



## **Agenda Item 5**

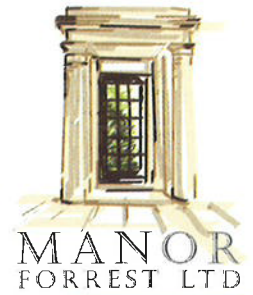
**Planning Application P/18/0151/PPP –  
Land to the North of 41 Kings Seat  
Place, Glendevon Drive, Maddiston**

# List of Enclosures for Item 5

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### **List of Enclosures – Agenda Item 5**

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|---|--------------------------|
| <b>1. Minute of Meeting of the Planning Review Committee on 29 November 2018.</b>   | <b>See agenda Item 4</b> |
| <br><b>2. Applicant Additional Submission dated 18 December 2018</b>  |                          |
| <br><b>3. <u>Important Note</u>: - the previous papers on this item were submitted to the meeting of the Planning Review Committee on 29 November 2018. These papers are available to view on the Falkirk Council website at:-</b>  |                          |
| <br><a href="http://www.falkirk.gov.uk/services/council-democracy/councillors-decision-making/committees/committee.aspx?committee=225&amp;t=1">http://www.falkirk.gov.uk/services/council-democracy/councillors-decision-making/committees/committee.aspx?committee=225&amp;t=1</a> |                          |



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Date: 18<sup>th</sup> December 2018

Ref: FCS/mlrb

Dear Mr Frawley

**Local Planning Review Committee – Planning Application  
P/18/0151/PPP – Land to the North of 41 Kings Seat Place,  
Glendevon Drive, Maddiston**

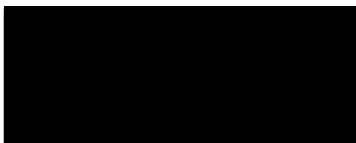
I refer to your letter of the 6<sup>th</sup> December confirming the Local Planning Review Committee's intention to allow the applicant further opportunity to submit information in relation to the above application.

Please find attached a copy of supporting information which includes;

- 1) Supporting statement
- 2) Aerial photograph of the Maddiston area
- 3) Notice of Intention, Planning and Environments Division, PPA -240-225

Should you require further information, please do not hesitate to contact me.

Yours sincerely,



Fiona Stewart

Director

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**PLANNING APPLICATION P/18/0151/PPP – DEVELOPMENT OF LAND FOR RESIDENTIAL USE WITH ASSOCIATED ACCESS LAND TO THE NORTH OF 41 KINGS SEAT PLACE, GLENDEVON DRIVE, MADDISTON**

The Planning Review Committee has afforded the applicant further time to submit additional information following a request by the applicant.

This request is in light of a recent decision by a Reporter, appointed by the Scottish Ministers concerning a planning application in the Falkirk area – the Intention of the decision is attached for ease of information.

Further information is also submitted in respect of the Falkirk Council's Proposed Local Development Plan 2.

**Appeal Notice of Intention, Planning Appeal Reference PPA-240-225**

**Land to the north of Loch View, Stirling Road, Larbert – Planning Permission in Principle P/17/0623/PPP**

This decision overturned the Council's refusal for an application in the Countryside of a similar scale and size to the application in front of the Local Review Body. To summarise the Reporter's decision it identified;

- a) Significant shortfall in the Council's 5-year housing land supply of 400 units or thereby
- b) Presumption in favour of Greenfield development in the countryside, subject to meeting the tests of sustainability.

This decision is material to this application not only in terms of its size (the application site is less than 50 units);

'granting planning permission for a relatively modest development of some 60 dwellings would be of a scale that would prejudice the preparation of the proposed replacement local development plan', para 7, pg 2

.. but in recognising that the Council needs to support alternative sites outwith its LDP allocations; most notably Greenfield sites as

'potential candidates for residential development to address a shortfall', para 5, pg 2

This application unlike many of the Council's existing and proposed allocations is deliverable in the short term with crucial infrastructure already in place by way of a distributor road and associated roundabouts and drainage – 'infrastructure led development' being the key to the Scottish Government's new Planning Bill.

**Falkirk Council, Proposed Local Development Plan 2**

This plan which has still to be ratified has already identified a short fall in housing supply beyond 2020. Its relevance to this application is in terms of the Council's spatial strategy and what it considers to be sustainable.

The attached aerial photograph can help 'place' the application site (A) in terms of the wider Maddiston Area, together with the insert of the extract Maddiston East Strategic Masterplan from LDP2, pg 79, superimposed to the left of the photograph.

From the photograph, allocations in LDP2 marked H18 and H15 and shown on the insert plan, would seem to have been promoted in isolation, offering no logical or defensible urban expansion. H15 as previously pointed out is reliant on a future access from the application site which relies on a 'co-ordinated access strategy'.

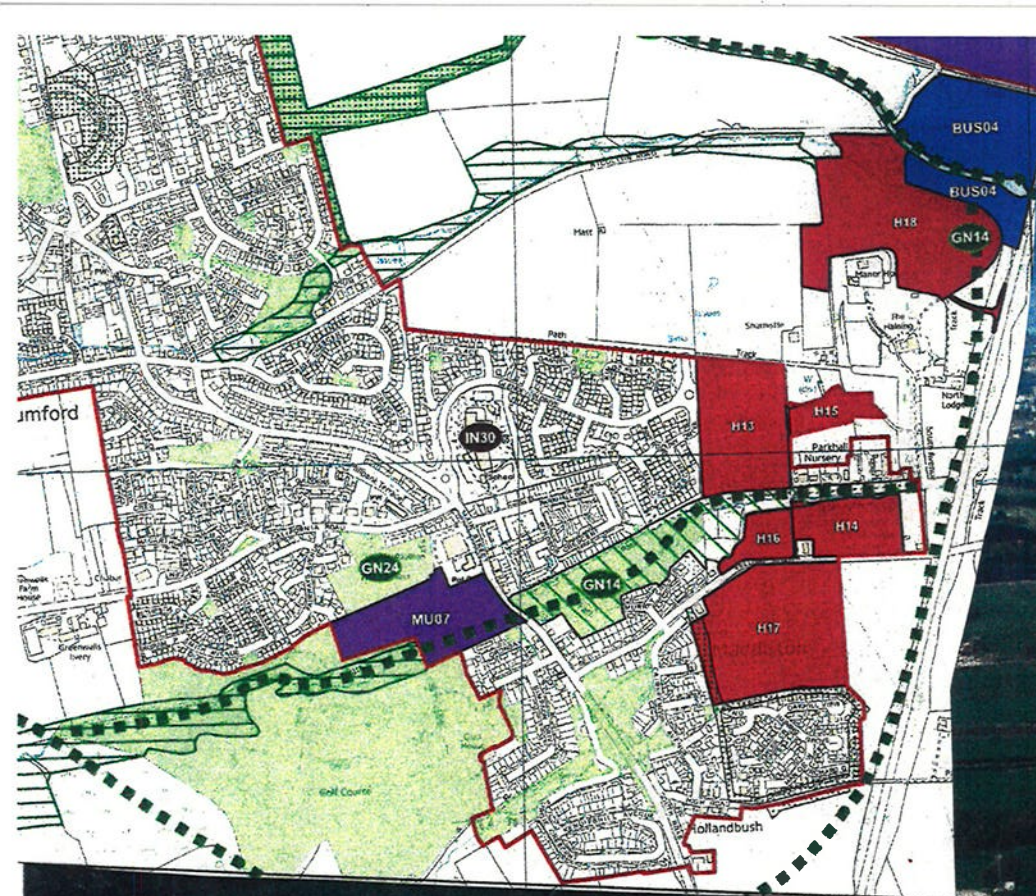
H18 doesn't offer any explanation in terms of sustainability with no means of connectivity to the Maddiston area without a link road from the A801 to the roundabout from the application site. This will be delivered by a phased development approach which will evolve as the LDP2 progresses.

The delivery of the application site in light of the presumption in favour of sustainable green field sites is key to help the Council address its immediate shortfall in effective housing land supply as well as address its ability to deliver its longer term housing allocations in the Maddiston area.

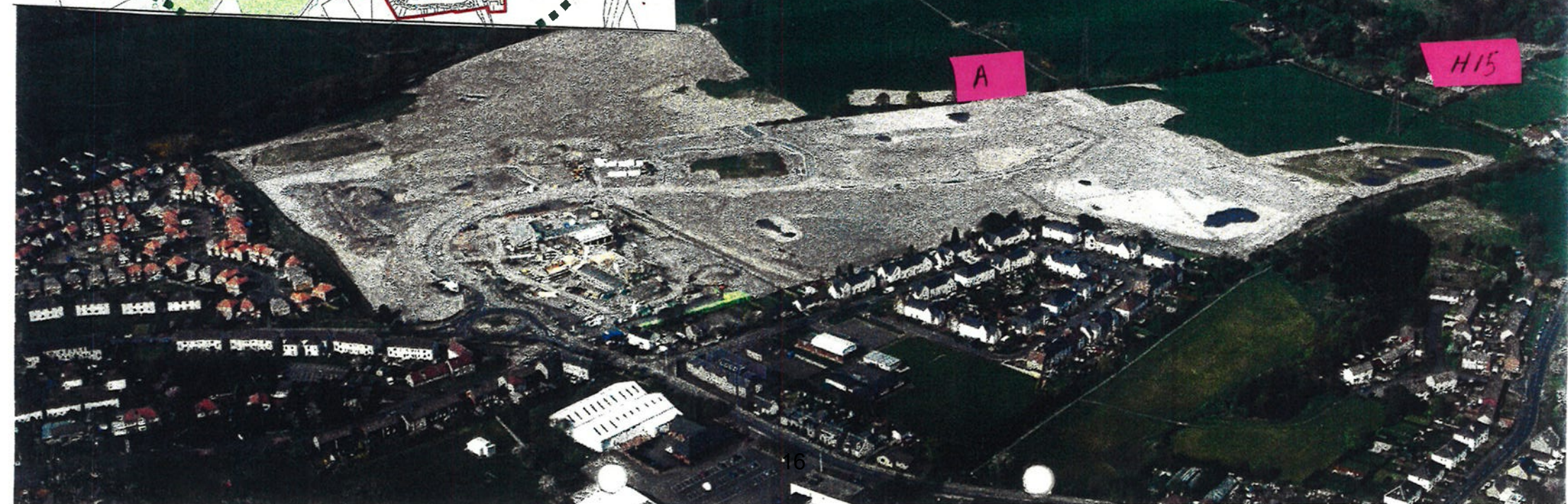
#### **TO SUMMARISE**

- 1) There is presumption in favour of Greenfield sites of a scale and size of the application site, to address the significant shortfall in the housing land supply
- 2) The application site is sustainable, deliverable in the short term and will not impact the Councils preferred LDP allocations
- 3) The development of this site will unlock the overall allocations for the Council in terms of LDP2.
- 4) The recent allocations within the emerging LDP2 identify the application site as an infill site, providing a more logical and defensible expansion.





MARNISTOWN





**Appeal: Notice of Intention**

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- Notice of Intention by Rob Huntley, a Reporter appointed by the Scottish Ministers
  - Planning appeal reference: PPA-240-2055
  - Site address: Land to the north of Loch View, Stirling Road, Larbert FK5 4NE
  - Appeal by Gladman Developments Ltd, WP Pollock, AP Pollock and AP Pollock against the decision by Falkirk Council
  - Application P/17/0632/PPP for planning permission in principle dated 5 October 2017 refused by notice dated 8 March 2018
  - The development proposed: residential development, access, landscaping, open space and associated works
  - Application drawing: Site Location plan SO25-FA02.002
  - Date of site visit by Reporter: 27 September 2018

Date of notice: 6 December 2018

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## Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the conditions listed in the schedule at the end of this notice, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraphs 31 to 36.

## Preliminary matter

1. At application stage, a screening request was made to the council under the provisions of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. In its letter dated 26 September 2017 the council confirmed its adoption of a screening opinion that the proposal would not be EIA development for the purposes of the EIA Regulations. I have no reason to come to any different conclusion on that matter.

## Reasoning

2. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the area consists of the Falkirk Local Development Plan 2015, together with its associated supplementary guidance. The listed Larbert House and stables and Larbert Old Church lie some 400 metres to the west and south of the proposed residential development, respectively. Although the development proposed would have no physical effect on these listed buildings, section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 Act requires me to have special regard to the desirability of preserving their settings.



3. Taking account of the development plan and the council's reasons for refusal, the main issues in this appeal are;

- a) The principle of the development bearing in mind the acknowledged shortfall in the supply of land for new housing, the provisions of local development plan policy HSG01 and the criteria in paragraph 29 of Scottish Planning Policy;
- b) Whether the proposed development would have a harmful relationship with the nearby Forth Valley Royal Hospital or undermine the Green Network locally; and
- c) Whether the development would preserve the settings of the nearby listed Larbert House and Stables and Larbert Old Church.

4. The appeal site lies outside the development limits defined in the Falkirk Local Development Plan and is not amongst the sites specifically identified for residential development in that plan. As a consequence, the appeal proposal would amount to development in the countryside and would thereby, in principle, be in conflict with local development plan policies CG01 (Countryside) and CG03 (Housing in the Countryside). These policies, read together, are not supportive of new homes in the countryside except in limited circumstances, none of which arise in this appeal. There would also be conflict, the council says, with policy GN01 (Green Network), which seeks the integration of green infrastructure into development or enabling green network improvements on nearby land.

#### Housing land supply

5. Local development plan policy HSG01 seeks an annual average rate of housing growth of 675 units over the period of the plan from 2014 to 2034. The policy provides that, consistent with Scottish Planning Policy, a minimum 5-year supply of effective housing land is to be maintained at all times, and that monitoring is to be undertaken to keep the position under review. Where a shortfall is revealed through the housing land audit process, item 2 of policy HSG01 provides that consideration is to be given to supporting sustainable development of other sites, with priority given to what are described as urban capacity and brownfield sites over sustainable greenfield sites. The policy's inclusion of greenfield sites, as potential candidates for residential development to address a shortfall, carries with it an acknowledgement that such circumstances could justify the provisions of policies CG01 and CG03 being overridden.

6. It is common ground between the council and the appellants that there is a shortfall in the land available to enable the requirement for housing development provided in the local development plan to be met. The 2016/17 Housing Land Audit, which was current at the date of the council's decision on the application, identified a shortfall in the 5-year effective housing land supply amounting to 760 units. Against the 675 dwelling annual policy requirement I consider that this is a significant shortfall.

7. I requested the council to provide further information on any steps being taken to address the identified shortfall. In its response, the council commented that the 2017/18 audit confirms that a shortfall in the 5-year effective housing land supply remains, but that this had reduced somewhat to 482 units at the base date of that later audit. It also explained that it has commenced a review of the local development plan which, taking account of the results of an updated Housing Needs and Demand Assessment, may provide a lower requirement for housing development. However, the intended replacement local development plan is to cover the period from 2020 and is not likely to be adopted until summer 2020. The adopted local development plan 2015 remains in force and it is this plan which provides the context for my decision on this appeal. It would not be appropriate,

nor I consider legitimate, for me to anticipate what the future development plan position may be. Nor do I consider that granting planning permission for a relatively modest development of some 60 dwellings would be of a scale that would prejudice the preparation of the proposed replacement local development plan.

8. The council explains that action is being taken, through commitments to the provision of infrastructure, to seek to accelerate the delivery of sites where development had stalled. Such steps are no doubt appropriate, but would not result in new sites being brought forward for development, as part 2 of policy HSG01 envisages. The council also points to a range of windfall sites which it says could come forward over the next 2 to 3 years. The council does not claim that these are certain all to come forward, but even if they were to do so, they would deliver around 300 dwellings, significantly less than the shortfall of 482 units revealed in the 2017/18 audit.

9. Notwithstanding the steps being taken, I find that a significant shortfall in the 5-year supply of effective housing land remains. Part 2 of policy HSG01 establishes the mechanism for this to be addressed and provides the context for my consideration of this appeal. I note the representations made by Shieldhill and California Community Council, to the effect that there is in reality no shortfall in housing land supply. Although it appears to me that these representations were primarily made in connection with an appeal concerning development on a different site, within that council's area (appeal ref: PPA-240-2044 concerning land at Standrigg Road, Brightons), I have nevertheless taken these into account. For the reasons given above these, or other, representations made do not lead me to come to any different conclusion on the housing land supply position, the existence of a shortfall in which is acknowledged by both the council and the appellant.

10. The existence of a shortfall in housing land supply means that the provisions of paragraph 125 of Scottish Planning Policy are engaged. This confirms that, in such circumstances, development plan policies for the supply of housing land will not be considered up-to date, and paragraphs 32-35 of SPP will be relevant. On that basis, if the proposal can reasonably be described as development that would contribute to sustainable development, then there is a presumption in its favour that should carry significant weight in my consideration of this appeal. Taking all these factors into account, I find that if the appeal proposal amounts to sustainable development, then the development of the site as proposed would be supported by local development plan policy HSG01.

#### Consistency with Scottish Planning Policy

11. I now consider the provisions of Scottish Planning Policy in assessing whether the proposed residential development at the appeal site would be sustainable development. Scottish Planning Policy establishes a presumption in favour of development that contributes to sustainable development. The policy defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Paragraph 28 explains that the costs and benefits of a proposal should be balanced over the longer term and that the aim is to achieve development in the right place, not to allow development at any cost. Paragraph 29 requires that policies and decisions should be guided by 13 principles. In the following paragraphs I assess the proposed development against those principles.

12. The first two principles relate to economic benefits and opportunities. As the Economic Impact Note submitted at application stage acknowledges, the proposed development would have positive economic consequences. Employment would be generated at construction stage, together with capital investment locally. The homes to be

provided would be occupied by residents, many of whom would be likely to be economically active and whose employment would contribute economically. A proportion of the resulting household expenditure would be likely to be made locally, supporting retail activity in the vicinity. These factors would amount to a net economic benefit arising from the proposed development, consistent with these principles of Scottish Planning Policy.

13. The proposal is for planning permission in principle for housing development. The submitted illustrative masterplan indicates the principles of form and layout that it is anticipated the development would take. It would be possible to ensure that the development supported good design and the six qualities of successful places at the detailed planning stage, with conditions attached to require submission of such details for approval prior to commencement.

14. The application documentation indicates that the development would provide around 60 dwellings of a range of sizes and incorporating a proportion of affordable housing. I have no reason to believe that the proposed development would not make efficient use of the capacity of the land. Although the proposal would involve development on a greenfield site and does not involve regeneration, policy HSG01 of the local development plan allows for that on sustainable sites where there is a shortfall in the housing land supply, which is acknowledged to be the position here.

15. In relation to the accessibility of the site, I note that Scottish Planning Policy states that the planning system should support patterns of development which, amongst other things, reduce the need to travel; provide safe and convenient opportunities for walking and cycling; and facilitate travel by public transport. Scottish Planning Policy makes clear that planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where direct links to local facilities via walking and cycling networks are not available or cannot be made available and access to local facilities via public transport networks would involve walking more than 400 metres.

16. There are a range of leisure, educational, employment, retail and associated facilities within the Larbert and Stenhousemuir area, and in the wider locality including Falkirk. Many of these are within walking and cycling distance with good public transport opportunities also being available. Bus services on a number of routes pass along Stirling Road, with an existing bus stop immediately adjacent to where the proposal would take its access. The principal bus service, number 38, operates at a 15 minute frequency for much of the daytime weekday period and on Saturdays, connecting the site to Falkirk town centre, Edinburgh, Stirling, Linlithgow and intervening destinations. Other, less frequent, bus services operate to Camelon, Grangemouth and Denny. Larbert station lies at a distance of about 1 kilometre from the site, around a 15 minute walk. From there, rail services provide direct links to Glasgow, Edinburgh, Sterling, Dunblane and other main centres, with connections further afield. In combination I find that with these locational characteristics and the availability of this range of public transport services nearby, the proposed development would have a high level of accessibility by sustainable transport modes.

17. For of these reasons, I consider that development on the site would contribute to reducing the need to travel and be located so that the use of alternatives to car travel would be attractive. I conclude that residential development at this location would not be unduly reliant on use on the car. I accept that the traffic impact of the proposed development would be low and that this can be readily accommodated in terms of highway and junction capacity, as the submitted Transport Assessment explains.



18. The submitted illustrative masterplan indicates the provision of footpath linkages through a parkland open space area to the west of the application site, providing connections to existing paths within neighbouring land to the west. Public access to the Larbert Woods area and around the loch was, I understand, secured in connection with the development of the Forth Valley Royal Hospital. I note that representations made on behalf of NHS Forth Valley comment that direct connections will not be permitted to this area to facilitate development at the appeal site. I address this aspect further below.

19. I note that SEPA initially raised an objection to the proposed development, but that this was later withdrawn on the provision of further information. I am satisfied that there is no impediment to the proposed development in relation to flood risk. Although I note that some representations mention drainage concerns in the locality, Scottish Water has confirmed the availability of capacity to accept foul drainage from the development. None of these parties has suggested that, with the inclusion of a balancing pond as proposed on land to the south, surface water drainage cannot be satisfactorily dealt with.

20. In terms of cultural heritage, the effect of the proposed development on the settings of the nearby listed buildings is a matter to which I give special consideration below. Apart from this aspect, the appeal proposal would not impact adversely on cultural heritage assets.

21. There is no issue in relation to natural heritage and I see no reason why there would be any issue in relation to waste management. Ensuring that there would be no overdevelopment and that the amenity of new and existing residential properties would be safeguarded are matters that can appropriately be dealt with at the detailed planning stage. I have no reason to believe that these issues could not be addressed satisfactorily at that time.

#### Conclusion on the principle of development

22. Overall, I find that the proposed development would accord with the principles outlined in paragraph 29 of Scottish Planning Policy and would thereby contribute to sustainable development. In light of this, I conclude that the appeal proposal would be in compliance with policy HSG01 of the local development plan.

#### Forth Valley Royal Hospital and Green Network

23. The council, NHS Forth Valley and others making representations maintain that the proposed development would be in conflict with the land use pattern provided for in a masterplan prepared in connection with the major development of the Forth Valley Royal Hospital. However, I note that the document entitled "RSNH: Masterplan and Management Framework" explains that: "It provides a master plan for the future use and management of the residual estate ..." Plans within that document define the extent of the "residual estate" to which it relates, and these make clear that no part of the appeal site is included within this land. There is reference in the text of the document (paragraph 6.7), to the possible use of what is referred to as the "Eastern Pasture" for open space purposes as an urban park. This is seen in the document as no more than a future potential opportunity which is beyond the scope of the provisions of the master plan.

24. The illustrative masterplan submitted in connection with this appeal indicates the intention to incorporate open space integrated within the proposed development and for additional provision to be made by laying out land to the west, between the appeal site and the loch, as parkland. Although this land is not part of the appeal site edged red on the plan submitted at application stage, the appellants have confirmed that this is within their control

and that they are willing and able to provide, in connection with the proposed development, for the laying out, retention and maintenance of this land as open space accessible to the public. This would realise, at least in part, the potential future opportunity for open space creation alluded to in the RSNH Masterplan and Management Framework. It would also contribute positively to the objectives set out in local development plan policy GN01, which seeks the development and enhancement of green network components and corridors and encourages such opportunities to be realised in conjunction with development or on nearby land.

25. For these reasons, I conclude that the proposed development would not be inconsistent with the provisions of the Masterplan and Management Framework associated with the development of the hospital. I also conclude that the appeal proposal can make a positive contribution towards the green network objectives of policy GN01, subject to open space provision being secured.

#### Settings of listed buildings

26. At the time of my site inspection work was underway at Larbert House in connection with its residential conversion, including the laying out of car parking areas and access roads in close proximity. Construction of new homes was also in progress at the stables and walled garden close to Larbert House. These developments, and the large-scale hospital buildings have brought about change to the setting of the listed Larbert House and Stables, but not in a way that has been judged to be unacceptably harmful to their setting.

27. In views eastwards from Larbert House the existing residential development along Stirling Road, forming the edge of the built-up area of Larbert, is visible. However, such views are filtered by intervening trees and other vegetation within the grounds of Larbert House sloping down to the loch, on both banks of the loch and on its treed island, and in the field boundaries between the appeal site and the loch. This filtering of views is clearly greater when trees are in leaf, but even during winter months the built forms of the urban area do not intrude in a harmful way on the setting of the listed building. Although the proposed development would bring the edge of the built-up area closer to Larbert House, the filtering effect of these existing landscape features would remain. This, and the intervening distance in excess of 300 metres, would ensure that the setting of Larbert House would be preserved.

28. There would be no significant inter-visibility between the proposed residential development and Larbert Old Church. The proposed houses would be likely to be visible in views towards the church tower from the jetty on the loch close to the Maggie's Centre. However, the houses would be to the left in such views and would not be in direct line with the church so as to intrude into its setting. The surface water balancing pond forming part of the proposed development would be on a separate part of the appeal site, to the south of Quintinshill Drive. It would be sited approximately mid-way between Larbert House and the church. However, as this feature would not be likely to include prominent above-ground structures, it would not compromise the preservation of the setting of Larbert Old Church.

#### Other matters

29. Several of the representations made at application stage and in response to this appeal express concern that the proposed development would adversely affect the amenity and quiet environment at the Maggie's cancer care centre and the Loch View centre which provides accommodation for patients with learning disabilities. The closest part of the appeal site is around 200 metres from the Maggie's centre, with the intervening land comprising the existing open space and walkway around the loch and the proposed area of

open parkland to be created in conjunction with the proposed development. The illustrative masterplan indicates that the dwellings to be constructed on the appeal site would be set away from the site boundary such that the intervening distance would be likely to be greater than this. With such separating distance, and bearing in mind that the principal views out from the Maggie's centre are southwards across the loch and not towards the proposed development, I do not consider that there are grounds for me to conclude that the appeal proposal would give rise to any harmful effect on the Maggie's centre or its occupants.

30. The Loch View complex to the south of the appeal site would be in closer proximity to the proposed dwellings. However, with careful attention to the design, layout, landscaping and boundary treatment of the proposed development, I am satisfied that no adverse relationship need arise in visual, noise or other terms. These are all matters that can be the subject of consideration and resolution at the submission of details stage.

#### Planning obligation

31. The council suggests that the development should enable the delivery of affordable housing and that contributions should be secured towards education and open space provision and in respect of any traffic management aspects required. The appellants have confirmed that they are willing to secure these matters through the execution of a planning obligation, either by agreement or unilaterally, under s75 of the Town and Country Planning (Scotland) Act 1997.

32. Meeting the educational needs of children who would be residents of the homes proposed in this appeal would place additional demands on local schools. Supplementary Guidance 10: "Education and New Housing Development", is one of a series of supplementary guidance documents prepared by the council in connection with the Falkirk Local Development Plan 2015. It establishes a methodology for the calculation of the amount of financial contribution that would enable such increased educational demand to be addressed locally. The council explains that, applying the approach established in the supplementary guidance, the appropriate contributions per house that should be secured from the proposed development would be £850 in respect of St Bernadette's RC Primary School; £2,100 in respect of Larbert High School; and £700 in respect of nursery education provision.

33. Policy HSG02 of the local development plan provides that residential developments in Larbert, comprising 20 units or over, should ensure that 25% of the units should be affordable housing or to meet special needs. Supplementary Guidance 12, "Affordable Housing", sets out more detail of the mechanisms by which this can be secured, with paragraphs 6.13 to 6.16 of the supplementary guidance explaining the matters that any agreement under s75 of the 1997 Act should address.

34. The provision of open space in association with residential development is sought by policy INF04 of the local development plan. This provides that such open space should either be provided as part of the development or through financial contributions towards the provision, improvement or maintenance of off-site open space. Supplementary guidance 13: "Open Space and New Development" sets out further guidance in this respect and seeks a contribution of £1911 per dwelling towards open space provision, with which the appellants indicate that they are content. However, I note that this figure is stated to be in respect of off-site provision and adjustment would be needed to account for open space delivered as part of the development.

35. The submitted illustrative masterplan indicates the intention to incorporate open space integrated within the proposed development, with additional provision proposed to be

made by laying out land to the west, between the appeal site and the loch, as parkland. Although this further land is not part of the appeal site edged red on the plan submitted at application stage, the appellants have confirmed that it is within their control and that they are willing and able to provide for this land to be laying out as open space accessible to the public, and to put in place measures to secure its retention and future maintenance. I note the indication on behalf of NHS Forth Valley that direct connections will not be permitted between the proposed parkland area and existing paths within the Larbert Woods area or around the loch. However, even without such direct links, the creation of the substantial area of parkland proposed would be beneficial. With direct connections to the proposed residential development, which the appellants confirm can be provided, the parkland area would be of benefit to residents of the proposed development. Access would also be able to be gained by the wider community from Stirling Road through the development. As mentioned above, this would contribute positively to the green network objectives of policy GN01. These matters can be secured through a planning obligation which the appellants have indicated their willingness to provide.

36. I am satisfied that the matters described above would be directly related to the proposed development and that without such matters being secured there would be conflict with the provisions of the development plan in several respects, including policies HSG02, GN01 and INF04 and supplementary guidance numbers 10, 12 and 13.

#### Conditions

37. The council has provided a list of conditions which it asks to be attached in the event that the appeal is to be allowed. Items 2 and 3 of the council's list would apply shorter timescales for the submission of further applications seeking the approval of matters reserved by other conditions, and for the commencement of the development, than are provided for by section 59 of the Town and Country Planning (Scotland) Act 1997. In response, the appellants seek longer timescales than the council proposes in this regard, albeit these would still be shorter than specified in s59. I acknowledge that it would be open to me to include a direction in a decision on this appeal to grant planning permission, which would have the effect of substituting different timescales from those of s59 of the Act. However, I consider it would only be appropriate for me to do so if there are particular reasons to justifying such action. I have not been provided with any evidence or detailed argument sufficient to persuade me that departure from the provisions of the statute is warranted in this case. I therefore do not propose to attach the council's suggested conditions 2 and 3. Consequential alteration is therefore required to the wording of condition 1, which specifies the matters in respect of further applications for approval are to be made.

38. In relation to the remaining suggested conditions, I note that the appellants have not objected to these or made any detailed representations on them. However, I consider that, for clarity, the reference to surface water drainage matters in suggested condition 10 is more appropriately incorporated into condition 1(k), the wording of which I have altered accordingly. The details to be submitted for approval pursuant to condition 1, particularly in response to items c), d) and e), would inevitably define the number of dwellings to be included in the development. It is therefore not necessary for suggested condition 12 to specify that number. A planning obligation can, through appropriate drafting, ensure that the quantum of any contributions towards infrastructure and related matters would be commensurate with the number and type of dwellings to be constructed following approval of further applications at detailed stage. I have therefore not included the council's suggested condition 12.



39. Subject to the comments above I am satisfied that the remaining suggested conditions would be appropriate and necessary. I have therefore included these, subject to minor rewording in the interests of clarity and to accord with the guidance contained in circular 4/1996: 'The use of conditions in planning permissions'.

### Overall Conclusion

40. Notwithstanding conflict with policies CG01 and CG03, which seek generally to resist development in countryside areas, I conclude that the appeal proposal accords overall with the provisions of the development plan. The granting of planning permission is therefore appropriate subject to conditions and following the putting in place of a planning obligation restricting or regulating the development or use of the land in order to:

- a) secure the provision of a proportion of affordable housing as part of the development;
- b) ensure the creation laying out, retention and maintenance of open space on land to the west of the application site; and
- c) ensure that appropriate financial contributions are made towards the provision of education, open space and traffic improvements directly related to the development.

41. I will accordingly defer determination of this appeal for a period of up to 16 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 16-week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

*Rob Huntley*

Reporter

### List of conditions

1. Plans and particulars of the matters specified below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin within each respective development area until the written approval of this authority has been given in respect of the specified matters as they may apply to each respective development area, and the development shall be carried out in accordance with that approval. The specified matters are:

- a) The proposed finished ground levels, relative to existing levels;
- b) Proposed finished floor levels;
- c) The siting of the buildings;
- d) The design of the buildings;
- e) The external appearance of the buildings;
- f) Details of the access arrangements;

- g) Details of landscaping and open space provision, including native species structure planting;
- h) Details of proposed boundary treatments;
- i) A tree protection plan, including the precise location and details of protective fencing;
- j) A construction environmental management plan;
- k) A detailed surface water drainage strategy, including design, calculations and measures to accommodate any surface flow from adjacent land;
- l) A contaminated land assessment;
- m) A report of findings arising from the carrying out of the approved scheme of intrusive site investigations;
- n) The provision of pedestrian and cycle facilities, including suitable linkages to the wider network;
- o) The precise details of the provision of on-site low and zero carbon generating technologies;
- p) A travel pack;
- q) The phasing / timing of the development, including the timing of provision of green infrastructure and open space facilities within the site; and
- r) The submission of an Air Quality Assessment Report

Reason

To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. The roads layout shall be designed and constructed in accordance with the National Roads Development Guide (NRDG).

Reason

To safeguard the interests of users of the public highway.

3. The parking provision on the site shall accord with the National Roads Development Guide (NRDG).

Reason

To ensure the provision of adequate car parking in connection with the development.

4. Further to condition 1(g), the scheme of landscaping shall include the following details:

- a) An indication of all existing trees, shrubs and hedges proposed to be removed, those to be retained and, in the case of damage, proposals for their restoration;
- b) The location of all proposed new trees, shrubs, hedges and grassed areas;
- c) A schedule of plants to comprise species, plant sizes and proposed numbers/densities and nursery stock sizes;
- d) Methods of protection (tree shelters/ guards/ staking/ fencing) and including initial maintenance to aid rapid establishment; and
- e) A programme for completion and subsequent maintenance.

Reason

In the interests of safeguarding and enhancing local landscape quality.

5. No trees shall be removed until such time as any tree protection fencing is in place in accordance with the details approved under condition 1(i) above.

Reason

To safeguard existing trees.

6. The temporary protection fencing shall remain in place until all works within the respective development area have been completed. No further tree removal excavation, level changes, trenching, material storage or machinery access shall take place within the fenced off areas.

Reason

To safeguard existing trees.

7. There shall be no tree, scrub or grassland clearance within the bird nesting season (March to August inclusive), unless a nesting bird check is carried out by a suitably qualified ecologist prior to commencement of the clearance works. The findings of the nesting bird check shall be submitted to and approved in writing by this Planning Authority prior to the works commencing.

Reason

To prevent disturbance to nesting birds.

8. The existing stone wall bounding the site shall be retained and no part shall be removed except that part requiring to be removed to facilitate vehicular and pedestrian access to the site, details of which shall be submitted to and approved in writing by the planning authority, prior to any such removal.

Reason

In the interests of safeguarding the character of the area and the amenity of the occupants of existing and proposed dwellings.