

# **Agenda Item 16**

**ERECTION OF 64 DWELLINGHOUSES  
AND ASSOCIATED INFRASTRUCTURE AT  
LAND TO THE NORTH OF 44 DRUM FARM  
LANE BO'NESS, HARBOUR ROAD,  
BO'NESS FOR OGILVIE HOMES -  
P/18/0432/FUL**

**FALKIRK COUNCIL**

**Subject:** ERECTION OF 64 DWELLINGHOUSES AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE NORTH OF 44 DRUM FARM LANE BO'NESS, HARBOUR ROAD, BO'NESS FOR OGILVIE HOMES - P/18/0432/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 23 January 2020

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

Depute Provost Ann Ritchie  
Councillor David Aitchison  
Councillor Lynn Munro

**Community Council:** Bo'ness

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

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

- 1.1 The application site measures 3.51 hectares and is located at the north side of the existing residential developments at the Drum, Bo'ness. The application site is phase 5 of the wider Drum residential development.
- 1.2 This application proposes the erection of 64 detached and semi-detached dwellinghouses.
- 1.3 Construction access is to be by means of an existing construction access from the west side of the Drum area from Grahamsdyke Road. Permanent access following completion of construction works would be from the existing roundabout at the south side of the wider Drum development. The existing construction access would revert to an emergency access.
- 1.4 The application is supported by the following assessments/statements:
  - Archaeological and heritage assessment
  - Landscape management and maintenance reports
  - Pre-application consultation report
  - Ecological/habitat reports
  - Geotechnical desk study
  - Design statements
  - Drainage statements and calculations

Landscape and visual appraisal  
Tree survey  
Emergency access statement  
Flood risk assessment

- 1.5 The proposed development constitutes a major development under the terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The proposed development was subject to the appropriate pre-application consultation process.
- 1.6 The proposed development has been screened under the terms of the Town and Country Planning (Environmental Impact assessment)(Scotland) Regulations 2017. An environmental impact assessment is not required.
- 1.7 The pre-application public event recorded the following
- The public event took the form of a staffed public exhibition which took place at the Bo'ness Public Library on 27 June 2017.
  - 30 members of the public attended. Concerns raised included:
    - Pedestrian route connectivity
    - Open space provision
    - Loss of view to the south of the site
    - Access to phase 4 of the wider Drum development
    - Traffic generation
    - Parking provision
    - Construction traffic impact

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

- 2.1 The application was called in by Depute Provost Ann Ritchie on grounds that proposed levels at the site could be reduced to safeguard the privacy and amenity of adjacent residents.
- 2.2 The application was also called in by Councillor David Aitchison on grounds that the privacy of adjacent residents would be compromised due to the height of proposed buildings beside their properties.

## **3. SITE HISTORY**

- 3.1 F/91/0251 - Development of land (60 ha/150 acres) for housing purposes outline - refused 17 March 1992.
- 3.2 F/2004/0063 - Mixed use development comprising residential, business, hotel, leisure facilities and ancillary works - Refused outline planning permission 19 May 2004 - Allowed on appeal 02 November 2004.
- 3.3 P/07/0152/VRC - Modification of condition 1 on outline planning permission F/2004/0063 to allow substitution of details and modification of condition 3 to extend the submission period by a further 12 months - Granted 27 July 2007.

- 3.4 P/07/0275/REM - Erection of 181 residential units and associated landscape and roadworks - Refused 22 October 2008 - Allowed on appeal 14 September 2010.
- 3.5 P/08/0915/OUT - Mixed use development comprising residential, business, hotel, leisure facilities and ancillary works (renewal of outline consent ref. F/2004/0063) - Granted 05 May 2009.
- 3.6 P/19/0207/75D - Discharge of planning obligation attached to planning permission P/07/0275/REM which required the payment of contributions totalling £200,000 to be applied by the Council towards Council projects, defined in the Section 75 Agreement as any or all of (a) the Council's Bo'ness Hippodrome project, (b) works related to the Council's townscape initiative and (c) Falkirk Council initiated town centre regeneration projects improving the environmental aspects of Bo'ness Town centre - Pending.
- 3.7 P/19/0490/FUL - Formation of open space, regrading of ground and associated landscaping and boundary treatments at the south part of the central open space identified in the Drum masterplan - Pending.
- 3.8 P/19/0567/FUL - Formation of area of public open space and associated landscaping (forming the northern part of the central area of open space identified in the Drum masterplan), formation of sustainable urban drainage (SUDS) basin, formation of footpaths and installation of drainage infrastructure - Granted 13 December 2019.
- 3.9 Relevant planning history relating to the wider Drum residential development:-
- 3.10 F/98/0543 - Installation of Service Road and Drainage Infrastructure - Approved 04 November 1998.
- 3.11 F/98/0830 - Development of Land for 244 Dwellinghouses and Associated Infrastructure (Detailed) - Approved 04 November 1998.
- 3.12 F/2000/0800 - Erection of 93 Dwellinghouses and Apartment Building (Five and a Half Storeys) - Approved 13 June 2001.
- 3.13 F/2002/0558 - Erection of 28 Dwellinghouses - Approved 05 November 2002.
- 3.14 F/2004/0242 - Substitution of House Types - Approved 19 July 2004.

#### **4. CONSULTATIONS**

- 4.1 The National Architectural Liaison Support & Development Officer has advised that the Applicant should consider the principles of the "Crime Prevention Through Environmental Design" initiative.
- 4.2 Falkirk Council's Transport Planning Unit have provided advice in terms of footpath/cycleway links and access, including formation of emergency access. A pedestrian link to Harbour Road approved under the terms of planning permission P/07/0275/REM is noted.
- 4.3 Scottish Rights Of Way And Access Society has identified a right of way at the application site and advised that connectivity should be addressed.
- 4.4 Falkirk Council's Roads and Development Unit have advised no objections.

- 4.5 Scottish Water have advised that there is capacity in the water infrastructure at this time to accommodate the proposed development.
- 4.6 Falkirk Council's Environmental Protection Unit have advised that contamination can be addressed by condition. Noise need not be considered a determining factor. Air quality impact assessment has been sought and can be covered by planning condition.
- 4.7 The Coal Authority have no objection provided that a further intrusive survey is carried out and mitigation measures identified if appropriate.
- 4.8 The Scottish Environment Protection Agency have raised no objection provided that an informative in respect of surface water drainage is applied in the event that confirmation of acceptance from Scottish Water is not submitted.
- 4.9 Falkirk Council's Children's Services Unit (Education) has advised that the proposed development would have an impact in the capacity of Grange Primary School to provide education services. A developer contribution is applicable.

## **5. COMMUNITY COUNCIL**

- 5.1 Bo'ness Community Council made no comment on the application.

## **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 8 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below. For clarity 8 letters of representation have been received from 4 contributors, 7 objecting to the proposal and 1 contributor supporting.
- 6.2 Insufficient details of proposed levels have been submitted.
- 6.3 Insufficient section details to demonstrate impact on properties at Drumside Terrace have been submitted.
- 6.4 There would be excessive infill of land at the north west corner of site.
- 6.5 No tree survey available.
- 6.6 Insufficient details of the proposed formation of a footpath link at the north west corner of site is submitted.
- 6.7 The proposal would significantly increase traffic.
- 6.8 The construction access has not been considered as a permanent access.
- 6.9 Levels would result in discharge of surface water to properties at Drumside Terrace.
- 6.10 There would be a risk of landslide towards Drumside Terrace.
- 6.11 There would be overlooking of properties at Drumside Terrace.
- 6.12 Landscaping at west boundary is unclear.

- 6.13 It is not clear if the interests of wildlife would be safeguarded.
- 6.14 The proposal does not accord with the following policies/guidance of the Falkirk Local Development Plan:  
HSG04 - "Housing Design"  
GN04 - "Trees Woodland and Hedgerows"  
D02 - "Sustainable Design Principles"  
INF12 - "Water and Drainage Infrastructure"  
Guidance SG02 - "Neighbourhood Design"
- 6.15 The contributor supporting the proposed development considers that the application site represents the best option for additional residential development in the Bo'ness area, provided satisfactory access is demonstrated.

## 7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

### 7a The Development Plan

7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies:

7a.2 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.3 The application site is an allocated housing site. It is identified in the Falkirk Local Development Plan as an opportunity for residential development (H01 Drum Farm North, forming part of the wider Drum residential development). Opportunity H01 identifies pedestrian connection to Kinnegars Park to the south and safeguarding of woodland at Kinnegars Park as material to considerations at the site. This report concludes that material planning considerations in respect of Opportunity H01 have been satisfactorily addressed. Opportunity H01 notes the approval of a master plan for the area. It is noted that the proposal accords with the master plan. The proposed development would contribute towards meeting the Council's housing growth targets in the Bo'ness area as identified in the Bo'ness Settlement Statement. Accordingly, the proposal accords with Policy HSG01.

7a.4 Policy HSG02 - Affordable Housing states:-

*New housing developments of 20 units and over will be required to provide a proportion of the units as affordable or special needs housing as set out in Figure 5.1. The approach to provision should comply with Supplementary Guidance SG12 "Affordable Housing".*

*Figure 5.1 Affordable Housing Requirements in Settlement Areas*

*Proportion of total site units required to be affordable*

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

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

7a.5 The proposed development accords with the master plan for the wider Drum area whereby the appropriate affordable housing provision for the wider area has been secured by design. It is not necessary, therefore, to secure affordable housing provision as part of this proposed development. The proposed development therefore accords with Policy HSG02.

7a.6 Policy INF12 - Water and Drainage Infrastructure states:-

- 1. New development will only be permitted if necessary sewerage infrastructure is adopted by Scottish Water or alternative maintenance arrangements are acceptable to SEPA.*
- 2. Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation.*
- 3. A drainage strategy, as set out in PAN61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment.*

7a.7 The Council's Roads Development Unit has advised that drainage arrangements are satisfactory. The proposal accords with Policy INF12.

7a.8 Policy HSG04 - Housing Design states:-

*The layout, design and density of the new housing development should conform with any relevant site-specific design guidance, Supplementary Guidance SG02 'Neighbourhood Design' and the Scottish Government's policy on 'Designing Streets'. Indicative site capacities in the site schedules may be exceeded where a detailed layout demonstrates that a high quality design solution, which delivers the requisite level of residential amenity, has been achieved.*

7a.9 The proposed development would respect existing residential development at the Drum and meet the aspirations of the approved masterplan in terms of density and design. The proposal incorporates design features of the Scottish Government "Designing Streets" Policy which would satisfactorily meet the aspirations of the policy to safely integrate pedestrian and vehicle movements. There would be a good level of connectivity, movement of pedestrians and cyclists and access to public transport. The proposal would integrate with existing properties adjacent to the application site without significant detriment to the privacy and amenity of adjacent properties due to design, proposed site levels and significant separation from existing properties. The proposed development would contribute towards meeting the Council's housing growth targets in the Bo'ness area as identified in the Bo'ness Settlement Statement. The proposal accords with Policy HSG04.

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 noted that the approved masterplan for the wider Drum development includes the provision of areas of open space integrated with residential phases. The proposed development accords with the masterplan in terms of open space provision within the wider Drum development area. The proposal accords with Policy INF04 in this regard subject to appropriate financial contributions being made in accordance with SG13 - Open Space and New Development. In this instance a developer contribution (£8,000) is considered appropriate towards improvements to Kinnegars Park to the north to which the proposed development would connect.

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.*

*In circumstances where a school cannot be improved physically and in a manner consistent with the Council's education policies, the development will not be permitted.*

7a.13 The Council's Children's Services (Education) have advised that the proposal would have a significant impact on the provision of education services at the Grange Primary School and on nursery provision. It is advised that developer contributions towards the provision of these services are appropriate. On the basis that such contributions will be secured the proposal accords with Policy INF05. The contribution details relate to £281,472 (Grange Primary School) and £100,224 (nursery provision) respectively.

7a.14 Policy INF07 - Walking and Cycling states:-

1. *The Council will safeguard and promote the development of the core path network. Where appropriate, developer contributions to the implementation of the network will be sought.*
2. *New development will be required to provide an appropriate standard of pedestrian and cycle infrastructure, including cycle parking, which complies with current Council guidelines and meets the following criteria:*
  - *Where appropriate, infrastructure supporting the two modes of walking and cycling should be combined and support objectives in agreed Travel Plans helping to support active travel;*
  - *Pedestrian and cycle facilities in new developments should offer appropriate links to existing networks in surrounding areas, in particular to facilitate school journeys and provide connections to public transport, as well as links to other amenities and community facilities;*

- *The surfacing, lighting, design, maintenance and location of pedestrian and cycle routes should promote their safe use. Particular emphasis should be given to the provision of suitable lighting, and the provision of suitably designed and located crossing facilities where routes meet the public road network;*
- *Where practical, no pedestrian route should be obstructed by features that render it unsuitable for the mobility impaired.*

7a.15 The proposal incorporates design features of the Scottish Government “Designing Streets” Policy which would satisfactorily meet the aspirations of the policy to safely integrate pedestrian and vehicle movements. There would be a good level of connectivity, movement of pedestrians and cyclists and access to public transport. The proposed development would accord with Policy INF07.

7a.16 Policy INF08 - Bus Travel and New Development states:-

1. *New development will be required to provide appropriate levels of bus infrastructure or suitable links to existing bus stops or services, as identified within travel plans, taking account of the 400m maximum walking distance required by SPP. This provision will be delivered through direct funding of infrastructure and/ or the provision of sums to support the delivery of bus services serving the development.*
2. *Bus infrastructure should be provided at locations and to phasing agreed with the Council, and designed in accordance with the standards set out in current Council guidelines.*
3. *New development, where appropriate, should incorporate routes suitable for the provision of bus services. Bus facilities within new developments should offer appropriate links to existing pedestrian networks in surrounding areas. Alternatively, new development should be linked to existing bus infrastructure via pedestrian links as described in Policy INF07.*

7a.17 There would be a good level of connectivity, movement of pedestrians and cyclists and access to public transport. The proposal accords with Policy INF08.

7a.18 Policy GN04 - Trees, Woodland and Hedgerows states:-

*The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

1. *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
2. *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*

3. *Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development', including the preparation where appropriate of a Tree Survey, Constraints Plan, and Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
4. *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare and implement an appropriate Management Plan; and*
5. *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.*

7a.19 The proposed development is supported by a landscape plan. The landscape plan is considered to be satisfactory and would complement the wider master plan led Drum residential development. The proposed development is supported by details which demonstrate that trees at Kinnegars Park and woodland would be safeguarded. The proposal accords with Policy GN04.

7a.20 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.*

*Figure 5.3, Sustainable Design Principles - Supporting Policies/Guidance provides further guidance.*

7a.21 The proposed development would be distinctive, welcoming and safe environment for pedestrians and cyclists. The proposal would be sympathetic to the application site and its wider Drum residential development setting in terms of layout and design. The proposal accords with Policy D02.

7a.22 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.23 The proposed development would respect existing residential development character at the Drum and meet the aspirations of an approved masterplan in terms of density and design. The proposal incorporates design features of the Scottish Government "Designing Streets" Policy which would satisfactorily meet the aspirations of the Policy to safely integrate pedestrian and vehicle movements. There would be a good level of connectivity, movement of pedestrians and cyclists and access to public transport. The proposal would integrate with existing properties adjacent to the application site without significant detriment to the privacy and amenity of adjacent properties due to design, proposed site levels and separation distance from existing properties. The proposed development accords with Policy D03.

7a.24 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.25 It is proposed to secure an appropriate reduction in CO<sub>2</sub> emissions by incorporating low and zero carbon energy generating technology in the form of photovoltaic solar panels. The appropriate performance levels of technology to be incorporated can be secured by condition. The proposed development accords with Policy D04.

7a.26 Policy RW07 - Air Quality states:-

*The Council will seek to contribute to the improvement of air quality. Impacts on air quality will be taken into account in assessing development proposals, particularly within Air Quality Management Areas (AQMAs). An Air Quality Assessment may be required for developments that are within AQMAs or where the proposed development may cause or significantly contribute towards a breach of National Air Quality Standards. Development proposals that result in either a breach of National Air Quality Standards or a significant increase in concentrations within an existing AQMA will not be permitted unless there are over-riding issues of national or local importance.*

7a.27 It is noted that an air quality assessment has been advised by the Environmental Protection Unit to demonstrate that the proposed development design safeguards air quality. It is also noted that Bo'ness is not a designated Air Quality Management Area and that any perceived risk is low. This issue can be addressed by condition. The proposal accords with Policy RW07.

## 7a.28 Policy GN05 - Outdoor Access states:-

*The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network, and routes which support the development of the Green Network. When considering development proposals, the Council will:*

- 1. Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;*
- 2. Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and*
- 3. Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.*

7a.29 It is noted that there is a registered right of way at the north boundary of the site. There will remain access along the south boundary of Kinnegars Wood following completion of the proposed development. The proposal also enhances connectivity across the application site by the development of formal footpath and vehicular connections. The proposal accords with Policy GN05.

7a.30 The proposed development accords with guidance contained in supplementary guidance SG02 "Neighbourhood Design, SG06 "Trees and Development", SG10 "Education and New Housing Development", SG12 "Affordable Housing", SG13 "Open Space and New Development", SG15 Low and Zero Carbon Development" and SG05 "Biodiversity and Geodiversity".

7a.31 Accordingly, the proposed development accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are Responses to Consultation, Assessment of Public Representations, Additional Planning Considerations, Falkirk Local Development Plan 2 (Proposed Plan) and Consideration of the site in relation to coal mining legacy.

### **Responses to Consultation**

7b.2 No objections have been received from consultees. Comments raised are addressed in the design of the development or can be addressed by conditions, a Section 75 planning obligation and informatives.

7b.3 It is noted that the Transport Planning Unit have noted that there has previously been a pedestrian link to Harbour Road approved under the terms of a previous planning permission. The previous permission was not implemented and is no longer valid. It is noted that advice from the Transport Planning Unit during consideration of the application is that any such link would now be considered in excess of what is required to provide adequate connectivity.

## Assessment of Public Representations

- 7b.4 Details of levels including sections across the site have been provided. The levels demonstrate that the proposed development can be accommodated given the sloping nature of the site to provide a satisfactory level of drainage and without the need for excessive retaining structures. The privacy and amenity of adjacent properties would be safeguarded.
- 7b.5 The applicants have submitted a cross section drawing (drawing no.32) showing the relationship between the objectors property at 1 Drumside Terrace and the nearest proposed dwellinghouse, plot 37. The drawing shows that a landscape buffer zone and tree planting is proposed within an approximately 9.5 metre wide strip adjacent to the objectors boundary. Beyond the landscape buffer it is proposed to form a slope, increasing the ground level by 1.5 metres to the rear garden boundary of plot 37. A 1.8 metre high screen fence is proposed at the top of the slope. The ground floor level of the dwellinghouse proposed on plot 37 is indicated to be 1.5 metres higher than the ground level at the rear of the dwellinghouse at 1 Drumside Terrace. The drawing also shows there would be approximately 30 metres of separation between the objectors dwellinghouse at 1 Drumside Terrace and the dwellinghouse proposed on plot 37. Having taken account of the distance between the existing and proposed dwellinghouse, proposed landscaping, tree planting and boundary treatments it is considered that the privacy and amenity of the residents of Drumside Terrace will not be so adversely impacted by the level difference as to warrant refusal of the application as proposed.
- 7b.6 The objector has submitted alternative details to show suggested levels at the north west corner of the site could be reduced by up to 1 metre, reducing the impact of the development on 1 Drumside Terrace. The Council's Roads Development Unit have advised that the levels suggested by the objector would result in road infrastructure and associated gradient within the site exceeding the Council's adopted standard and is therefore not acceptable. The objector suggests that the lower levels they propose would reduce carbon emissions from vehicle movements required to form site levels. There is no evidence to substantiate this claim or to indicate that in the context of the site as a whole that impact on vehicle emissions would be so significant that planning permission should be refused for the development being proposed.
- 7b.7 A tree survey has been submitted by the applicant. The tree survey is considered to be satisfactory.
- 7b.8 A footpath connection to Harbour road to the north which was in close proximity to no.1 Drumside Terrace has been deleted by the applicant. As detailed at paragraph 7b.3, deletion of the connection is acceptable.
- 7b.9 It is not considered that the proposed development would introduce a level of traffic to the road network which would be detrimental to the safety of road users. It is noted that the Roads Development Unit have raised no objections in respect of this matter.
- 7b.10 The masterplan for the wider Drum development does not include a permanent general access from the west side at Grahamsdyke Road as this is not considered to safeguard the interests of road users.
- 7b.11 There is no evidence to support the view that the proposed development would result in the discharge of surface water to, or a landslide towards, properties at Drumside Terrace. It is noted that the Roads Development Unit have advised that the proposed drainage is satisfactory.

- 7b.12 The existing properties at Drumside Terrace would not be significantly overlooked. The proposed levels and the separation of the buildings would safeguard the privacy of the occupants of both existing and proposed properties.
- 7b.13 Structural tree planting is proposed at the west boundary of the site adjacent to existing adjacent properties at Drumside Terrace. This planting would deter the use of the west part of the site as a through route for walkers and secure the amenity of residents at Drumside Terrace.
- 7b.14 The application is supported by ecology/habitat statements. It is not considered that wildlife at the site would be significantly disturbed.
- 7b.15 Development Plan policies referred to by objectors are acknowledged in this report. It is noted that this report concludes that the proposed development accords with the Development Plan.

### **Additional Planning Considerations**

- 7b.16 A masterplan was approved in respect of the wider Drum development in 1999 and a more detailed masterplan prepared in 2005. The proposed development accords with the masterplan in terms of layout and connectivity.
- 7b.17 Planning application P/19/0567/FUL, granted on 13 December 2019 includes the development of a sustainable urban drainage (SUDS) basin to which the proposed housing development would drain. The integration of the proposed development to the SUDS basin proposed by planning application P/19/0567/FUL is addressed by condition that requires that no dwellinghouse shall be occupied until such time as the SUDS basin approved under the terms of planning permission P/19/0567/FUL has been formed and is demonstrated to be operational within the written approval of the Planning Authority.
- 7b.18 Concerns raised by objectors in respect of levels at the site are noted. The site is identified in the Development Plan as an opportunity for residential development. The site is however challenging due to the level change of the ground dropping in height from south to north. The levels proposed have been set to safeguard against excessive height of retaining structures across the entire application site and to safeguard against compromising the amenity of residents at the proposed development and impact on the road network. It is considered that the levels being proposed safeguard the amenity and privacy of both existing residents adjacent to the site and residents of the proposed dwellinghouses.

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

- 7b.19 The Falkirk Local Development Plan 2 (FLDP2) has been approved by the Council for consultation. The consultation period ran from 27 September 2018 to 23 November 2018. Following consideration by Scottish Ministers of representations received, it is expected that FLDP2 will be adopted in 2020, at which point it will replace the current Falkirk Local Development Plan. FLDP2 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.20 The policies of the proposed Plan reflect the policies of the adopted Development Plan and would support the proposed development. The proposed development forms part of an overall site allocated for Housing in FLDP2.

## **Consideration of the Site in relation to Coal Mining Legacy**

- 7b.21 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. Any development proposal not exempt on grounds of type or nature, which would intersect with the ground requires the submission of a desk based Coal Mining Risk Assessment and consultation with the Coal Authority.
- 7b.22 The process recognises the need for flexibility and in cases where a further application (Matters Specified in Conditions) is necessary, the Coal Mining Risk Assessment may be deferred until that stage. If an assessment has been received and the views of the Coal Authority sought, these are summarised within the consultation responses above and appropriate conditions and/or informatives are recommended.

### **7c Conclusion**

- 7c.1 The proposed development accords with the Falkirk Local Development Plan.
- 7c.2 The proposal accords with the approved masterplan for the wider Drum residential development. The proposal respects the masterplan and the local area in terms of design, density, access, connectivity, residential amenity and landscape quality.
- 7c.3 There would be no significant impact on the amenity or privacy of adjacent properties due to a satisfactory distance of separation.
- 7c.4 Developer contributions required to mitigate the impact of the proposed development on the provision of education services and the quality of existing open space provision in the area at Kinnegars Park to the north of the application site can be secured by means of a Section 75 planning obligation
- 7c.5 There would be no justification for setting aside the Development Plan in this case.

## **8. RECOMMENDATION**

- 8.1 **It is recommended that Committee indicate that it is Minded to Grant Planning Permission subject to:-**
- (a) **Completion within 6 months of a Planning Obligation within the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, in terms satisfactory to the Director of Development Services in respect of:-**
- (i) **The payment of financial contributions towards the provision of education services at the Grange Primary School at a rate of £4398 per dwellinghouse (£281,472) and towards nursery provision at a rate of £1566 per dwellinghouse (£100,224);**
- (ii) **The payment of a financial contribution of £8000 towards the improvement and maintenance of open space at Kinnegars Park, Bo'ness.**
- (b) **and thereafter, on conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission subject to the following condition(s):-**

- 1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- 2.**
  - i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority.**
  - ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority.**
  - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority.**
  - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.**
- 3. Development shall not commence until such time as an air quality assessment is submitted and approved in writing by the Planning Authority demonstrating that the new residential units would not be introduced to an area of existing poor air quality where the air quality standards of the Council are not likely to be met. The assessment would also be required to demonstrate that traffic associated with the development will not lead to an exceedance of the air quality objectives at relevant receptor locations. Development of a dispersion model to inform the assessment using ADMS roads or similar atmospheric dispersion modelling software would be required in order to demonstrate the above.**

- 4. Development shall not commence on site until such time as an intrusive site investigation on historic mining activities, prepared by a suitably qualified person, has been submitted to and approved in writing by the Planning Authority demonstrating that the proposed development would not be at risk from the impacts of historic mining activity. For the avoidance of doubt the report shall include:**
  - **An assessment of the ground conditions of the site and establish the risks posed to the development from historic mining activity.**
  - **A report of findings of the intrusive site investigation and any remedial works and/or mitigation measures considered necessary, including the submission of development site layout plan which illustrates the zone of influence from mine shaft 301681-008.**
  - **A schedule of any appropriate remediation works resulting from the intrusive survey including details of the timeframe for carrying out such works.**
  
- 5. Notwithstanding any details previously submitted, the development hereby approved shall not be occupied or brought into use until such time as the following documents have been submitted to, and approved in writing by, the Planning Authority:**
  - i) A copy of the appropriate sustainability label (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 timetable of how this is to be achieved, including details of physical works on site, shall be submitted to, and approved in writing by, the Planning Authority. The approved details shall thereafter be implemented in accordance with the approved timetable and retained operational thereafter, unless otherwise agreed in writing by the Planning Authority.**
  
- 6. Within 21 days of the cessation of construction works the emergency access as detailed on the drawing bearing the Planning Authority's reference 30 shall be formed and made available for the access of emergency vehicles only.**
  
- 7. No dwellinghouse shall be occupied until such time as the Sustainable Urban Drainage (SUDS) basis granted under the terms of planning permission P/19/0567/FUL has been formed and is demonstrated to be operational with the written approval of the Planning Authority.**

- 8. The proposed planting as detailed on the drawings bearing the Planning Authority's reference 20A, 21A, 23A, 36 and 37 and the Landscape management Plan dated July 2018 shall be implemented in full before the end of the first planting season following completion of the 64th dwellinghouse. Thereafter, any specimen not becoming established for whatever reason will be replaced with a specimen of similar species and size. For the avoidance of doubt the planting season shall be considered to be October - April inclusive.**
- 9. Where the proposed development has not commenced within 12 months of the last badger survey a further walk over survey of the site shall be carried out and the results and any necessary badger protection plan shall be submitted for the written approval of this planning authority.**
- 10. Development shall not commence on site until such time as bat boxes and bird nesting boxes have been installed in accordance with the ecological appraisal July 2018 and the bat survey and report July 2018. For the avoidance of doubt details of the number, design and location of bat boxes and nesting bird boxes shall be submitted to and approved in writing by the Planning Authority. Also for the avoidance of doubt details shall include a timescales and methodology in respect of the installation of the bat and nesting bird boxes.**
- 11. Where the proposed development has not commenced within 12 months of the last bat and bird surveys further walk over surveys of the site shall be carried out and the results and any necessary protection plans shall be submitted for the written approval of this planning authority.**
- 12. Notwithstanding any details previously submitted, no dwellinghouse shall be constructed above foundation level until such times as a detailed materials schedule for each of the approved housetypes, together with samples of materials, have been submitted to and approved in writing by the Planning Authority.**
- 13. The dwellinghouses at Plots 31, 32, 33, 34, 35, 36 and 37 shall not be occupied until such time as the landscaping proposed on the drawings bearing the Planning Authority's references 21A and 37 have been implemented in full.**
- 14. Notwithstanding any details previously submitted, the development shall not commence until such time as details of maintenance responsibility for all retaining structures at the development hereby approved have been submitted to and approved in writing by the Planning Authority.**

**Reason(s):-**

- 1. As these drawings and details constitute the approved development.**
- 2. To ensure the ground is suitable for the proposed development.**
- 3. To ensure that the proposed development would enjoy a satisfactory level of air quality and that traffic generated by the proposed development would not have a significant detrimental impact on the air quality of the area.**

4. To ensure the ground is suitable for the proposed development.
5. To ensure that 10% of carbon reduction is achieved by low and zero carbon generating technologies.
6. To safeguard the interests of the users of the highway.
7. To ensure that adequate drainage is provided.
8. To ensure that the proposed landscaping of the site is implemented and that the landscaping becomes established in order to safeguard the landscape quality of the proposed development.
9. To safeguard the interests of badgers in the area of the application site.
10. To safeguard the interests of bats and nesting birds.
11. To safeguard the interests of bats and nesting birds in the area of the application site.
12. To safeguard the visual amenity of the application site and ensure a satisfactory standard of design.
13. To safeguard the amenity of the occupants of existing dwellinghouses at Drumside Terrace, Bo'ness.
14. To ensure that there are satisfactory measures in place to ensure maintenance of retaining structures.

**Informative(s):-**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03, 04A, 05 - 12, 13A, 14-19, 20A, 21A, 22, 23A and 24-37.
2. The applicant shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

<b>Monday to Friday</b>	<b>08:00 - 19:00 Hours</b>
<b>Saturday</b>	<b>08:00 - 13:00 Hours</b>
<b>Sunday / Bank Holidays</b>	<b>No noise audible at site boundary</b>

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Protection Unit.

3. The applicant is advised to liaise with Scottish water with respect to seeking approval for a surface water discharge connection. Should details of a discharge agreement amend the proposed development the applicant should inform this planning authority of the details of any such amendment. The applicant should contact [service.relocation@scottishwater.co.uk](mailto:service.relocation@scottishwater.co.uk)

4. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.

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**pp Director of Development Services**

**Date: 15 January 2020**

#### **LIST OF BACKGROUND PAPERS**

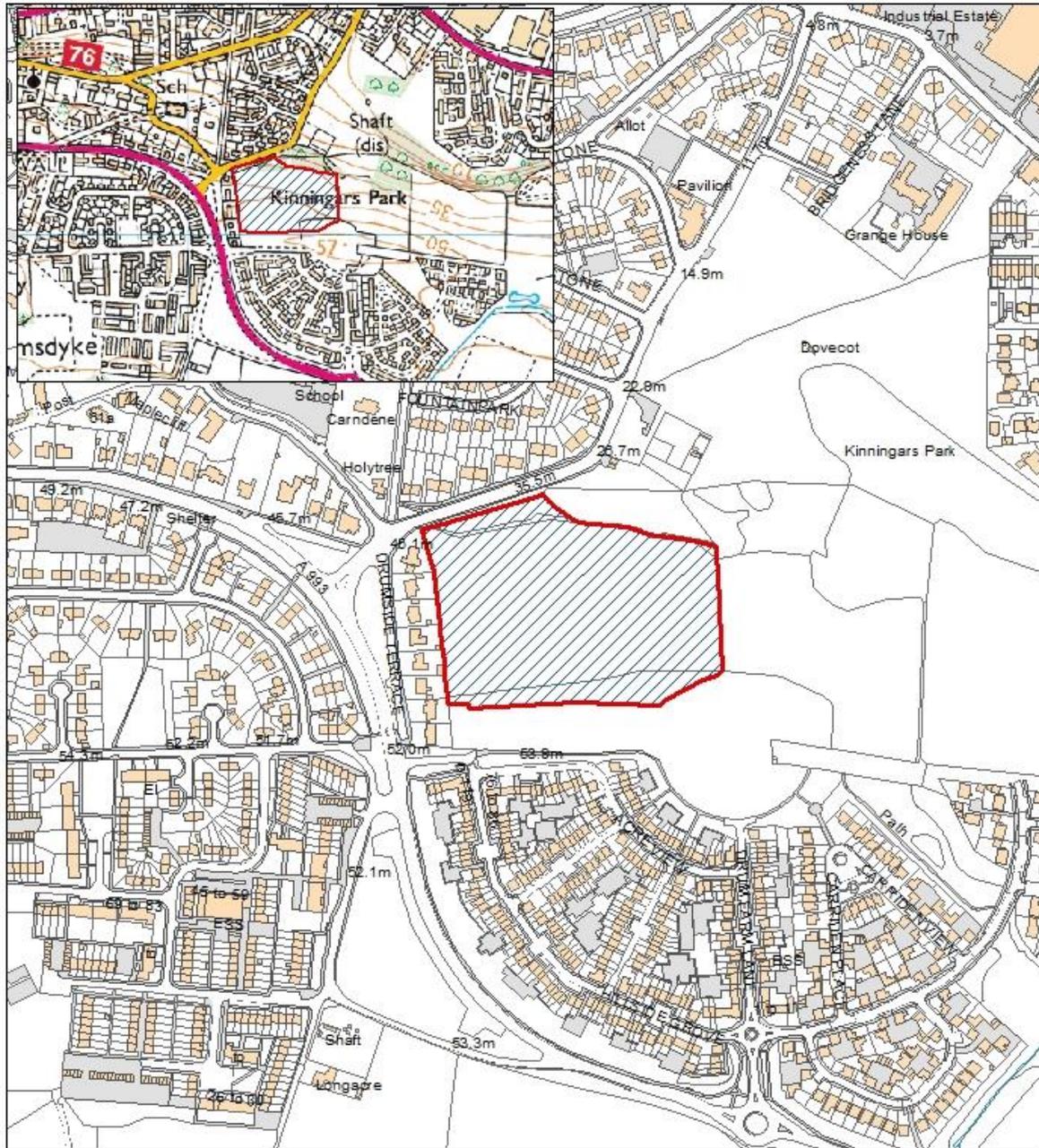
1. Falkirk Local Development Plan.
2. Draft Falkirk Local Development Plan 2.
3. Intimation of Support received from Mr Owen Griffiths, 41 St Johns Way, Bo'ness, EH51 9JD on 11 November 2018.
4. Objection received from Mrs Elizabeth Purdie, 4 Drumside Terrace, Bo'ness, EH51 9QX on 23 August 2018.
5. Objection received from Liana Canavan, 1 Drumside Terrace, Bo'ness, EH51 9QX, on 28 August 2018.
6. Objection received from Elizabeth Purdie on 27 August 2018
7. Objection received from Mrs Liana Canavan, 1 Drumside Terrace, Bo'ness, EH519QX on 21 August 2018.
8. Objection received from Mr Stephen Wotherspoon, 60 Hillside Grove, Bo'ness, EH51 9RN on 22 August 2018.
9. Objection received from Liana Canavan on 9 October 2019.
10. Objection received from Liana Canavan, 1 Drumside Terrace, Bo'ness, EH51 9QX on 21 November 2019.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/18/0432/FUL**

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



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