

Falkirk Council

Title: Kilns House – Statutory Consultation for disposal of

Common Good Property

Meeting: Executive Date: 23 August 2022

Submitted By: Director of Place Services

1. Purpose of Report

1.1. The purpose of this report is to provide information on the outcome of the consultation on the proposed sale of Kilns House in Falkirk under the Community Empowerment (Scotland) Act 2015.

2. Recommendation(s)

- 2.1. It is recommended that the Executive:-
 - (1) notes and has regard to the Consultation representations received;
 - (2) approves the responses to the Consultation comments as outlined at Appendix 2 to this report;
 - (3) agrees, having regard to the terms of Paragraphs 4.8 below, that the Kilns House site be considered as alienable Common Good;
 - (4) in relation to the proposal, agrees that Kilns House be advertised and sold on the open market, and
 - (5) agrees that the capital receipt from the sale of Kilns House be added to the Falkirk Common Good Fund.

3. Impact on Climate Change Targets

3.1 Upon consultation with the Energy and Climate Change team, it was determined that there would be no direct climate related impacts from the sale of the B Listed Kilns House on the Council's climate related targets. Future consideration to retention of trees within the Arnothill & Dollar Park Conservation Area and future potential use to incorporate biodiversity and adaptive measures will likely arise from any subsequent planning processes. Retention of existing flora/fauna on the site would be encouraged.

4. Background

4.1. On 17th November 2020, the Executive committee declared six properties as being surplus to operational requirements. Kilns House was one of these. It was noted at the time that being Common Good a public consultation exercise to consider the proposed sale of Kilns House was required before a final decision by the Executive committee could be made.

- 4.2. Kilns House and associated land is held on the Common Good Account of the former Burgh of Falkirk. Therefore, before considering any proposal to change the use of, or dispose of, any Common Good property, the Council must comply with the provisions of the Local Government (Scotland) Act 1973 (the "1973" Act) and have regard to any representations made by the community in response to a consultation exercise carried out in accordance with the procedures detailed in S.104 of the Community Empowerment (Scotland) Act 2015 ("the 2015 Act").
- 4.3. Kilns House has lain empty since October 2005 when it was last occupied by the then Community Services. Being originally designed as a house, the layout and restrictions on the property make it unsuitable for alternative Council uses. Previously there was market interest to lease the building for commercial uses but this proved unattractive to businesses. The property is in a poor condition requiring substantial investment to develop it for any form of occupation. This is most likely to be achieved now by a new owner developing the property, such as are mentioned as part of the consultation.

5. Considerations

Consultation Process

- 5.1. For the potential sale of Kilns House and associated land to proceed, the Council must undertake at least an eight-week consultation process. The consultation commenced on the 17 February 2022 and ran until the 14 April 2022. The Consultation Document is attached as Appendix 1. The Council used several means to promote the consultation and encourage engagement:
 - Statutory Notice in the Falkirk Herald on 17 February 2022
 - Public Notices at six locations around Kilns House and wider vicinity displayed from 17 February 2022
 - Public Notice in the Falkirk Library together with hard copies of the consultation document and response form
 - Announcements on social media such as Twitter and Facebook.
 - Council website The survey was available to view and participate on Falkirk Council's webpage, where a dedicated link was created.
 - Citizen Space The survey was live online from 17 February to 14 April 2022 on Falkirk Council's consultation platform for undertaking all public consultations.
 - Grahamston, Westfield and Middlefield Community Council was contacted separately on the 10 February 2022.
 - The three local Councillors for the ward were informed on 15 February 2022
- 5.2. A variety of representation methods were adopted including on-line, e-mail and by post to allow maximum participation and to gain the views of Falkirk residents and community bodies. The online survey was the predominant method of making representations although a letter was also received from one respondent.

Consultation Question

5.3. The Consultation sought views on a specific question and allowed respondents to also leave additional comments if they desired: -

"Do you agree that Falkirk Council should dispose of Kilns House on the open market?"

Consultation representations

- 5.4. Over the consultation period 44 representations were received from individuals and organisations, with 32 providing additional comments. Statutory consultation is required for all active Community Councils within the former Falkirk Burgh area. Although there are 7 Community Councils within the former Burgh, only one is currently active. Accordingly, Grahamston, Westfield and Middlefield Community Council was consulted directly by e-mail on 10th February, no representation was received. Automated acknowledgements were issued to all online respondents.
- 5.5. The number of representations received clearly represents a very small percentage of the overall population of the Falkirk Council area and the former Burgh area. Many people will be aware of the Consultation though chose not to provide a representation. The Consultation comments have been anonymised, and proposed individual representations are set out in the spreadsheet at Appendix 2 to the Report. The Executive committee is asked to approve these responses.
- 5.6. Within the 32 representations that made comments there isn't a common thread in the views given however some of those in favour of the proposal gave a general desire for reuse of the property through redevelopment, perhaps a boutique hotel or residential house. Those comments not in favour were less specific as to their desires of what the future of Kilns House should be though uses such as a business and social hub, retirement home, Battle of Falkirk Heritage centre, new Registrar's office were mentioned. The letter received covered various areas, many of which weren't relevant to the Consultation. The writer of the letter would prefer the property to be turned into retirement flats and the surrounding land used for bungalows (preferably Council owned and run) but, failing that, sold openly and transparently on the open market.
- 5.7. Of the 44 representations received, 27 agreed and 17 disagreed. This equates to a proportion of 63% in favour of the proposal. All representations appear to be from the Falkirk Council area and the proportion in favour of those within the former Falkirk Burgh appears to be higher at a little over 70%. For interest, those comments that appear to be from within the Burgh area are highlighted in blue in Appendix 2.

Common Good Status

5.8. Under S75 of the 1973 Act as amended, where a Local Authority wishes to change the use or dispose of land forming part of the inalienable Common Good, Court approval is needed. Where the land falls under the alienable Common Good of the Authority then no such approval is required, although in each case a Community Consultation under the 2015 Act should be carried out and regard had to the representation received. Legal advice is to the effect that Kilns House is alienable Common Good and that no Court approval would be needed. The Council is therefore asked to endorse this approach.

6. Consultation

6.1. This report outlines the Consultation representations received and details of these comments and the Council's suggested response are set out in in Appendix 2.

7. Implications

Financial

7.1 The financial consequences of the sale would reduce the ongoing liabilities and costs associated with such a property and secure a capital receipt for the Common Good Fund which would be used for the benefit of the former Burgh of Falkirk

Resources

7.2 The resources to market the property and subsequent conveyancing would come from the in-house resources primarily Asset Management and Legal Services.

Legal

7.3 An appropriate consultation exercise under S104 of the Community Empowerment (Scotland) Act 2015 has been carried out and consideration has been given to the requirements of S75 of the Local Government (Scotland) Act 1973.

Risk

7.4 If the property is not disposed of there will be continuing financial and health and safety risks associated with vacant properties.

Equalities

7.5 The Council is required to have regard to the Equality Act 2010 and the public sector equality duty (PSED). The PSED places a statutory duty on the Council in the exercise of its functions to have due regard to the need to: (1) eliminate discrimination (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (3)

foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.6 Following an initial assessment the intended disposal of Kilns House on the open market is not considered to impact adversely the PSED or create circumstances that would lead to discrimination against persons who share a protected characteristic.

8 Conclusions

- 8.1 The Council is asked to consider this report. Consultation representations have been considered and most representations are in favour of the Councils proposal. 63% of respondents were in favour. The number of representations is low despite the Council attempting to gain as much interest as possible in the consultation process.
- 8.2 The consultation representations have not disclosed any substantive objection to the intended disposal nor suggested any viable alternative to it. The advantage of selling outweighs the few disadvantages. The consultation has not shown general support for any single or specific alternative for the future of Kilns House. No community group has put forward an application to acquire the site under Community Asset Transfer legislation. If sold, the Council would obtain a capital receipt and the capital receipt will be used towards for the benefit of the former Burgh of Falkirk area.

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Director of Place Services

Date: 11 August 2022

Contact Officer: Keith Raffan, Property Surveyor, keith.raffan@falkirk.gov.uk

Appendices

- Appendix 1 Final Consultation Document
- Appendix 2 Full anonymised consultation response, with Council replies

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973.

Community Empowerment (Scotland) Act 2015 Act.

Common good property: statutory guidance for local authorities (July 2018).

Appendix 1

Statutory Consultation with the Local Community under Part 8 of the Community Empowerment (Scotland) Act 2015 for Disposal of Common Good Land - For (Disposal for) sale on the open market of

Kilns House, Kilns Road, Falkirk by Falkirk Council (the "Council")

Consultation dates: commences 17th February 2022 closing 14th April 2022.

Introduction and Background

Kilns House is a substantial two-storey sandstone built villa which was built in 1852. The main building extends

to 330 sq.m (3,550 sq.ft) Approx and has a pitch slated roof. It is a B-listed building and lies within the Arnothill

and Dollar Park Conservation Area which has associated planning policies and restrictions on development.

Information on the history of the property can be found here:

https://falkirklocalhistory.club/around-and-about-the-area/houses-and-estates/kilns/

Formerly a residential property, it was bought by the Council's predecessors in 1954 as an investment for the

Falkirk Common Good Fund to be used as offices by the Burgh Architects Department and other departments.

Following decades of use as such, the property was most recently occupied as the then Community Services

headquarters. The building has, however, been vacant for a number of years and its condition is poor. The type

of building and its layout is no longer suitable for use as office accommodation. It does not fit into the Council's

plan for rationalisation of its operational buildings. It is in need of significant refurbishment.

It would substantially deplete the Common Good Fund to use monies from it to upgrade the property and

thereafter maintain it and, ultimately, it would be not be cost effective to do so. It is considered that the best

option for the property's future would be to sell it on the open market and provide an opportunity for a

developer to restore it and bring it back into use.

A significant area of land would be retained generally to the south of the property to ensure continuing public

pedestrian access from the town centre via Municipal Buildings to Dollar Park. Within this area of attractive

woodland, there is a path which connects, via a doorway, onto Burnbrae Road opposite Dollar Park.

Potential future uses include conversion to a small hotel or other commercial use or a sensitive residential

conversion.

What land is being consulted on?

Kilns House together with associated ground shown shaded on the plan ("the consultation site"). The

retained area is also indicated hatched blue on the plan.

What is being proposed?

It is proposed that Kilns House would be advertised and sold on the open market. The sale would reduce the ongoing liabilities and costs associated with such a property and secure a capital receipt for the Common Good Fund which would be used for the benefit of the former Burgh of Falkirk area.

The results of this consultation exercise will be considered by Falkirk Council's Executive committee before a final decision is taken

Why are we consulting?

The building and site form part of the common good of the former Burgh of Falkirk.

When considering disposal of common good land (including demolition or sale), certain legal requirements must be followed. These are:

- Carry out a statutory consultation with the local community under Part 8 of the Community Empowerment (Scotland) Act 2015; and
- If required, seek approval from the Court under s.75 of the Local Government (Scotland) Act 1973.

This consultation is being carried out to satisfy the first legal requirement and further guidance on the process can be found here:

https://www.gov.scot/publications/community-empowerment-common-good-propertyguidance-local-authorities.

The Council is following the above Guidance.

The Council, in terms of the Community Empowerment (Scotland) Act 2015, must have regard to the consultation responses when making a decision on whether or not to proceed with the intended disposal.

What are the benefits of the proposal?

There would be a financial benefit to the Council which would no longer require to meet ongoing costs such as security costs and rates. A sale would result in a capital receipt for the Common Good Fund thereby making available funds to benefit the local community. The local community would benefit from the restoration of a prominent and prestigious local building within its area.

Are there any drawbacks to this proposal?

None are apparent.

Please answer the following question:

1. Do you agree that Falkirk Council should dispose of Kilns House on the open market?

Responses to and comments on the proposal are invited. They must be made in writing and state that they relate to the Kilns House Consultation proposals. Responses and comments must be received by the closing date of **14**th **April 2022.**

Methods of Response:

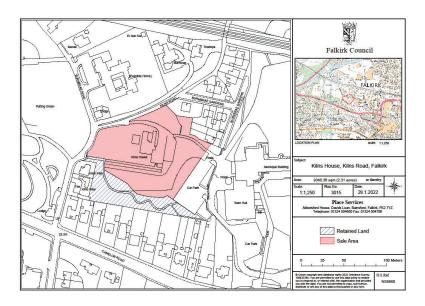
- **1. On-line**: Please open FC consultation link www.falkirk.gov.uk/commongood and directly submit your completed response.
- **2. E-mail**: A PDF consultation response form is available for downloading and printing on the website of Falkirk Council at www.falkirk.gov/commongood. Alternatively, to request a consultation response form, please e-mail property@falkirk.gov.uk and ask for a "Kilns House, Falkirk Consultation Response Form", returning completed forms to the same e-mail address property@falkirk.gov.uk or,
- **3. Post**: Please either download and print a consultation response form at the link above. Copies are also available from Falkirk Library, Hope Street, Falkirk FK1 5AU. Responses do not, however, require to be on the consultation response form and can be by letter. Please post completed response with contact details to:

"Kilns House, Falkirk Public Consultation Response", The Manager (Asset Management), Falkirk Council - Place Services, Abbotsford House, David's Loan, Bainsford, Falkirk, FK2 7YZ

What happens next?

The Council's decision will be published on the Falkirk Council website www.falkirk.gov.uk along with details of all representations to this consultation (excluding address, postcode and email of respondent). The Council's decision will have regard to the responses to this Consultation as to whether to proceed with the proposed disposal.

Please return forms by 14th April 2022



Do you agree that Falkirk Council should		
dispose of Kilns House on the open market?	Do you agree that Falkirk Council should dispose of Kilns House on the open market?	
	- Do you have any comments?	Council Reply/Answer
	It would be amazing if the house could be turned into a boutique hotel, as this is something	Thank you again for your comment. Subjet to planning permission, a boutique hotel may well be a potential
Yes	that the area is very much lacking.	option for the property.
	With strict instructions on how the house and surrounding land will be used.	
	_	Thank you again for your comment. Subjet to planning permission, a boutique hotel may well be a potential
V.	I would prefer it to be a high end boutique hotel as Falkirk really needs this. We and the	option for the property. This would be likely to boost tourism in Falkirk. With the building being B listed and
Yes	surrounding area are very dependent on Tourism and this would be a boost.	within a conservation area any proposals will be looked at closely.
	Would be great to see it turned into a boutique type small hotel, restaurantsomething to	Thank you again for your comment. Subjet to planning permission, a boutique hotel may well be a potential
Yes	attract visitors to the area, rather than using the run of the mill chain hotels we have in Falkirk.	option for the property.
	I am very glad to see that the small lower section will be retained by Falkirk Council. I think it's	
	important that the public right of way is retained. I also think it is very important that the	
	beautiful trees in that section should not in any way be affected. I would hope that everything	
	possible will be done to ensure that none of the lovely trees are lost.	
		Thank you again for your comment. With the building building being in a conservation area and also being a B
	I would like to see the building itself brought into use, rather than lie empty, and would prefer	listed building this will give substantial protection to the trees in the grounds. A substantial part of the land is,
	it was a boutique hotel, or something that would bring economic benefit to the area, but	being retained which will give further protection being in public ownership. Subjet to necessary planning
Yes	obviously that is a commercial decision.	permission, a boutique hotel may well be a potential option for the property.
res	obviously that is a commercial decision.	
W	We till to the second to	Thank you again for your comment. An approriate future use of the property is is certainly an important
Yes	Would be lovely to see it in use again.	consideration of Falkirk Council.
Yes		
Yes		
Yes		
	Another gifted building just being disposed of by the council	
	Where are the option	Thank you again for your comment. Interstingly Falkirk Councils predecessors paid £3,000 when they acquired it.
	is the only option to sell, it seem any time the council wants to get rid of a building it due to	The best option for the property is considered to sell the property which would allow a new owner to invest in
No	cost of refurbishment. Which is due to the lack of maintenance in council buildings	the property, develop the building and bring it back into use.
	WE WILL PURCHASE OFF-MARKET AND DEVELOP INTO A HIGH END RESIDENTIAL HOME FOR	Thank you again for your comment. The intention is to bring the property to the open market. Subject to
No	RESALE.	planning permission, your suggested future use of the property could well be a potential option.
	Yes, the sale will get rid of an old asset and takes away the required ongoing maintenance.	
	The SG does not provide sufficient means to maintain "adequate" services for our council's	
	needs.	Thank you again for your comment. An approriate future use of the property is is certainly an important
Yes	The sale will allow some other meaningful project to proceed.	consideration of Falkirk Council.
163	The sale this along some other meaningful project to proceed.	Thank you again for your comments. Being in a conservation area and also being a B listed building this will give
Yes	Would not like to see it demolished	a very high level of protection to Kilns House.
Yes	Would not like to see it demonstred	a very mgm rever or protection to kins mouse.
Yes	About a sile bould be a skind a siling about like this DECODE about because # - C: Co	
	the council should be actively selling places like this BEFORE they become "unfit for use for the	
	council". In other words you've left it to rot and now want someone else to invest money to	Thank you again for your comment. Despite being unfit for use by Falkirk Council we are cetainly optimisitic that
Yes	restore it. Disgraceful.	it wiill be brought back into beneficial use, most likely residential, by a new owner.

	I think they should open this as a public interest building housing business hubs, meeting	
	rooms, arts events & youth club/youth projects (much needed diversion for kids in the area	
	with such high levels of drug abuse & ASB).	
	The rooms could also be used for private events in the evening pulling in multiple layers of	
	funding, both private & public. This would stay within the common good agreement which has	
	allowed it to be a lovely little sanctuary & short cut to town.	
	If we can afford a new council HQ (which has already cost in excess of £45 million), then we	
	can afford this which is much more needed. It invests in children, SME's, the arts & boosts the	
	local economy whilst utilising a vacant public space. Local groups could also use the space for	
		Thank you again for your comments on proposed uses. These are very intersting and perhaps a future use may
		include some of these . Certainly the retention of the southern part of the land was important to Falkirk Council
No	I often use the grounds for walks, a quiet research space, as a short cut.	for contiuning to make it available for walkers as you describe.
Yes		
		Thank you again for your comments. Falkirk Council does appreciaite the attributes of the propertly to local
		people in particular as you describe. Hopefully the adjacent Dollar Park will at least give some of the positive
	. , , , , , , ,	aspects that you mention. Certainly a significant amout of land is being retained. With the property being in a
		conservation area, and being a B listed building this should protect the building and result in an attractive
No	stunning and would be better serving the people of rather than the profits of a developer.	redevelopment of Kilns House.
No		
	There is no reason to dispose of Kilns house . It can be adopted by the community , Community	
	Asset Transfer (CAT) is a process that allows a community organisation to take over publicly-	
	owned land or buildings in a way that recognises the public benefits that the transfer will bring.	
	I am willing to take this on board and re establish the Falkirk Central Community Council,	
	currently inactive .	
		The description of the Court of Assistant Court of the Co
		Thank you again for your comments regarding Community Asset Transfer. The proposal should have the
		positive effect for the property of being restored, perhaps even to its original use as a home. There are of course
No	Scottish skills, knitting, crochet, embroidery, weaving . The building can also be used for small events.	other potential uses for the property, subject to necessary planning permission and other requirements which could be along the lines you suggest.
INO	events.	Thank you again for your comments. Certainly, despite its size, there is strong possibilty that it could return to
Voc	Leave it as a sele property, do not split into flats	
Yes	Leave it as a sole property, do not split into flats	being a sinle house rather than flats as you suggest. Thank you again for your comments. Unfortunatly the property would struggle to meet the modern
		requrements of such a home such as requiring en-suite bathroom accommodation. Being a B listed building
	Turn into a Council run Old Folks Home.	would make it particularly difficult to adapt. Subject to planning permission and other necessary consents a
No	Alternatively if it does get sold A quality funeral parlour would be a good idea .	funeral parlour may be a possibilty.
140	Patternatively in it does get sold an quality fulleral particul would be a good idea .	Thank you again for your comments. The property is intended to be sold, however demolition of the building is
		extremely unlikely. The property is B Listed and is in a conservation area which gives considerable protection to
No	why are we considering sale or demolition of a listed building what about Falkirk history	the property.
Yes	,	F - F - 9
	This could form part of the Councils aspirations to reduce its estate and property	
Yes		Thank you again for your comment. Falkirk Council essentially agrees with your views.
		Thank you again for your comments. Falkirk Council certainly hopes, and anticipates, that a new owner will
Yes	salvage the damage done by the councils neglect	bring back this important property back into good condition.
	It would be good to include in clause of selling to retain the woodland area towards the Car	
	park of the town hall. This is a useful sound and light barrier from the Town Hall area. The road	
	l. S	Certainly the trees will have considerable protection being within a conservation area and associaited with a B
	that road is very narrow and thr turning onto the main road can become congested with cars	listed building. Planning permission woud have to be sought for a change of use and any proposed works and
	· · · · · · · · · · · · · · · · · · ·	would be considered at that time. As to your comments relating to road congestion and so on, this would
Yes	through town hall car park.	similalry be looked at taking into account the amount of traffic produced by a planning proposal.
Yes		
Yes		
1		

	The Seciety of John De Craeme, is currently interested in taking over responsibility for Kilos	
	The Society of John De Graeme is currently interested in taking over responsibility for Kilns	
	house with the prospect of turning it into A battle of Falkirk 1298 heritage center	
	The property is partiaged ideally to assemble data such a propesal and it legated more feet	
	The property is postioned ideally to accommodate such a proposal and is located mere feet	
	from an 800 year old yew that is significantly linked to the Battle in question	
	II. in a sinite and the second and the	
	Having a visitor center to promote one of Scotland's biggest battles why it occurred and the	
	stories with in the story would offer so much to the local heritage and culture of Falkirk and	
	indeed Scotland	
		Thank you again for your comments. We understand that the Society of John De Graeme has been supplied with
		information in March regarding this. If further information is required it is suggested that the Society get in
No	this impossible	touch with Falkirk Council emailing: property@falkirk.gov.uk
	Falkirk Council need to get their act together and maintain all the historic buildings in their	
1	domain, not sell them off.	
1	You missed a trick with Arnotdale House so you have the perfect opportunity to fully restore	
1	· · ·	Thank you again for your comments. Certainly the intention would, through the sale of the property to have the
1		property restored and a small hotel that you mntioned could be a possibile option. The location of current
	in Newmarket Street.	registrars office does have the important advantage of being in the town centre close to bus routes,
No	This should not be sold.	Grahamston Station and public parking.
	I think the size of common land being sold alongside the house it too large. There are mature	
		Thank you again for your comments. Being in a conservation area and also being a B listed building will give
	buyer.	substantial protection to the trees. With the property originally being a large house it would seem approriatie to
		have a good sized area of grounds with it. You will have seen that a substantial part of the land is being
	troubled by the sale.	retained and will continue to offer an attractive route to Dollar Park.
No		
		Thank you again for your comments which have been noted. Being in a Conservation area and also being a B
		Listed Building this will give substantial protection to the trees. It is considered that the area of land
		compliments and is appropriate for the size of the property. A substantial part of the land is being retained and
No	sold but not with the significant amount of land associated with the proposed sale.	will continue to offer an attractive route to Dollar Park.
		Thank you again for your comment, the intended sale of the property should achieve what you suggest although
Yes	not secured the building will end up being demolished.	being a B Listed Building, demoliton is not an anticiapted prospect for the Council.
	It would be best if it was bought over and developed for use by the whole community e.g.	
		Thank you for your suggestions as to possible future uses. Whilst it is always possible that such uses my come to
	that would be better than it lying empty.	fruition, residential, a small hotel or similar seem more likely.
No		
V	The state of the s	Very constitution and the first first for the first formation of
Yes	This should be done as a matter of urgency taken the already poor state of the building.	Your suggestion is certainly in line with Falkirk Councils views on Kilns House.
		Thank you for your comment. Certanly what has happened at nearby Arnotdale House has worked well
		however the financial aspect is important and the sale will bring the property back into use with the most likely
No	Restoration with public access such as a social enterprise community use like Arnotdale house.	
	- · · · · · · · · · · · · · · · · · · ·	This attractive building would be very expensive to adapt for such a use. Certainly it would be more accessible
No	town centre and easier to access	for private transport rather than by public transport.
	The beautiful be	The decision of the second of the decision of the second o
		Thank you for your view on the extent of land to be included in the sale. The balance between the extent of the
		land that should naturally lie with the substantial B Listed Kilns House and that which would be retained to
	definitely wider at the star gate to give a feeling of more space at the entrance	offer a continuing attractive access linking Falkirk Town Hall to Dollar Park.
	Efforts should be made to consider this for residential dwellings, especially in coordination with	
		Thank you again for your comments. Residential use will likely be a top consideration , however it is unlikely to
Yes	where demand is currently outpacing supply.	be economic to create affordable housing as you suggest.
		Thank you again for your comments. An approriate future use of the property is is certainly an important
		consideration of Falkirk Council. The uses that you suggest are in line with what would be anticipated by Falkirk
Yes	fallingbinyo more disrepair.	Council.