



# **Agenda Item 11**

**DISCHARGE OF PLANNING OBLIGATION ATTACHED TO PLANNING PERMISSION F/2004/0130 WHICH RESTRICTED AREAS WITHIN THE SUBJECTS KNOWN AS SILVERLINK (OR SILVER LINK) ROADHOUSE, AIRTH, FALKIRK FK2 8PW FALLING WITHIN TITLE STG41816 AS FOLLOWS: USE AND OCCUPATION OF THE EXISTING BUILDING AND THE EXTENSION APPROVED UNDER PLANNING PERMISSION F/2004/0130 ONLY AS A DISPLAY AND SALES AREA IN CONNECTION WITH THE SALE OF BATHROOM, BEDROOM AND CONSERVATORY FURNISHINGS AND FITTINGS AND ANCILLARY PRODUCTS;; THE USE AND OCCUPATION OF THE AREA REFERRED TO AS THE "CONSERVATORY SITE" ONLY FOR THE SALE AND DISPLAY OF CONSERVATORIES; AND, PROHIBITION OF THE SALE OF PAINT, WALLPAPER, POWER TOOLS OR ANY OTHER "DO IT YOURSELF" PRODUCTS FROM ANY PART OF THE SITE. AT CERAMIKA TILES AND BATHROOMS, SILVERLINK ROADHOUSE, AIRTH, FALKIRK, FK2 8PW FOR MR EWAN CAMPBELL - P/19/0612/75D**

**FALKIRK COUNCIL**

**Subject:** DISCHARGE OF PLANNING OBLIGATION ATTACHED TO PLANNING PERMISSION F/2004/0130 WHICH RESTRICTED AREAS WITHIN THE SUBJECTS KNOWN AS SILVERLINK (OR SILVER LINK) ROADHOUSE, AIRTH, FALKIRK FK2 8PW FALLING WITHIN TITLE STG41816 AS FOLLOWS: , USE AND OCCUPATION OF THE EXISTING BUILDING AND THE EXTENSION APPROVED UNDER PLANNING PERMISSION F/2004/0130 ONLY AS A DISPLAY AND SALES AREA IN CONNECTION WITH THE SALE OF BATHROOM, BEDROOM AND CONSERVATORY FURNISHINGS AND FITTINGS AND ANCILLARY PRODUCTS; , THE USE AND OCCUPATION OF THE AREA REFERRED TO AS THE "CONSERVATORY SITE" ONLY FOR THE SALE AND DISPLAY OF CONSERVATORIES; AND, PROHIBITION OF THE SALE OF PAINT, WALLPAPER, POWER TOOLS OR ANY OTHER "DO IT YOURSELF" PRODUCTS FROM ANY PART OF THE SITE. AT CERAMIKA TILES AND BATHROOMS, SILVERLINK ROADHOUSE, AIRTH, FALKIRK, FK2 8PW FOR MR EWAN CAMPBELL - P/19/0612/75D

**Meeting:** PLANNING COMMITTEE

**Date:** 23 January 2020

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Carse, Kinnaird and Tryst

Councillor Gary Bouse  
Councillor Joan Coombes  
Councillor Jim Flynn  
Councillor Laura Murtagh

**Community Council:** Airth Parish

**Case Officer:** John Milne (Senior Planning Officer), Ext. 4815

[View this Application on Public Access](#)

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

- 1.1 This application seeks to discharge a legal agreement made under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1972. The legal agreement restricted the use and occupation of the existing building and extension approved under Planning Permission F/2004/0130 for display and sales in connection with the sale of bathroom, bedroom and conservatory furnishings and fittings and ancillary products; the use and occupation of the area referred to as the "conservatory site" only for the sale and display of conservatories; and, prohibition of the sale of paint, wallpaper, power tools or any other "do it yourself" products from any part of the site at Ceramika Tiles and Bathrooms, Silverlink Roadhouse, Airth, Falkirk, FK2 8PW.

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

- 2.1 The current scheme of Delegation requires applications of this nature, which were previously determined by Committee, to be determined by Planning Committee when amendments or discharges of Legal Agreements are proposed. Planning application reference F/2004/0130 was determined by the Regulatory Committee on 27 October 2004.

## **3. BACKGROUND TO DISCHARGE SECTION 75 AGREEMENT**

- 3.1 Planning permission reference F/2004/0130 for the Extension to Existing Building to Provide an Additional 2725 sq. m Display/Sales Area with Ancillary Offices, Car Parking and Landscaping was approved subject to the conclusion of a legal agreement made under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1972. This agreement restricted the sale of goods from the site as highlighted above in this report.

## **4. REQUEST TO DISCHARGE SECTION 75 AGREEMENT**

- 4.1 The applicant now requests discharge of the Legal Agreement for the following reason:-
- Planning permission was not implemented and the planning permission has now lapsed. The accompanying Legal Agreement is now no longer enforceable.

## **5. CONSIDERATION OF REQUEST**

- 5.1 It is acknowledged that planning permission was issued on 3 February 2011, and no correspondence is evident that the suspensive planning conditions attached to that permission were purified nor lawful implementation of works were initiated. It is therefore accepted that this planning permission has now expired.

- 5.2 Legal Agreements are now referred to as Planning Obligations. Circular 3/2012 "Planning Obligations and Good Neighbour Agreements" advises that planning authorities should take into account any changes in circumstances; for example, external factors affecting the development meaning that the obligation is no longer reasonable and should be modified or discharged to reflect the change in circumstances as appropriate. It is considered that the obligation is no longer necessary, does not serve a planning purpose, or relate to development proposed as the planning permission has now lapsed.
- 5.3 In this instance, it is considered that the Legal Agreement, at that time of the granting of planning permission, was appropriate.
- 5.4 However, with the planning permission not being implemented and having now lapsed, the Legal Agreement is no longer considered to be necessary.

## **CONCLUSION**

- 6.1 In conclusion, it is considered that the Legal Agreement no longer serves a planning purpose and, in light of current circumstances, the Legal Agreement should now be discharged.

## **6. RECOMMENDATION**

- 6.1 **It is recommended that the Committee agree to the discharge of the Planning Obligation.**

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**pp Director of Development Services**

**Date: 15 January 2020**

## **LIST OF BACKGROUND PAPERS**

1. Planning Application reference number P/19/0612/75D.
2. Planning Application reference number F/2004/0130.
3. Scottish Government Circular 3/2012 Planning Obligations and Good Neighbour Agreements.

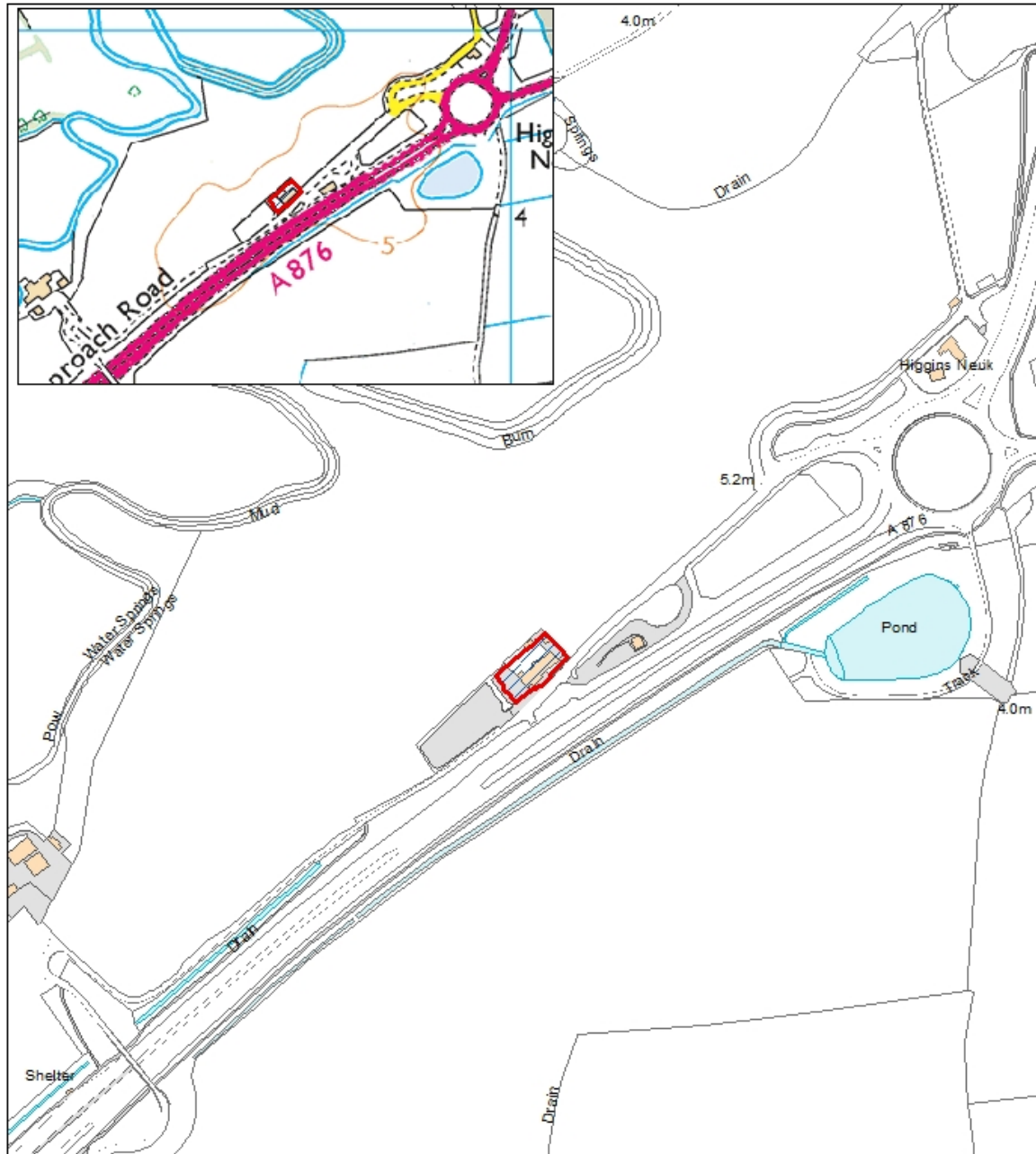
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/19/0612/75D**

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



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