



## **Agenda Item 5**

**DEVELOPMENT OF LAND FOR  
RESIDENTIAL PURPOSES AT LAND TO  
THE EAST OF 8 - 10 MAIN STREET,  
MAIN STREET, BO'NESS FOR CCG  
(SCOTLAND) LTD - P/18/0424/PPP**

**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES  
AT LAND TO THE EAST OF 8 - 10 MAIN STREET, MAIN  
STREET, BO'NESS FOR CCG (SCOTLAND) LTD -  
P/18/0424/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 28 August 2019

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness

**Councillor David Aitchison**  
**Councillor Lynn Munro**  
**Councillor Ann Ritchie**

**Community Council:** Bo'ness

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

[View this Application on Public Access](#)

**UPDATE REPORT**

1. Members will recall that this application was originally considered by the Planning Committee on 21 November 2018 (copy of previous report appended), when it was agreed that Members were minded to grant planning permission. The decision was subject to notification of the application to Scottish Ministers in relation to the HSE objection and conclusion of a Legal Agreement within 6 months of the minded to grant decision. The Legal Agreement relates to open space and affordable housing provision.
2. The application was notified to Scottish Ministers. Scottish Ministers decided not to intervene in the application and a clearance letter was issued on 30 January 2019, allowing the Council to progress the application. Contact was made with the applicant, with a view to progressing the Legal Agreement. The applicant's solicitors details were eventually provided on 22 March. At the time of writing this report, no progress has been made by applicants on the Legal Agreement.
3. The applicant has requested an extension of time for concluding the Legal Agreement. The applicant advises that the missives for the application site have been agreed with the owner, but the acquisition and transfer of title is subject to a number of issues including funding. Until the applicant receives an offer of grant from the Scottish Government, the applicant is unable to conclude the land transaction or enter into a Legal Agreement with the Council. The applicant advises that it could be several months before they would be in a position to progress.

4. The site is an allocated site for housing and it is at a prominent location within Bo'ness Town Centre Conservation Area. It is considered that the redevelopment of the site could result in regeneration benefits of the east end of the town centre, subject to an acceptable design being agreed at the Matters Specified in Conditions application stage. Development of the site would also contribute towards the Council's housing land supply figures. It is considered reasonable in this instance to allow an extension of time for conclusion of the Legal Agreement.

## **5. RECOMMENDATION**

- 5.1 **It is therefore recommended that the Planning Committee agree an extension time of 6 months (from the date of the request being made) to 1 January 2020. If the Legal Agreement is not concluded by 1 January, the application should be refused for the following:-**

### **Reason(s):-**

1. **The applicant has not concluded a Legal Agreement within a reasonable timescale. The development would exacerbate deficiencies and impose increased burdens on existing infrastructure without contributing towards the provision, upgrading or maintenance of existing facilities contrary to policies HSG02 'Affordable Housing', INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development' and Supplementary Guidance SG12 'Affordable Housing' and SG13 'Open Space and New Development' of the Falkirk Local Development Plan.**

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

1. **For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and Supporting Documents.**

.....  
**pp Director of Development Services**

**Date: 16 August 2019**

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan.
2. Proposed Falkirk Local Development Plan 2.
2. The Health and Safety Executive's Land Use Planning Methodology.
3. Two representations received from Mr Cameron Riddell, 27 Bomar Avenue, Bo'ness, EH51 9PP on 2 August 2018.

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

**FALKIRK COUNCIL**

**Subject:** **DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES  
AT LAND TO THE EAST OF 8 - 10 MAIN STREET, MAIN  
STREET, BO'NESS FOR CCG (SCOTLAND) LTD -  
P/18/0424/PPP**

**Meeting:** **PLANNING COMMITTEE**

**Date:** **21 November 2018**

**Author:** **DIRECTOR OF DEVELOPMENT SERVICES**

**Local Members:** **Ward - Bo'ness and Blackness**

**Councillor David Aitchison  
Councillor Lynn Munro  
Councillor Ann Ritchie**

**Community Council:** **Bo'ness**

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

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

- 1.1 This application relates to the development of land for residential purposes at Main Street, Bo'ness. The site is within the town centre, at the junction of Main Street and The Bog. There is residential development to the west, south and north of the site. There are large supermarkets to the north and east of the site.
- 1.2 The applicant has submitted indicative drawings which show a flatted development of 25 units, with vehicular access being taken from The Bog. The indicative plans show a mix of 1 and 2 bedroom flats in a block over 2 - 4 storeys in height.
- 1.3 The site lies within the Bo'ness Town Centre Outstanding Conservation Area.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application requires to be determined by the Planning Committee because it is proposed to grant the application and there is a formal objection from a statutory consultee, (Health and Safety Executive) that would require a referral of the application to Scottish Ministers.

### **3. SITE HISTORY**

- 3.1 A planning application (Ref: P/07/0843/FUL) for the erection of 32 flats on the application site was refused on 19 February 2009. The application was refused following a minded to grant decision, as the applicant failed to conclude the legal agreement to secure commuted payments in relation to open space and education.

### **4. CONSULTATIONS**

- 4.1 The Council's Environmental Protection Unit has not objected to the proposed development and recommends a planning condition in relation to ground contamination.
- 4.2 The Council's Roads Development Unit has not objected to the proposed development.
- 4.3 The Council's Children's Services (Education) have not objected to the application and advise that the development does not require any contributions to education or nursery provision.
- 4.4 The Council's Transport Planning Unit have not objected to the proposed development.
- 4.5 The Health and Safety Executive (HSE) WebApp advises against development on safety grounds.
- 4.6 Scottish Water has not objected to the proposed development.
- 4.7 The Police Architectural Liaison Officer has not objected to the proposed development and provides advice in relation to crime prevention through design.
- 4.8 The Coal Authority have not objected to the proposed development, subject to a planning condition requiring intrusive site investigations.

### **5. COMMUNITY COUNCIL**

- 5.1 The Bo'ness Community Council did not make comment on the application.

### **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 2 letters of objection (from one individual) were submitted to the Council. The grounds of representation can be summarised as follows:
- Comments were made in relation to the design, footprint and landscaping shown on the indicative plans.

## 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 policies.
- 7a.2 The application site forms part of a larger allocated housing site (H04) in the Local Development Plan. The allocation states that the site is an opportunity to redevelop a town centre brownfield site for a flatted residential development, with the possibility of commercial use at ground floor level.
- 7a.3 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.4 This application relates to the development of an allocated housing site. The application is supported in principle by policy HSG01 'Housing Growth'.

7a.5 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" .*

7a.6 In Bo'ness, residential developments of over 20 units, require a minimum of 15% affordable housing. The submitted 'Planning Design and Access Statement' advises that the proposal relates to an affordable housing development. On this basis, it is likely that 100% of the development would be affordable housing, in accordance with policy HSG02 'Affordable Housing'. Should the application be progressed to a favourable recommendation, a legal agreement would ensure that a minimum of 15% affordable housing is achieved on site.

7a.7 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.8 This application relates to planning permission in principle. There is no site-specific design guidance relating to the application site, however, it is considered that the site could be designed to a standard which accords with SG02 'Neighbourhood Design' and 'Designing Streets'. The application accords with policy HSG04 'Housing Design'.

7a.9 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.10 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.11 It is anticipated that contributions towards open space will be required. The development will be greater than 3 units and the indicative site plan demonstrates that any open space or landscaping which could be provided in the site, are likely to fall below the minimum functional sizes set out in SG13 'Open Space and New Development'. The applicant has agreed to make financial contributions in accordance with policies INF02 'Developer Contributions to Community Infrastructure' and INF04 'Open Space and New Residential Development'. There are numerous opportunities to spend the open space contribution within the Bo'ness area, including the Bo'ness foreshore, Victoria Park and the John Muir Way.

7a.12 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.*

7a.13 The Council's Children's Services (Education) advise that there is sufficient capacity in catchment schools to accommodate the proposed development and contributions are not required. The application accords with policy INF05 'Education and New Housing Development'.

7a.14 Policy BUS05 - 'Major Hazards and Pipelines' states:-

- 1. Proposals within Major Hazard and Pipeline Consultation Zones as defined by the HSE and shown on the Proposals Map will be assessed in relation to the following factors:*

- *The increase in the number of people exposed to risk in the area;*
  - *The existing permitted use of the site or buildings;*
  - *The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means; and*
  - *The potential impact on existing chemical and petrochemical sites and pipelines.*
2. *The Council will give careful consideration to applications for hazardous substances consent (HSC) that would extend major hazard distances within the urban area, to balance the desirability of growth and development at nationally important clusters of industries handling hazardous substances with the possibility of prejudice to the development of sites allocated in the LDP. Applications for HSC should demonstrate that off-site constraints have been minimised as far as possible through the optimum location and method of storage, and by ensuring that the quantity/type of materials applied for is specifically related to operational needs.*
  3. *The revocation of HSC consents where the use on the site has ceased will be pursued.*
  4. *The preferred location for new pipelines will be in existing Pipeline Consultation Zones.*

7a.15 The application site is located within the middle and outer zones of the Forties pipeline. The split between the zones runs north to south near the middle of the application site. It is considered that the proposed development would result in a modest increase in people exposed to risk in the area. As the site is allocated for housing development and it is a town centre area the increase is not considered to be significant. It is considered that the development of the application site would achieve a notable regeneration benefit for the east end of the town centre and conservation area. It is not considered that the proposed development would impact on existing chemical and petrochemical sites or pipelines. The application accords with policy BUS05 'Major Hazards and Pipelines'.

7a.16 Policy TC02 - 'Development and Changes of Use in Centres' states:-

*Within the defined boundaries of centres, a mix of retail, business, leisure, community and residential uses will be promoted consistent with maintaining the vitality and viability of these centres and their role in the network of centres. Proposals for development or changes of use for these uses will be supported subject to the following:*

1. *Within the core area of Falkirk Town Centre, ground floor premises should be retained in retail use, or non-retail use which actively supports the shopping or tourism function of the Town Centre;*
2. *Within established shopping streets elsewhere in Falkirk Town Centre and in the District and Local Centres, ground floor premises should, where possible, retain an active frontage;*
3. *The re-use of upper storeys in shopping streets for residential use will be supported; and*
4. *Within Central Retail Park and the retail element of the Falkirk Gateway, development proposals and changes of use should comply with any relevant Section 75 Obligations covering these shopping areas.*

*Outwith centres, proposals involving the loss of neighbourhood and rural shops (Class 1) and services (Class 2) which serve an important community function will only be permitted where the Council is satisfied the premises are no longer viable for such uses.*

7a.17 Residential development in town centre locations is supported by policy TC02 'Development and Changes of Use in Centres'. It is considered that the development of the site would maintain and increase the vitality and viability of Bo'ness Town Centre.

7a.18 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.19 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.20 This application is for planning permission in principle. It is considered that the proposed development could be designed to achieve a good standard of design quality and compliance with principles of sustainable development. The scale, siting and design of the proposed development could be designed to respond to the site's surroundings, to create buildings and spaces that are attractive, distinctive, welcoming, adaptable, safe and easy to use. This would be fully assessed at the Matters Specified in Conditions application stage. The application accords with policies D02 'Sustainable Design Principles' and D03 'Urban Design'.

7a.21 Policy D04 - 'Low and Zero Carbon Development' states:-

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

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

7a.22 The application can be progressed with a planning condition in relation to the provision of on-site low and zero carbon-generating technologies, in accordance with policy D04 'Low and Zero Carbon Development'.

7a.23 Policy D10 - 'Conservation Areas' states:-

*Council will protect the historic character and visual amenity of each Conservation Area. Accordingly:*

1. *New development in Conservation Areas should preserve or enhance the character and appearance of the Conservation Area, with particular reference to the historic pattern and density of development; its setting; the architectural style, massing and materials of buildings; landscape treatments; and boundary features.*
2. *The layout, design, materials, scale, siting and use of any development affecting an unlisted building in a Conservation Area, including extensions, replacement windows, doors, roofs, rainwater goods, boundary treatments and other features, should respect the character and appearance of the original building, and should conform to Supplementary Guidance SG16 'Design Guidance for Listed Buildings and Non-Listed Buildings in Conservation Areas'.*
3. *Demolition of unlisted buildings within Conservation Areas which make a positive contribution to the special character and appearance of the area will only be supported where:*
  - *the existing building is incapable of physical repair and re-use, as shown by the submission and verification of a thorough structural condition report; or*
  - *the costs of repair and re-use are such that it is not economically viable. Supporting evidence should include a full economic appraisal, evidence that grant aid is not able to meet any funding deficit, and evidence that the building has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a restoring purchaser; or*
  - *the demolition of the building is essential for the delivery of significant economic benefits for the local or wider community; and*

- *proposals for redevelopment of the site contribute to the character and appearance of the conservation Area.*
- Existing buildings shall be retained on site until the redevelopment commences.*

7a.24 It is considered that the development of the site to a suitable design standard would preserve and enhance the setting of the conservation area. The application is supported by policy D10 'Conservation Areas'.

7a.25 Policy RW10 - 'Vacant, Derelict, Unstable and Contaminated Land' states:-

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

7a.26 The application site is a vacant brownfield site within the town centre and is currently overgrown and in a dilapidated condition. It is considered that development of the site would regenerate the east end of the town centre and improve the setting of the conservation area (subject to suitable detailed proposals being developed). The application is supported by policy RW10 'Vacant, Derelict, Unstable and Contaminated Land'.

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

7a.27 It is considered that the proposed development could be designed to an acceptable standard in accordance with SG02 'Neighbourhood Design' and SG16 'Listed Buildings and Unlisted Properties in Conservation Areas'. This would be fully assessed at the Matters Specified in Conditions application stage.

7a.28 The application relates to an affordable housing proposal and the applicant advises that there is a Registered Social Landlord (RSL) identified for the site. The application accords with SG12 'Affordable Housing'.

7a.29 The applicant has agreed contributions towards open space, in accordance with Supplementary Guidance SG13 'Open Space and New Development' at a rate of £955.50 per flat and £1911.00 per house. There are numerous opportunities to invest the open space contributions within the Bo'ness area, including the Bo'ness foreshore, Victoria Park and the John Muir Way.

7a.30 The application can be progressed with a planning condition in relation to low and zero carbon-generating technologies, in accordance with SG15 'Low and Zero Carbon Development'.

7a.31 Accordingly, the application accords with the Falkirk Local Development Plan.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed are the assessment of public representations, the Proposed Falkirk Local Development Plan 2 and consultation responses.

### **Assessment of Public Representations**

- 7b.2 The comments in relation to the design of the proposed residential development are noted. The plans submitted to illustrate the development are indicative only at this stage, as this planning application relates to the assessment of the principle of development.

### **Proposed Falkirk Local Development Plan 2**

- 7b.3 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.4 The LDP2 maintains the application site as an allocated housing opportunity (H05). There are no significant changes to policy relevant to this planning application which would affect its assessment.

### **Consultation Responses**

- 7b.5 The application site is within the middle and outer zones of the Forties pipeline. The Health and Safety Executive (HSE) were consulted using the WebApp and HSE advise that there are sufficient reasons on safety grounds, for advising against the granting of planning permission.
- 7b.6 The applicant submitted a report to support their application, 'HSE Land Use Planning, Re-evaluation of Major Accident Hazard Pipeline Consultation Distances'. On this basis a more detailed consultation was carried out. HSE were asked if the information submitted in support of the application would impact the consultation zones affecting the site, or their advice. HSE maintain their objection to the application.
- 7b.7 The supporting document submitted by the applicant concludes that the specification of the pipeline near the application site is different to that formally notified to HSE, in the form of thicker walled pipe, concrete coating and an increased burial depth. The new information supports a re-evaluation of the consultation methodology by HSE.

- 7b.8 The existing land use planning zones for the Forties pipeline was set in 1992. HSE reviewed them in 2000 and 2005. However, they have remained unchanged at 110m, 380m and 435m. HSE plan to review and update its risk assessment models for pipelines carrying hazardous substances. The composition of the fluid transported in the Forties pipeline is complex and it will be some time (HSE estimate that it may take a number of years) before the results of the review and modelling by HSE will be available. Until the work is undertaken, HSE advise that they will provide advice based on the current consultation zones and will not take any new or additional information about pipeline specification into account. Members should not assume that the remodelling work would necessarily change the zones or impact the outcome of the HSE advice in relation to this application.
- 7b.9 HSE's advice is usually determined by a combination of:
- the consultation zone in which the development is located, of the 3 zones that make up the consultation distance set by HSE around the major hazard; and
  - the 'Sensitivity Level' of the proposed development which is derived from HSE's categorisation system of "Development Types".
- 7b.10 In this instance the likely density of development within the middle zone, triggered an advise against development. To receive a 'do not advise against' outcome, the number of units on site would be to be reduced to approximately 10 units.
- 7b.11 The aim of HSE advice, relating to land use planning, is to mitigate the effects of a major accident on the population in the vicinity of hazardous installations. In this instance the application relates to the development of an allocated housing site, within a town centre location.
- 7b.12 The Falkirk Local Development Plan supports the development of the site for residential use. Additionally, there is evidence that the specification for the Forties pipeline, is different to that which HSE base their assessment on and HSE are not in a position to review and remodel the zones affecting the application site at this time. A 'do not advise against' could be achieved by ensuring that the number of units developed on site is significantly reduced (to approximately 10 or under) or that all development be contained in the outer zone (the eastern section of the site). On the basis of the settlement pattern, architectural character and density of development in the surrounding town centre conservation area, either form of mitigation would not be acceptable.
- 7b.13 It is considered that the town centre location, allocation of the site for housing and regeneration benefits of the development outweigh the HSE objection. Where the Council are minded to grant planning permission, contrary to HSE advice, Scottish Ministers will be notified and can "call in" the application for their determination.
- 7b.14 There are no other matters raised which cannot be addressed through the imposition of planning conditions and informatives.

## **7c Conclusion**

- 7c.1 The application is assessed as being in accordance with the Falkirk Local Development Plan. The HSE advised against development, however, their concerns are not considered to outweigh the Local Development Plan on the basis of the allocation of the site, town centre location and the potential regeneration benefits.



- 7c.2 The application is recommended as **Minded to Grant**, subject to notification of the application to Scottish Ministers on the basis of the HSE objection. Thereafter if Scottish Ministers do not call in the application for their own determination it is recommended, upon the satisfactory conclusion of a Legal Agreement and appropriate conditions, planning permission should be granted.

## **8. RECOMMENDATION**

### **8.1 It is therefore recommended that the Committee indicate that it is Minded to Grant Planning Permission subject to:-**

- (a) Notification of the application to Scottish Ministers in relation to the HSE objection, in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009;**
- (b) Conclusion of a Legal Agreement in terms satisfactory to the Director of Development Services within 6 months of the date of a Minded to Grant decision and index linked from that date, as follows:**
  - **A financial contribution of £955.50 per flat and £1911.00 per house towards open space provision in the Bo'ness area; and**
  - **The provision of a minimum of 15% of affordable housing (social rented accommodation to be accommodated on site).**
- (c) Thereafter, remit to the Director of Development Services, to approve the application subject to the following condition(s):-**
  - 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 until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval. The specified matters are:**
    - (a) the siting of the building(s);**
    - (b) the design of the building(s);**
    - (c) the external appearance of the building(s);**
    - (d) details of the access arrangements;**
    - (e) details of landscaping of the site; and**
    - (f) details of proposed boundary treatments.**
  - 2. As part of the first application for the approval of Matters Specified in Conditions, a contaminated land assessment shall be submitted for the written approval of this Planning Authority. Before each dwellinghouse of flat is occupied (1) any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy and (2) any necessary remediation completion report/ validation certificate shall be submitted to and approved in writing by this Planning Authority.**

3. As part of the first application for the approval of Matters Specified in Conditions, the proposed surface water drainage strategy and associated design detail (as appropriate) shall be submitted for the written approval of this Planning Authority. Thereafter the development shall be carried out in accordance with the approved details
4. No development shall commence on site until an appropriate scheme of intrusive site investigation works has been undertaken to confirm coal mining conditions, including mine entries on site. The findings and details of any necessary remedial or other mitigation measures to ensure safety and stability of the proposed development shall be submitted to and approved in writing by the Planning Authority. The approved mitigation measures shall be implemented prior to the development commencing.
5. No development shall commence on site until a material schedule, of all external materials, has been submitted to and approved in writing by the Planning Authority. Thereafter, only the approved materials shall be used, unless otherwise agreed in writing.
6. No development shall commence on site until the following documents have been submitted to and approved in writing by the Planning Authority:
  - i) a copy of the appropriate sustainability label (i.e. at least Bronze Active); and
  - ii) a Statement of Conformity which confirms that 10%, of the required CO<sub>2</sub> emissions reduction is achieved through the installation of low and zero carbon generating technologies.

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

7. The development shall be designed in accordance with the National Roads Development Guide.
8. For the avoidance of doubt, the development shall make provision for and shall include the existing vehicular and pedestrian access to 8-10 Main Street, Bo'ness.

**Reason(s):-**

1. To ensure that the matters specified 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, 4. To ensure the ground is made suitable for the approved development.
3. To ensure that adequate drainage is provided.
5. To safeguard the visual amenity of the area.

6. To ensure the development achieves the required CO<sub>2</sub> emission reduction as a result of development.
- 7, 8. To safeguard the interests of the users of the highway.

**Informative(s):-**

1. Plans and particulars of the matters listed above 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 until the written approval of Falkirk Council as planning authority has been given, and the development shall be carried out in accordance with that approval.
2. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 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.

.....  
**pp Director of Development Services**

**Date: 12 November 2018**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan.
2. Proposed Falkirk Local Development Plan 2.
2. The Health and Safety Executive's Land Use Planning Methodology.
3. Two representations received from Mr Cameron Riddell, 27 Bomar Avenue, Bo'ness, EH51 9PP on 2 August 2018.

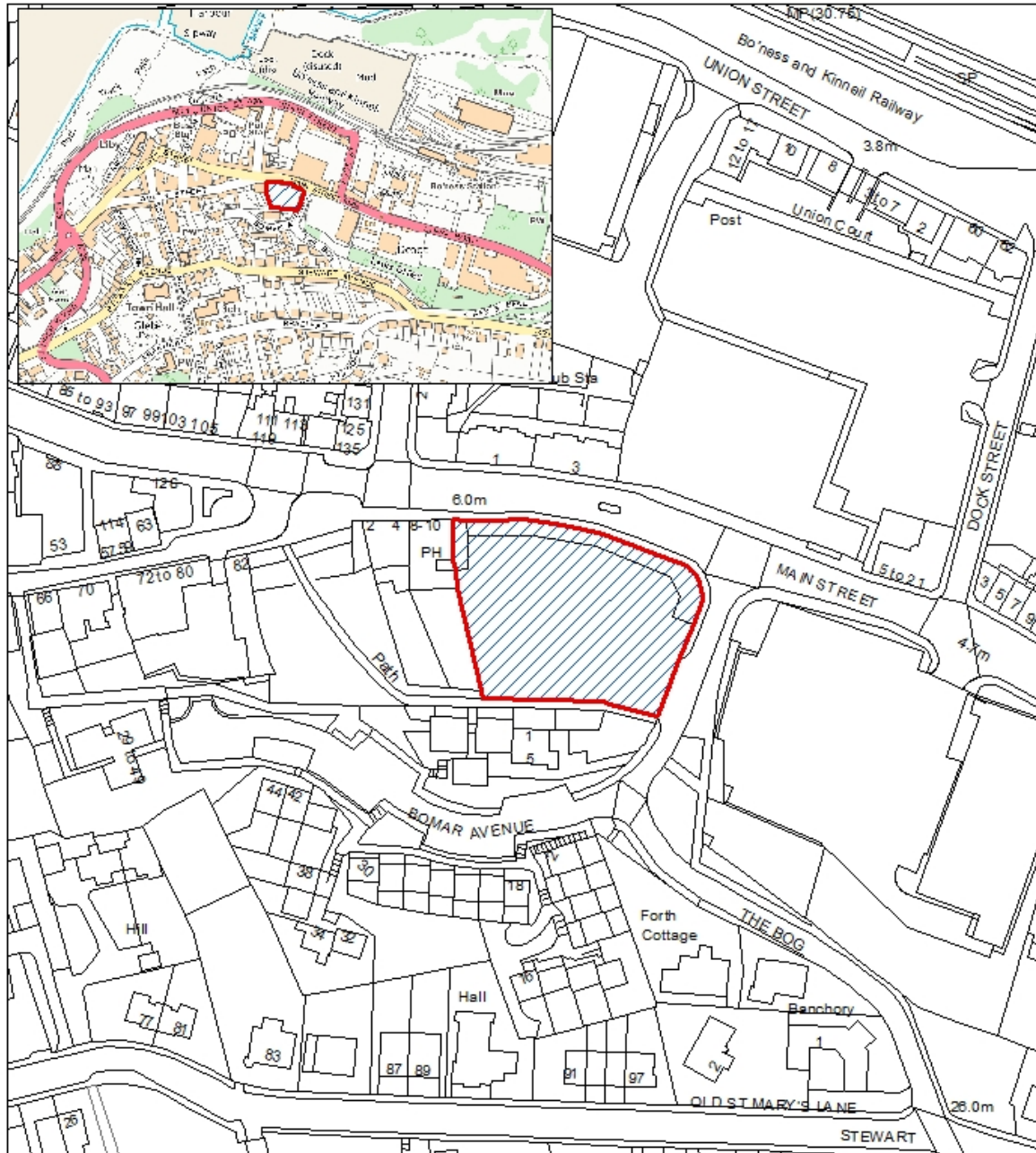
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/18/0424/PPP**

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



Reproduced by permission of Ordnance Survey on behalf of HM SO.  
© Crown copyright and database right 2018. All rights reserved.  
Ordnance Survey Licence number 100023384