



## **Agenda Item 4**

**CONSTRUCTION OF DOMESTIC  
GARAGE (RETROSPECTIVE) AT 30  
ALLAN CRESCENT, DUNIPACE,  
DENNY, FK6 6LZ FOR  
MR JASON SECKER -  
P/20/0598/FUL**

**FALKIRK COUNCIL**

**Subject:** CONSTRUCTION OF DOMESTIC GARAGE  
(RETROSPECTIVE) AT 30 ALLAN CRESCENT, DUNIPACE,  
DENNY, FK6 6LZ, FOR MR JASON SECKER -  
P/20/0598/FUL

**Meeting:** PLANNING COMMITTEE  
**Date:** 16 FEBRUARY 2022  
**Author:** DIRECTOR OF PLACE SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Paul Garner  
Councillor Fiona Collie  
Councillor Nigel Harris

**Community Council:** Denny and District

**Case Officer:** John Cooney, (Acting Planning Officer) Ext. 4705

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**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was originally considered by the Planning Committee on 20<sup>th</sup> January 2022 (copy of previous report appended), when it was agreed to continue the application for a site visit. This site visit took place on 31<sup>st</sup> January 2022.
2. Following a brief summary of the proposal by the case officer, members of the Committee entered the application site and viewed the retrospective garage structure, and its relationship to the property boundaries and neighbouring residences.
3. Members sought clarification from the case officer regarding the size of the plot and whether it was Council owned. The case officer confirmed that the outbuilding is built on land owned by the applicant, and that the wider site was sold by the Council to the then resident in 2005.
4. The case officer also clarified that whilst the Council's Flooding Officer has objected to the proposal, planning officers have applied Scottish Planning Policy and concluded that the modest nature of the proposed structure is such that it would not lead to significant impact on flood risk locally.

5. Members also sought clarification regarding permitted development rights for domestic outbuildings. The case officer can clarify that it is the height of this structure, rather than its use or footprint, which exceeds permitted development limits and necessitated the submission of a planning application in this instance. Officers do not consider that the height of the structure is harmful to neighbours' privacy or light.
6. The Council's Environmental Health and Trading Standards Manager was also in attendance, and provided an update on the ongoing Environmental Protection Unit investigation into noise and air quality at the application site. At this point, planning officers consider it necessary to clarify that the planning assessment in this instance relates to a retrospective garage structure associated with the main house and the applicant's hobby which is not considered to be a commercial use. Therefore, it is the principle of the structure which is being assessed by planning officers, rather than the merits of the applicant's personal use of the structure. That is why planning officers consider that noise and air quality complaints regarding the structure are more appropriately investigated under the Council's Environmental Health powers, than through the planning process in this instance.
7. It is noted that since the completion of the original committee report, two additional representations were received by members of the committee, from an individual who had previously objected to this planning application. These recent representations have sought to reiterate the earlier concerns summarised within the original committee report.
8. No new matters have emerged from the site visit which would alter the officer recommendation to grant retrospective planning permission. The previous recommendation is reiterated as follows.

## **9. RECOMMENDATION**

### **9.1 It is recommended that Planning Committee grant planning permission subject to the following condition(s):-**

1. **The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
2. **Within six months of the date of this decision, the external walls of the garage outbuilding shall be finished in smooth cement render.**
3. **Within six months of the date of this decision, an existing flue at the south-west corner of the garage outbuilding shall be removed.**

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

1. **As these drawings and details constitute the approved development.**
2. **To safeguard the visual amenity of the area.**

3. To safeguard the residential amenity of the area.

**Informatives:**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02A, 03, and 04.

2. 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.

3. The garage outbuilding shall only be used for domestic purposes ancillary to the enjoyment of the dwellinghouse. Planning permission may be required for the introduction of a commercial use on this site in the future.

.....  
**Director of Place Services**

**Date: 4 February 2022**

**LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan 2.
2. Scottish Planning Policy 2014.
3. SG03 Residential Extensions and Alterations
4. SG05 Green Infrastructure and New Development
5. SG07 Biodiversity and Development
6. SG13 Developer Contributions
7. SG15 Low and Zero Carbon Development
8. Objection received from Billy Quin, 38 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 10 February 2021
9. Petition with 19 signatures received from Billy Quin, 38 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 26 February 2021
10. Objection received from Mrs Joan Quin, 38 Allan Crescent, Denny, FK6 6LZ on 14 February 2021
11. Objection received from Mr Robert Hunter, 12 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 18 March 2021

12. Objection received from Mr Robert Hunter, 12 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 6 May 2021
13. Objection received from Mr Robert Hunter, 12 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 14 June 2021
14. Objection received from Mr Robert Hunter, 12 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 3 November 2021
15. Objection received from A Carruthers, 28 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 10 March 2021
16. Objection received from Mr William Mckenzie, 40 Allan Crescent, Denny, FK6 6LZ on 6 April 2021
17. Objection received from Mr Tony Wallace, 8 Milton place, Dunipace, FK6 6NE on 2 March 2021
18. Objection received from Billy Quin, 38 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 16 January 2022
19. Objection received from Billy Quin, 38 Allan Crescent, Dunipace, Denny, FK6 6LZ, on 31 January 2022

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for John Cooney, Acting Planning Officer.

**FALKIRK COUNCIL**

**Subject:** CONSTRUCTION OF DOMESTIC GARAGE  
(RETROSPECTIVE) AT  
30 ALLAN CRESCENT, DUNIPACE, DENNY, FK6 6LZ, FOR  
MR JASON SECKER - P/20/0598/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 20 January 2021

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock

Councillor Jim Blackwood  
Councillor Fiona Collie  
Councillor Paul Garner  
Councillor Nigel Harris

**Community Council:** Denny and District

**Case Officer:** John Cooney (Acting Planning Officer), Ext. 4705

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

- 1.1 The application property comprises of an end-of-terrace house which faces north-north-east on Allan Crescent, Dunipace. The property is located opposite designated open space, and is attached to No. 32 Allan Crescent to the south-east. The rear boundary of the site bounds Nos. 8-12 Milton Place to the south and south-west, and the Avon Burn to the north-west. The site is designated by SEPA as having a low-medium risk of surface water flooding, and a low-high risk of river flooding. A flood wall runs the length of the flank north-west boundary of the site.
- 1.2 The proposal seeks retrospective permission for a single storey garage outbuilding in the south-west corner of the application site. This outbuilding is intended for use associated with the main house, and not for commercial use.
- 1.3 The structure subject of this application has a single-pitched shallow metal roof and its external concrete block walls are proposed to be finished in smooth cement render. Its dimensions are 3.40 metres in height at the rear, 4.00 metres maximum height at the front, 11 metres in width, and 11 metres in depth. There is a large front garage door and a pedestrian door on the flank wall facing the garden.

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

- 2.1 The application has been called in by Councillor McCue, to allow members to consider the impact of the development on residential amenities in light of the objections.

## **3. SITE HISTORY**

- 3.1 This is a retrospective application, it was submitted following an investigation associated with a planning enforcement complaint.

## **4. CONSULTATIONS**

- 4.1 The Coal Authority has raised no objection to the proposal.
- 4.2 The Council's Environmental Protection Team are conducting a separate investigation into air quality and noise at the property.
- 4.3 The Council's Flooding Team have advised that along the boundary of this property is a flood wall constructed and maintained by Falkirk Council, which protects a considerable number of properties from flooding from the Avon Burn. This is not recorded as a formal structure under the Flood Risk Management (Scotland) Act 2009 but nevertheless is an important asset for flood risk management in the area. The garage has been constructed approximately 1 metre away from the wall to allow for maintenance access and to not impact the wall's foundation.
- 4.4 The Flooding Team has also commented that the garage has been constructed on the functional floodplain. Flooding Officers would object to this application on the grounds of flood risk, specifically increased flood risk to other properties through loss of flood water storage at the location of the proposed garage.
- 4.5 In addition, the Flooding Officer has stated that Falkirk Council's "Green Infrastructure and New Development Supplementary Guidance SG05" document and Falkirk Council's "Planning application advice on flood risk and surface water drainage" document require that there should be a buffer strip between the top bank of a watercourse and the nearest building. In the case of this location, the buffer strip in question should be 20 metres wide as the watercourse is less than 10 metres wide.

## **5. COMMUNITY COUNCIL**

- 5.1 Denny and District Community Council have not made any representation.

## **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 6 contributor(s) submitted 9 letter(s) to the Council. In addition, a petition signed by 19 individuals from 12 addresses was also received. The salient issues are summarised below.

- Applicant intends to transfer a business from Chattan Works in High Bonnybridge to this site;

- Change of use is likely to be applied for in the event of approval to change from domestic garage to commercial workshop;
- Inappropriate industrial use within a residential area;
- Commercial fabrication and welding business, and plant repair operating out of the outbuilding;
- Noise, dust and disturbance to neighbours from works in outbuilding, including as late as 3am.;
- Questions regarding why an extraction system capable of air exchange 10 times per hour is required for a domestic outbuilding;
- Increased traffic movements and parking issues along narrow street;
- Road surface damage from increased vehicle movements;
- Questions regarding ownership of the land in question, perhaps by Council;
- Questions regarding whether any Council land was advertised for sale on the open market prior to its sale;
- Building and its use is out of character for a residential street;
- A tree was cut down to make way for the garage and bats are prevalent in the area;
- The building height is larger in reality than on the proposed drawings;
- Operations/parking often spills over into open public land to the north of the site.

The issues raised in the petition are as follows:

- Belief that the workshop will be used for a business;
- Applicant intends to transfer a business from Chattan Works in High Bonnybridge to this site;
- Change of use is likely to be applied for in the event of approval to change from domestic garage to commercial workshop.

## **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 \(LDP2\)](#) was adopted on 7 August 2020. The proposed development was assessed against the following policy or policies:

#### HC08 - Residential Extensions and Alterations

- 7a.2 The proposed new structure, whilst considerable in footprint, would appear subservient to the original dwelling and wider group of properties in terms of its scale, siting and design. The proposal would not overdevelop this generously-sized plot and adequate undeveloped garden ground would be retained on site.



- 7a.3 It is acknowledged that inappropriate parking has recently been observed on land outwith the applicant's control to the north, and this has been brought to the attention of the Council's Housing Department, who have jurisdiction over that land. In addition, an investigation is currently underway by the Environmental Protection Team following reports of noise and air quality issues emanating from the application site. However, these matters are considered to be separate to the assessment of this planning application, which is for a domestic outbuilding. The structure itself is adequately set back from the street to not compromise parking capacity on site, and it is more appropriate to progress any necessary enforcement as regards noise and air quality under separate Environmental Health legislation. As such, the proposed retrospective garage structure would accord with Policy HC08.

#### HC07 - Established Residential Areas

- 7a.4 This policy ensures that new uses are compatible with the residential character and amenity of the area. In this instance, whilst the volume of objections from the local community is noted regarding activities and comings and goings at this site, it remains the case that insufficient evidence is before officers to suggest that the use of the proposed retrospective garage outbuilding would be commercial in nature. In addition, the applicant has specifically applied for planning permission for a domestic outbuilding, and therefore it would not be reasonable for officers to assess the current proposal against Policy HC07. Were a future application to be submitted for a commercial use on this site, it would be assessed on its own merits against Policy HC07 and other relevant policies.

#### PE24 - Flood Management

##### IR10 - Drainage Infrastructure

- 7a.5 It is noted that the site is within the functional floodplain, that its footprint is larger than the existing built form on the application site, and that the Flooding Officer has raised concern that flood risk could be exacerbated elsewhere. It is also acknowledged that Paragraph 264 of Scottish Planning Policy sets out a Flood Risk Framework to be applied to Development Management decisions, and that Paragraph 266 indicates that Flood Risk Assessments should be required for development within the medium to high category of flood risk. Whilst the proposal would be contrary to Policy PE24, there are important material considerations to be taken into account in this instance regarding a fall-back position in light of permitted development legislation, as set out in Paragraph 7b.7 onwards.

- 7a.6 The proposed impermeable footprint of the proposal falls well below the threshold for a Drainage Impact Assessment to be required. As such, the proposal accords with Policy IR10.

#### PE19 - Biodiversity and Geodiversity

- 7a.7 The erection of the proposed garage structure would not adversely impact protected species within the local area. As such, the proposal would accord with Policy PE19.

#### IR02 - Developer Contributions

- 7a.8 The modest size of the development proposal would not trigger the need for any developer contributions. The proposal would accord with Policy IR02.

#### IR13 - Low and Zero Carbon Development

- 7a.9 The proposed garage would not be heated or cooled other than by heating provided solely for the purpose of frost protection. As such, the proposal is exempt from the requirements of Policy IR13.

### PE01 – Placemaking

- 7a.10 Notwithstanding other issues which have been identified on this site and are under investigation by other Council departments, the proposed garage outbuilding which is the subject of this application would in general promote the six qualities of successful places, where they are relevant and as defined in Scottish Planning Policy. As such the proposal would accord with the intent of Policy PE01.
- 7a.11 Accordingly, the proposal is contrary to Policy PE24 – Flood Management of the Falkirk Local Development Plan 2.

### **7b Material Considerations**

- 7b.1 The material consideration to be assessed are Falkirk Council Supplementary Guidance, site circumstances and permitted development rights, consultations, representations, and coal mining legacy.

### **Falkirk Supplementary Planning Guidance**

- 7b.2 Supplementary Guidance SG03 - Residential Extensions and Alterations  
The proposed structure would relate well to the existing house and plot size. The proposal would not harm the privacy or light of neighbouring properties, and the introduction of the structure, with its set back nature from the street, would not exacerbate parking pressure in the surrounding area. The proposal therefore accords with SG03. Noise and air quality are being considered separately by the Environmental Health Team.
- 7b.3 Supplementary Guidance SG05 - Green Infrastructure and New Development  
It is acknowledged that SG05 requires maintenance buffers between new structures and watercourses, and that the Flooding Officer has raised concern that the proposed structure is entirely sited within 20 metres of the Avon Burn, which is the width of buffer strip required between development and a 10 metre wide waterbody to maintain natural fluvial processes and to protect the water environment. Whilst this the proposal is therefore technically contrary to SG05, it is acknowledged that there is a potential fall-back position as regards permitted development rights, meaning that a shorter building of the same footprint could be constructed under permitted development rights. This shall be discussed in Paragraph 7b.7 onwards.

### SG07 Biodiversity and Development

- 7b.4 This guidance note is intended to assist developers in making a planning application which will meet the Council's biodiversity objectives. The Council has a duty to uphold legislation associated with protected species, habitats and sites. In this instance, the proposed outbuilding would not negatively impact local biodiversity. The proposal would accord with the terms of SG07.

### SG13 Developer Contributions

- 7b.5 The proposal does not trigger the requirement for any developer contributions and therefore accords with the terms of this guidance.

### SG15 Low and Zero Carbon Development (non-statutory from previous LDP 2015)

- 7b.6 This guidance is non-statutory as it was adopted under the previous Local Development Plan. New guidance (SG14 – Renewable and Low Carbon Energy) shall be subject to consultation later in 2021. As set out in paragraph 7a.9, the proposal would be exempt from Policy IR13, and therefore it is not necessary to assess the proposal against Policy SG15.

## **Site Circumstances and Permitted Development Rights**

- 7b.7 The application site is generous in terms of its plot size, and whilst the proposed garage fails to accord with permitted development legislation, this is by virtue of its height alone and not by virtue of its footprint. Therefore, it is necessary for officers to consider a possible fall-back position where the structure were to be reduced in size to accord with permitted development rules, and then consider whether such reductions would overcome policy conflict in terms of flood risk, or be reasonable to pursue.
- 7b.8 Class 3A of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) relates to the erection of buildings within the grounds of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse. The key criteria as relevant to this site are that such buildings must not consist of a dwelling; that buildings must not be located between the front/side walls of the main house and a road; that the eaves must not exceed 3 metres; the maximum height must not exceed 4 metres; where the proposed building is within 1 metre of a property boundary, that the height must not exceed 2.5 metres in that area; and the area of ground covered within the combined side/rear garden must not exceed 50% of that garden.
- 7b.9 In this instance, the garage outbuilding occupies approximately 23.5% of the side/rear garden of the property, and its maximum height accords with the permitted development legislation. It is its eaves height and height close to property boundaries which fails to accord with the legislation. As such, were the building to be reduced in height, particularly along its rear and flank walls, it would likely benefit from permitted development rights, whilst retaining the same 121 square metre footprint, regardless of its position within the functional floodplain.
- 7b.10 Furthermore, the position of the garage outbuilding is well set back from the houses within neighbouring properties, and does not therefore impact such properties in terms of overshadowing and privacy. Officers also consider that the size and scale of the development, particularly when finished in smooth cement render as indicated on the submitted drawings, would not adversely impact the appearance of the area.
- 7b.11 As such, on balance, in light of the fact that the structure itself would not impact the living conditions of neighbours, and that a shorter structure would benefit from permitted development rights even when within the functional floodplain, officers consider that this would outweigh the policy conflict as regards flood risk in this particular instance, and that it would be unreasonable to refuse planning permission on these grounds alone.

## **Consultations**

- 7b.12 The consultation response as summarised in Section 4 of this report are acknowledged. However, for the reasons discussed in Paragraphs 7b.7 to 7b.11 above, officers do not consider that there would be adequate grounds for refusal of this application due to flood risk.

## Public Representations

7b.13 The public representations are summarised in Section 6 of this report, and are addressed in turn as follows:

- There is no evidence before officers that a business is intended to be transferred from a different location to this site;
- A new planning application would be required in the event that the applicant or any future occupier wishes to change the use of the garage. That application would be subject to neighbour notification and assessment against adopted planning policies;
- There is insufficient evidence before officers to suggest that an industrial use is being undertaken at this site;
- There is insufficient evidence before officers to suggest that a commercial business is operating from this site;
- Noise and air quality issues are being investigated separately by the Environmental Health Team.;
- The applicant's agent has indicated that Building Standards requirements necessitate building ventilation of the type proposed. Were noise nuisance to result from such equipment in future, this would be investigated under Environmental Health legislation;
- It is acknowledged that there have been significant vehicle movements and parking issues along this street. This is not grounds for refusal of a domestic outbuilding which is well set back from the property's street frontage. The blocking of neighbouring driveways by vehicles would be a matter for Police Scotland;
- The concerns regarding road surface damage are noted and have been brought to the attention of the Council's Roads and Grounds Unit. This is not grounds for refusal of a domestic outbuilding, particularly one which is set back approximately 16 metres from the adopted road at the front of the property;
- The land is a former Council property, which was sold in 2005 in accordance with "Right to Buy" legislation;
- Officers consider the building to be appropriate in appearance, and that if used for domestic purposes, would not be out of character with the wider residential area;
- The applicant is entitled to remove a tree on their property as the area is not covered by a Tree Preservation Order. There is no evidence before officers to suggest that a bat roost was located in the tree in question;
- Officers consider that the outbuilding height is accurately shown on the drawings;
- The matter of overspill of operations and parking onto public land has been brought to the attention of the Falkirk Council Housing Department, and is a separate matter from the proposed garage structure in this application.

The issues raised in the petition are addressed as follows:

- Officers cannot comment as to an applicant's future intentions. If the garage structure is intended for a different use such as business in the future, a separate planning application would be required which would be subject to neighbour notification and assessment against adopted planning policies;
- There is no evidence before officers that a business is intended to be transferred from a different location to this site;

- A new planning application would be required in the event that the applicant or any future occupier wishes to change the use of the retrospective garage. That application would be subject to neighbour notification and assessment against adopted planning policies.

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

7b.14 The application site falls within or is partially within the Development Low Risk Area as defined by the Coal Authority. However, as coal mining activity was undertaken at depth, no recorded surface hazards currently exist which could pose a risk to new development. Unrecorded coal mining related hazards could still exist. It is not necessary to consult the Coal Authority on any planning applications which fall within the Development Low Risk Area.

7b.15 Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

## **7c Conclusion**

7c.1 The proposed development is assessed as being contrary to Local Development Plan policy regarding flood risk. However, material considerations in the form of site circumstances and a permitted development fall-back position, are considered sufficient to outweigh the policy conflict in this instance.

## **8. HUMAN RIGHTS AND EQUALITY ASSESSMENT**

8.1 Officers have considered the Human Rights Act 1998 in making this recommendation. It is considered that the proposed recommendation would not adversely impact on any protected characteristic groups as identified within the Equality Act 2010.

## **9. RECOMMENDATION**

9.1 **It is recommended that Planning Committee grant the planning application 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. Within six months of the date of this decision, the external walls of the garage outbuilding shall be finished in smooth cement render.**
- 3. Within six months of the date of this decision, an existing flue at the south-west corner of the garage outbuilding shall be removed.**
- 4. The garage outbuilding shall only be used for domestic purposes incidental to the enjoyment of the dwellinghouse.**

**Reason(s):**

1. As these drawings and details constitute the approved development.
2. To safeguard the visual amenity of the area.
3. To safeguard the residential amenity of the area.
4. To safeguard the residential amenity of the area.

**Informatives:**

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02A, 03, and 04.
2. 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.
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: \***

**LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan 2.
2. Scottish Planning Policy 2014.
3. SG03 Residential Extensions and Alterations
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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for John Cooney, Assistant Planning Officer.

## **Policy Schedule**

### **PE01 Placemaking**

Development proposals should promote the six qualities of successful places as defined in Scottish Planning Policy by addressing the following principles:

#### **1. Distinctive**

- Existing natural and historic environment features should be identified, conserved, enhanced and integrated sensitively into development. Further guidance is set out in Policies PE05-PE27, and accompanying Supplementary Guidance SG07- SG12;
- The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create a coherent structure of buildings, streets and public spaces that are attractive, distinctive and create a sense of identity within the development. Further guidance is set out in SG02 'Neighbourhood Design';
- Development should include landscaping and green infrastructure which enhances, structures and unifies the development, assists integration with its surroundings, manages surface water sustainably, and contributes, where appropriate, to the wider green network. Further guidance is set out in SG05 'Green Infrastructure and New Development';
- Developments of a significant scale should contribute to public art either through a contribution to an existing local project, or through provision of public art within the development, guided by a strategy prepared by the developer in consultation with the Council and Falkirk Community Trust. Further guidance is set out within SG13 'Developer Contributions' and the public art procurement guide produced by Falkirk Community Trust.

#### **2. Safe and pleasant**

- Development 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 provision of safe access for all. Further guidance is set out in SG02 'Neighbourhood Design';
- Development should not exacerbate existing air quality issues or introduce new sources of pollution which impact on local air quality without appropriate mitigation.

#### **3. Easy to move around and beyond**

- Development should be designed to encourage the use of active travel and sustainable, integrated transport. Further guidance is set out in Policies IR05-IR07;
- Development should build on the existing network of paths, edges, nodes, districts and landmarks to create places that people can navigate easily around.

#### **4. Welcoming**

- Streets and public spaces should have buildings fronting them or, where this is not possible, a high quality hard or soft landscape treatment. Further guidance is set out in SG02 'Neighbourhood Design'.



## **5. Adaptable**

- Development should be designed to consider how people use places differently, for example depending on age or degree of personal mobility;
- Where appropriate, development should provide a mix of building densities, tenures and typologies where a variety of diverse but compatible uses can be integrated.

## **6. Resource efficient**

- In support of climate change mitigation, 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 incorporating space to separate materials at source; incorporation of low and zero carbon generating technologies and integration into neighbourhood and district heating networks. Further guidance is set out in Policies IR12-IR14;
- In support of climate change adaptation, 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;
- Provision should be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.

### **HC07 Established Residential Areas**

Within established residential areas, the introduction of uses which would be incompatible with the residential character and amenity of the area will generally not be permitted. Proposals for appropriate community services (e.g. neighbourhood shops, surgeries and nurseries) or other compatible business uses (e.g. home business and guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.

### **HC08 Residential Extensions and Alterations**

Extensions and alterations to residential properties will be permitted where:

1. The scale, design and materials are sympathetic to the existing building;
2. The location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and
3. It will not result in overdevelopment of the plot, thereby giving rise to adverse impact on the functioning of garden ground, unacceptable loss of off-street parking or road safety issues.

Detailed guidance on the application of these criteria is set out in Supplementary Guidance SG03 'Residential Extensions and Alterations'.

## **PE19 Biodiversity and Geodiversity**

The Council will protect and enhance habitats and species of importance, and will promote biodiversity and geodiversity through the planning process. Accordingly:

1. Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Qualifying interests of a Natura 2000 site may not be confined to the boundary of a designated site. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions, there are imperative reasons of overriding public interest, including of a social or economic nature and compensatory measures are provided to ensure that the overall coherence of the Natura network is protected. Where the site has been designated for a European priority habitat or species, consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or for other reasons subject to the opinion of the European Commission (via Scottish Ministers);
2. Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance;
3. Development likely to have an adverse effect on European protected species; a species listed in Schedules 5, 5A, and 8 of the Wildlife and Countryside Act 1981 (as amended); or badgers as per section 10 of the Protection of Badgers Act 1992, will only be permitted where the applicant can demonstrate that a species licence is likely to be granted;
4. Development affecting Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites (as identified on the Proposals Map and in Supplementary Guidance SG08 'Local Nature Conservation and Geodiversity Sites'), and national and local priority habitats and species (as identified in the Falkirk Local Biodiversity Action Plan) will not be permitted unless it can be demonstrated that the overall integrity of the site, local habitat or local species population will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance;
5. Where development is to be approved which could adversely affect any site, habitat or species of significant local nature conservation value, the Council will require appropriate mitigating measures to conserve and secure future management of the relevant natural heritage interest. Where habitat loss or fragmentation is unavoidable, the creation of replacement habitat to compensate for any negative impacts will be required, along with provision for its future management. Where adverse impacts on locally important species are unavoidable, measures to protect and enhance the wider local population of that species will be required; and
6. All development proposals should conform to Supplementary Guidance SG07 'Biodiversity and Development'.

## PE24 Flood Management

1. The Council will support the delivery of the objectives and actions set out in the Local Flood Risk Management Strategies and Local Flood Risk Management Plans covering the area. There will be a presumption against development which would prejudice the implementation of the relevant actions.
2. Development proposals will be assessed against the Flood Risk Framework set out in Scottish Planning Policy, with development being avoided in locations at medium to high flood risk, unless it accords with the criteria set out in the Framework. There will be a presumption against new development which would:
  - Be likely to be at risk of flooding;
  - Increase the level of risk of flooding for existing development;
  - Result in a use more vulnerable to flooding or with a larger footprint than any previous development on site; or
  - Lead to an increase in the probability of flooding elsewhere.
3. Development proposals on land identified as being at medium to high risk from any source of flooding, and low to medium risk areas as identified by the Flood Risk Framework, or where other available information suggests there may be a risk, including proposals to restore the natural course of watercourses, will be required to provide a flood risk assessment in accordance with SEPA's Technical Flood Risk Guidance for Stakeholders that demonstrates that:
  - Any flood risks can be adequately managed both within and outwith the site;
  - An adequate allowance for climate change and freeboard has been built into the flood risk assessment;
  - Access and egress can be provided to the site which is free of flood risk; and
  - Water resistant materials and forms of construction will be utilised where appropriate (including any development permitted in medium to high risk areas (that accords with the exceptions in the Flood Risk Framework) or is located in adjacent low to medium risk areas).
4. Development proposals on previously developed land which is at risk of flooding will be limited to uses which are of equal or less vulnerability as defined by SEPA's Land Use Vulnerability Guidance.
5. Where suitably robust evidence suggests that land contributes or has the potential to contribute towards sustainable flood management measures development will only be permitted where the land's sustainable flood management function can be safeguarded.

## **IR02 Developer Contributions**

Developers will be required to contribute to the provision, upgrading and, where appropriate, the maintenance of infrastructure where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The types of infrastructure where contributions may be required are set out in Table 4.1. The nature, scale and phasing of developer contributions will be determined by:

1. Guidance and contribution rates set out in SG13 'Developer Contributions';
2. Site specific requirements set out in the LDP or relevant development brief; and
3. The principles contained in Circular 3/2012 'Planning Obligations and Good Neighbour Agreements'.

In assessing applications where developer contributions are required, the economic viability of proposals will be taken into account as a material consideration where supported by a Development Viability Statement. Developer contributions for education and open space will be waived for flatted residential development, or conversions of buildings for residential use, of up to 50 units within town centre boundaries.

## **IR10 Drainage Infrastructure**

1. Necessary sewerage infrastructure associated with new development should either be adopted by Scottish Water or have alternative maintenance arrangements which are acceptable to SEPA. Connection to the public sewer is the most sustainable option and will ensure that any pollution risk to the environment is minimised.
2. Surface water management for new development should comply with current best practice on Sustainable Urban Drainage Systems (SUDS), where appropriate forming an integral part of the development's landscape structure as set out within Supplementary Guidance SG05 'Green Infrastructure and New Development'. SUDS will be required to meet the specifications as detailed in the most recent version of Sewers for Scotland should the developer wish the surface water system to vest in Scottish Water.
3. For developments that involve a change of use and/or redevelopment, wherever possible, opportunities should be taken to retrofit SUDS.
4. 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. The strategy should follow the latest version of the SUDS Manual.

## **IR13 Low and Zero Carbon Development**

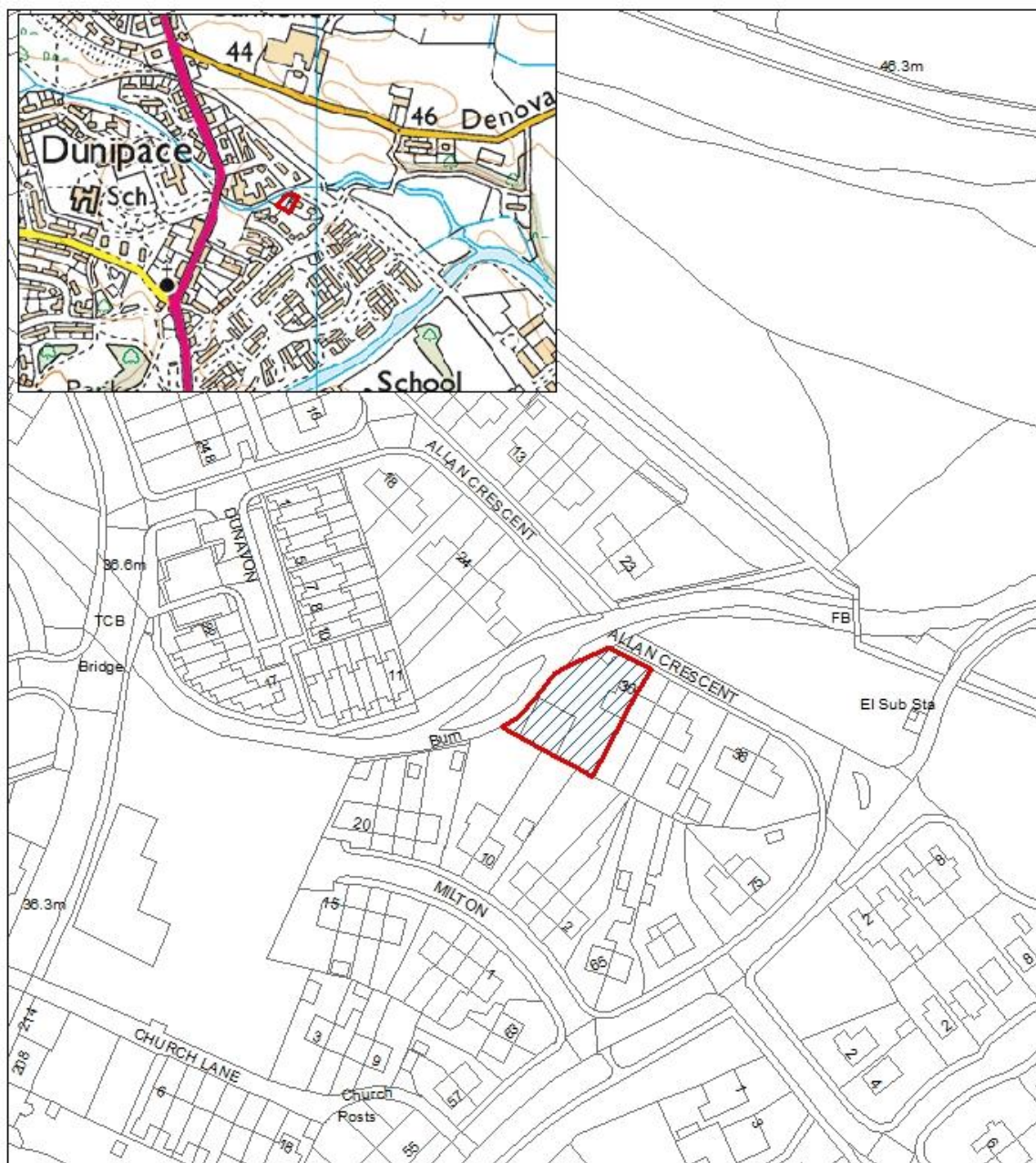
1. All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 12% of the overall reduction in CO2 emissions as required by Building Standards has been achieved via on-site LZCGT. This proportion will be increased as part of subsequent reviews of the LDP. All proposals must be accompanied by an Energy Statement which demonstrates compliance with this policy. Should proposals not include LZCGT, the Energy Statement must set out the technical or practical constraints which limit the application of LZCGT. Further guidance is contained in Supplementary Guidance SG14 Renewable and Low Carbon Energy. 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 the other sustainability aspects of the current Sections 6 and 7 of the current Building Standards Technical Handbook.

# Planning Committee

## Planning Application Location Plan

**P/20/0598/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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