



Agenda Item 5

**ERECTION OF DWELLINGHOUSE
(AMENDMENT TO HOUSE TYPE
P/16/0707/FUL, PLOT 3) AND
ASSOCIATED INFRASTRUCTURE AT
LAND TO THE SOUTH OF 1 - 2
LIVINGSTONE RISE, GLEN BRAE,
FALKIRK FOR MRS JENNA HUDSEN -
P/18/0659/FUL**

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE (AMENDMENT TO HOUSE TYPE P/16/0707/FUL, PLOT 3) AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE SOUTH OF 1 - 2 LIVINGSTONE RISE, GLEN BRAE, FALKIRK FOR MRS JENNA HUDSEN - P/18/0659/FUL

Meeting: PLANNING COMMITTEE

Date: 20 February 2019

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk South

Councillor Lorna Binnie

Councillor John Patrick

Councillor Pat Reid

Community Council: None

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the erection of a dwellinghouse at Livingstone Rise, Falkirk. The site is located in the countryside between the settlement of Hallglen and a development of 2 large detached houses at the top of Glen Brae.
- 1.2 The application relates to an amendment to house type on plot 3 of P/16/0707/FUL, which related to the erection of 3 detached dwellinghouses to the rear of 1 and 2 Livingstone Rise. The proposed development is a contemporary 2-storey detached dwellinghouse and would take access from the existing access off the Glen Brae.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Committee as it is proposed to grant the planning application contrary to the Local Development Plan.

3. SITE HISTORY

- 3.1 There are a number of historic planning applications relating to 1 and 2 Livingstone Rise to the north of the application site as follows:
 - F/93/0737 - Development of Land for Housing Purposes (Outline) - granted on 6 January 1994.
 - F/2004/0510 - Erection of Dwellinghouse - refused on 24 August 2004.

- F/2005/0214 - Erection of Dwellinghouse - refused on 10 August 2005.
- P/07/0195/OUT - Erection of Dwellinghouse - granted on 4 September 2007.
- P/07/0196/OUT - Erection of Dwellinghouse - granted on 4 September 2007.
- P/08/0718/FUL - Erection of 2 No. Dwellinghouses - application returned on 4 September 2008.
- P/10/0243/MS - Erection of 2 Dwellinghouses (Matters Specified in Conditions Application Following Outline Planning Permission P/07/0195/OUT and P/07/0196/OUT) - granted on 10 September 2010.

3.2 Planning permission P/16/0707/FUL for the erection of 3 dwellinghouses, on land which includes the application site, was refused on 3 March 2017. A review of the decision was requested on 13 March 2017 and the application was subsequently granted by the Local Review Committee on 11 January 2018. This application relates to the amendment of house type on plot 3.

4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit has not objected to the application.
- 4.2 The Council's Environmental Protection Unit has not objected to the proposed development and recommends a planning condition in relation to ground contamination.
- 4.3 Scottish Water has not objected to the proposed development.
- 4.4 The Coal Authority have not objected to the proposed development. They refer to the Consultation response for P/16/0707/FUL, where they had no objection.

5. COMMUNITY COUNCIL

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

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 6 letters of objection were submitted to the Council. The grounds of representation can be summarised as follows:
- Planning was refused on this land. The application is contrary to policies CG01 'Countryside' and CG03 'Housing in the Countryside' and Supplementary Guidance SG01 'Development in the Countryside' of the Falkirk Local Development Plan;
 - The proposal would overshadow houses to the south of the site and impact the outlook and residential amenity of neighbouring properties;
 - The proposal represents backland development and is an overdevelopment of the plot; and

- Concerns in relation to safety during the construction phase of development.

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.

7a.2 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.3 The application is located in the countryside as identified in the Local Development Plan. Policy CG01 'Countryside' advises that the proposed development should be assessed in relation to policy CG03 'Housing in the Countryside' and Supplementary Guidance SG01 'Development in the Countryside'.

7a.4 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.5 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 proposed development does not fit any of the relevant criteria where housing development is acceptable in the countryside. The application is contrary to policy CG03 'Housing in the Countryside'.

7a.6 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.

7a.7 There are no natural or built heritage features which require to be identified, conserved, enhanced and integrated into the development. Whilst it is accepted that the proposed development would be of a higher design standard than the approved house type for the plot, the principle of housing development on the site would not respond positively and sympathetically to the site's surroundings, noting the countryside location and dominant position at the top of Glen Brae. The application is contrary to policy D02 'Sustainable Design Principles'.

7a.8 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.9 There are no development briefs or masterplans of relevance to the site. The siting, density and design of the new development would not create a coherent street structure, noting that the proposed development is an unacceptable form of tandem development and the house would not front a public street or space. The proposed development would not accord with the Scottish Government's policy document 'Designing Streets'. The application is contrary to policy D03 'Urban Design'.

7a.10 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.11 The applicant has not submitted an energy statement to support the application. It is considered reasonable to request on-site low and zero carbon-generating technologies by planning condition, in accordance with policy D04 'Low and Zero Carbon Development'.

Supplementary Guidance Forming Part of Local Development Plan

7a.12 The application is contrary to SG01 'Development in the Countryside', as it does not constitute any of the criteria where the development of housing in the countryside is considered acceptable. The site does not constitute infill development as the site is on the edge of an existing village, where the edge of the settlement has already been defined, the proposal constitutes backland development and the scale, density and design of the proposed housing does not respond to local distinctiveness, contrary to SG01.

7a.13 The applicant has not submitted an energy statement, in accordance with SG15 'Low and Zero Carbon Development', however, it is considered reasonable to request by condition in accordance with SG15 'Low and Zero Carbon Development'.

7a.14 Accordingly, the application is contrary to the Falkirk Local Development Plan.

7b Material Considerations

- 7b.1 The material consideration to be assessed are the assessment of National Planning Policy, the assessment of public representations, the Proposed Falkirk Local Development Plan 2 and the planning history for the site.

National Planning Policies and Guidance

- 7b.2 Scottish Planning Policy (2014) (SPP) advises that an up-to-date Development Plans take primacy over SPP. In this instance the Falkirk Local Development Plan is up-to-date and as such the application should be assessed in accordance with its policies, with SPP as a material planning consideration.
- 7b.3 The Falkirk Council area is an accessible or pressured rural area, where there is a danger of unsustainable growth in long-distance car-based commuting and suburbanisation of the countryside. SPP supports a more restrictive approach to new housing development within such areas and it is noted that the relevant rural policies guide new development to locations within settlements and sets out circumstances in which new housing out with settlements may be appropriate.
- 7b.4 Policy CG03 clearly sets out the circumstances where housing in the countryside will be accepted in accordance with SPP. The application is not supported by the Falkirk Local Development Plan or SPP.

Assessment of Public Representations

- 7b.5 It is acknowledged that planning permission was refused on the site. However, the Local Review Committee overturned the decision on appeal. It is accepted that the application does not accord with the Local Development Plan.
- 7b.6 The applicant has submitted a site section and daylight study which demonstrates that the proposal would not significantly overshadow houses adjacent to the application site, particularly to the south.
- 7b.7 It is accepted that the proposal represents a form of backland development. The proposed house has a similar footprint to that granted planning permission and on this basis is not considered to be an overdevelopment of the plot
- 7b.8 Concerns in relation to safety during the construction phase of development, could be adequately managed on site by the developer and in isolation would not justify refusal of the application.

Proposed Falkirk Local Development Plan 2

- 7b.9 The Proposed Falkirk Local Development Plan 2 (LDP2) has been approved by the Council for consultation. The consultation period runs from 27 September 2018 to 23 November 2018. Following consideration by Scottish Ministers of representations received it is expected that LDP2 will be adopted in 2020, at which point it will replace the current Falkirk Local Development Plan. LDP2 provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.10 There are no changes to policy in the emerging LDP2 which would affect the assessment of this application.

The Planning History for the Site

- 7b.11 The Local Review Committee overturned the refusal of planning permission on the site and granted planning permission for a detached 2-storey dwellinghouse on 11 January 2018. The Local Review Committee were of the view that the proposed development, whilst not being in accordance with the Development Plan, would not have an unacceptable loss of privacy to adjacent residents. The Local Review Committee also considered the sites, relationship with existing development as appropriate. Planning permission P/16/0707/FUL is extant and can be implemented. The granting of planning permission establishes the principle of the development of the application site for a dwellinghouse and on this basis it is considered that the planning history of the site justifies the proposed development, although it is contrary to the Local Development Plan.
- 7b.12 The proposed house is 2-storey, of contemporary design with a similar footprint, scale, massing and design to that granted planning permission. The proposed amendment to house type is considered acceptable, within the context of the approved house type for the site. It will not have an adverse impact on loss of privacy, overshadowing on neighbouring properties.

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. It is considered that the site history (noting the recent local review decision to grant planning permission for a similar sized house on the site) justifies the proposed development, contrary to 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. (i) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.**

(ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning

Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

- (iii) Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.**
 - (iv) 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 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 CO₂ 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.**
- 4. The first floor windows on the north elevation of each dwellinghouse shall be obscure glazed before occupation and thereafter shall be retained as obscure glazed windows for the lifetime of the development.**

Reason(s):-

- 1. As these drawings and details constitute the approved development.**
- 2. To ensure the ground is suitable.**
- 3. To ensure the development achieves the required CO₂ emission reduction as a result of development.**
- 4. To safeguard the privacy of occupants of adjacent properties.**

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) 01A, 02B, 03B, 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.

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Director of Development Services

Date: 11 February 2019

LIST OF BACKGROUND PAPER

1. Falkirk Local Development Plan.
2. Proposed Falkirk Local Development Plan 2.
3. Scottish Planning Policy 2014.
4. Objection received from Mr Craig Hamilton, 15 Tanera Court, Hallglen, Falkirk, FK1 2PQ on 25 November 2018.
5. Objection received from Mr Ryan Wood, 17 Tanera Court, Hallglen, FK1 2PQ on 16 November 2018.
6. Objection received from Miss Terri Carlin, 17 Tanera Court, Hallglen, Hallglen, FK1 2PQ on 16 November 2018.
7. Objection received from Mrs Samantha Hamilton, 15 Tanera Court, Hallglen, Hallglen Falkirk, FK1 2PQ on 25 November 2018.
8. Objection received from Mr Kevin Conroy, 13 Tanera Court, Falkirk, FK1 2PQ on 17 November 2018.
9. Objection received from Mrs Senga Barber, 17 Tanera Court, Falkirk, FK1 2PQ on 1 December 2018.

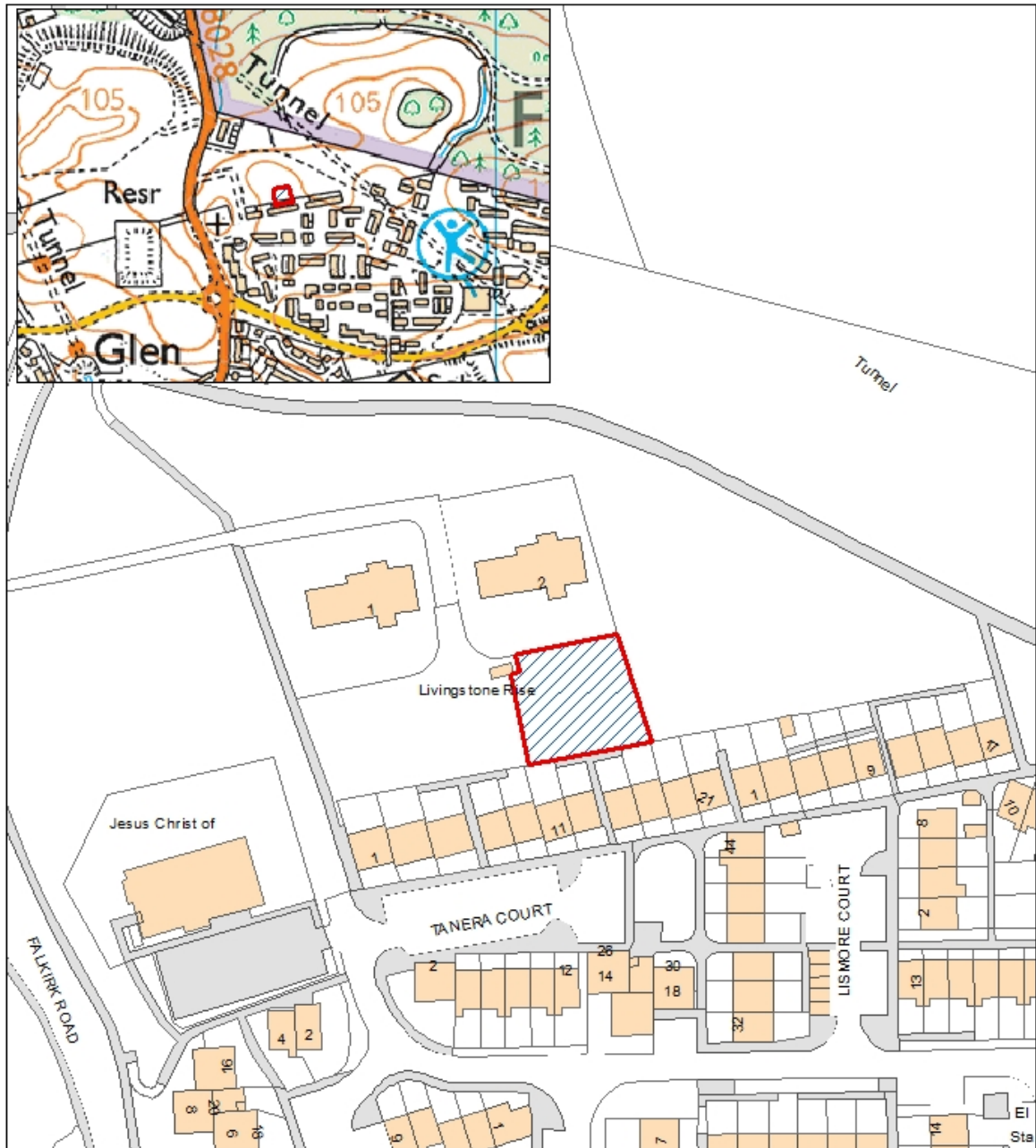
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/18/0659/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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