supplementary Guidance SG10 'Education and New Housing Development'. The appropriate level of development contribution would be:-

- £2,600 per additional unit towards education services at Denny Primary School
- £2,100 per additional unit towards education services at Denny High School
- £350 per additional unit towards nursery provision

Total contribution would be £15,150.

- 4.4 The Transport Planning Unit has advised that the proposed development would generate an additional developer contribution towards the delivery of Denny Eastern Access Road (DEAR) of £9,703.

- 4.5 Corporate and Housing Services has advised that the proposed development would generate an affordable housing requirement of 0.45 units and that a proportionate development contribution should be sought. The appropriate level of contribution would be £17,500 per unit. The level of contribution generated by the proposed development is £7,875.
- 4.6 Scottish Water has advised that there is capacity in the water network at this time to accommodate the proposed development.

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

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 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.2 The proposed development forms part of the wider Mydub residential development currently under construction under the terms of planning permission P/12/0546/FUL, as amended by subsequent permissions detailed in section 3 of this report. The wider Mydub residential development site is identified in the Falkirk Local Development Plan as an opportunity for housing development, H15 'Mydub 1'. The proposed development accords with housing opportunity H15.
- 7a.3 The proposed development also has an impact on the delivery of the Denny Eastern Access Road (DEAR) identified in the Falkirk Local Development Plan as an opportunity to develop and improve infrastructure, INF14 'Denny Eastern Access Road'. The proposed development accords with infrastructure opportunity INF14.

7a.4 Policy HSG01 - 'Housing Growth' states:-

1. *The Council will aim to achieve an average housing growth of 675 dwellings per year across the Council area over the Plan period, and will ensure that a five year effective land supply is maintained;*
2. *The Council will monitor and update the effective housing land supply figures annually to make sure that a minimum five year supply is maintained at all times. If this Housing Land Audit process identifies a shortfall in the effective land supply, the Council will consider supporting sustainable development proposals that are effective, in the following order of preference:*
 - Urban Capacity sites
 - Additional brownfield sites
 - Sustainable greenfield sites*In doing so, account will be taken of other local development plan policies and of any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.*
3. *The overall scale of housing allocations in each settlement area to meet the target level of growth, including flexibility, will be as shown in Figure 3.1.*
4. *The specific sites where new housing will be promoted are listed in the Settlement Statements, and detailed in the Site Schedule in Appendix 1.*
5. *The locations for most significant growth are identified as Strategic Growth Areas (SGAs). Within these areas, the preparation of development frameworks, masterplans and briefs, as appropriate, and the co-ordination of social and physical infrastructure provision, will be a particular priority. Site requirements are set out in Appendix 2.*

7a.5 Policy HSG01 details the aim of the Council in terms of housing growth. Housing opportunity sites identified in the Falkirk Local Development Plan reflect the envisaged housing growth. It is noted that the wider Mydub residential development is an identified housing opportunity site. The proposed development accords with policy HSG01.

7a.6 Policy HSG02 - 'Affordable Housing' states:-

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. The approach to provision should comply with Supplementary Guidance SG12 "Affordable Housing".

Figure 5.1 Affordable Housing Requirements in Settlement Areas

Proportion of total site units required to be affordable

Larbert/Stenhousemuir, Polmont Area, Rural North and Rural South - 25%

Bo'ness, Bonnybridge/Banknock, Denny, Falkirk and Grangemouth - 15%

7a.7 The proposed development would generate three residential units in addition to the number of residential units currently approved. This would generate an affordable housing requirement of 0.45 units. At a rate of £17,500 per unit, the proposed development would generate a financial developer contribution of £7,875. The applicant has agreed to meet the appropriate contribution to be secured by means of an appropriate legal obligation. The proposal accords with policy HSG02.

7a.8 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.9 The proposed development would respect the wider Mydub residential development currently under construction under the terms of planning permission P/12/0546/FUL as amended by permission detailed in section 3 of this report. The proposal respects the wider development in terms of layout, density and design. The proposed layout incorporates traffic calming and placemaking elements in accordance with Scottish Government Policy 'Designing Streets'. The proposal accords with Policy HSG04.

7a.10 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.11 It is noted that Children's Services has advised that the proposed development would generate a developer contribution towards the provision of education services at Denny Primary School, Denny High School and nursery provision as detailed in section 4.3 of this report. The applicant has agreed to meet the appropriate financial developer contribution subject to the conclusion of an appropriate planning obligation. The proposal accords with policy INF05.

7a.12 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.13 The proposed development generates a requirement for financial developer contributions towards the provision of education services, affordable housing and delivery of DEAR. The applicant has agreed to meet the required contributions by means of the conclusion of an appropriate planning obligation. The proposed development accords with policy INF02.

7a.14 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.15 The proposed development respects the wider Mydub residential development currently under construction. The proposal would respect the wider site in terms of the form, location and extent of open space areas across the wider residential development. The proposal accords with policy INF04.

7a.16 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.17 The proposed development is satisfactory in terms of water and drainage infrastructure. The proposal would integrate with the wider residential development in this regard. The proposal accords with policy INF12.

7a.18 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 CO₂ 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.19 The proposed development is supported by an Energy Statement which details measures to be taken to reduce carbon emissions. These measures include photovoltaic energy generating solar panels. It is considered that performance details can be secured by condition. The proposal accords with policy D04.

Supplementary Guidance Forming Part of the Development Plan

- 7a.20 The application accords with guidance contained in SG12 'Affordable Housing', SG02 'Neighbourhood Design', SG10 'Education and New Housing Development', SG13 'Open Space and New Development', SG15 'Low and Zero Carbon Development' and 'Delivery of Denny Eastern Access Road (DEAR)'.
- 7a.21 Accordingly, the proposed development accords with the Falkirk Local Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be assessed are consultation responses, planning application P/18/0223/75M and Circular 3/2012 : 'Planning Obligations and Good Neighbour Agreements'.

Consultation Responses

- 7b.2 No objections have been raised by consultees. Any issues raised can be addressed by means of conditions or informatives. Furthermore, appropriate financial developer contributions advised by Corporate and Housing Services, Children's Services and the Transport Planning Unit can be secured by means of an appropriate planning obligation.

Planning Application P/18/0223/75M

- 7b.3 It is noted that there is a current planning application P/18/0223/75M, which will also be considered by the Planning Committee on 15 August 2018, to modify the Section 75 Planning Obligation attached to planning permission P/12/0546/FUL relating to the wider Mydub residential development and DEAR. The Section 75 Obligation has been modified previously as detailed in section 3.3 of this report. The purpose of application P/18/0224/75M is to modify the Section 75 Obligation to provide a mechanism which allows the payment of developer contributions, and the amounts payable, notwithstanding any contributions already paid or scheduled, to reflect the final number of consented housing units prior to the completion of the 275th housing unit. Such a modification would secure an arrangement which addresses any further amendment to the layout notwithstanding any developer contributions already paid or scheduled, without modification to the Section 75 Obligation for each individual amendment. It is considered that the proposed modification would be a suitable arrangement to secure the financial developer contributions advised by Corporate and Housing Services, Children's Services and the Transport Planning Unit. It is noted that Corporate and Housing Services, Children's Services and the Transport Planning Unit have not objected to planning application P/18/0223/75M.

Circular 3/2012 'Planning Obligations and Good Neighbour Agreements'

7b.4 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).

The developer contributions advised by Corporate and Housing Services, Children's Services and the Transport Planning Unit meet the tests of Circular 3/2012. The proposal accords with the terms of Circular 3/2012 'Planning Obligations and Good Neighbour Agreements'.

7c Conclusion

7c.1 The proposed development accords with the Falkirk Local Development Plan.

7c.2 In terms of layout, design, open space provision and infrastructure, the proposal to amend the approved development and build 3 additional dwellinghouses integrates satisfactorily with the wider Mydub residential development approved by planning permission P/12/0546/FUL.

7c.3 The developer contributions advised by Corporate and Housing Services, Children's Services and the Transport Planning Unit accord with Circular 3/2012 'Planning Obligations and Good Neighbour Agreements'. The contributions can be secured by modification of the existing planning obligation, as proposed in application P/18/0223/75M.

8. RECOMMENDATION

8.1 **It is recommended that the Planning Committee indicate that it is minded to grant planning permission subject to approval of the modification to the Section 75 Obligation attached to planning permission P/12/0546/FUL as proposed by planning application P/18/0223/75M. The approval of the modification would satisfactorily secure:-**

- A developer contribution towards education provision at Denny Primary School, Denny High School and Nursery Provision;
- A developer contribution towards affordable housing; and
- A developer contribution towards the delivery of the Denny Eastern access Road (DEAR).

8.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission subject to the following condition(s) and informative(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. Notwithstanding any details previously submitted, no dwellinghouse shall be occupied until such time as the following documents have been submitted to, and approved in writing by, the Planning Authority:-
 - (i) A copy of the appropriate sustainability label (at least Bronze Active); and
 - (ii) A statement of conformity which confirms that 10% of the required CO₂ emissions reduction is achieved through the installation of low and zero carbon generating technologies. Details and timescales of how this is to be achieved, including details of physical works on site, shall be submitted to, and approved in writing by, the Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Planning Authority.
3. Notwithstanding any details previously submitted, development shall not commence on site until such time as details of external finishes in respect of the proposed residential development have been submitted to, and approved in writing by, the Planning Authority.
4. Notwithstanding any details previously submitted, work shall not commence on site until such time as landscaping details, a planting schedule and a maintenance schedule have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt, the planting schedule shall include details of:-
 - Siting, numbers, species and heights (at time of planting) of all trees and shrubs to be planted;
 - Centre spacing; and

- A monitoring and maintenance schedule detailing proposed aftercare and replacement of planting which becomes damaged, or fails to become established, over a 5 year period following completion of planting. Thereafter, the planning shall be completed by the end of the first planting season following.

For the avoidance of doubt, the planting season shall be considered to run from April to September inclusively.

Reason(s):-

1. As these drawings and details constitute the approved development.
2. To ensure that 10% of carbon reduction is achieved by low and zero carbon generating technologies.
- 3-4. In the interests of visual amenity.

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02-40, 41B, 42B and 43A.
2. In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.
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. It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.

e-mail - envhealth@falkirk.gov.uk

5. 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.

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pp Director of Development Services

Date: 7 August 2018

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. Supplementary Guidance SG12 'Affordable Housing'.
3. Supplementary Guidance SG02 'Neighbourhood Design'.
4. Supplementary Guidance SG10 'Education and New Housing Development'.
5. Supplementary Guidance SG13 'Open Space and New Development'.
6. Supplementary Guidance SG15 'Low and Zero Carbon Development'.
7. Supplementary Guidance 'Delivery of Denny Eastern Access Road (DEAR)'.

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/18/0025/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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