

FALKIRK COUNCIL

Subject: FORMATION OF MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL AND LEISURE/COMMERCIAL USES, REINSTATEMENT OF HARBOUR TO CREATE MARINA AND ASSOCIATED ROADS AND INFRASTRUCTURE AT LAND AT BO'NESS HARBOUR, UNION STREET, BO'NESS FOR ING RED UK (BO'NESS) LTD - 05/0571/OUT

Subject: FORMATION OF MIXED USE DEVELOPMENT INCLUDING 123 APARTMENTS, 75 TOWNHOUSES, 90 BEDROOM HOTEL, YACHT CLUB, RESTAURANTS/BARS, RETAIL, REINSTATEMENT OF HARBOUR TO CREATE MARINA AND ASSOCIATED ROADS AND INFRASTRUCTURE AT LAND AT BO'NESS HARBOUR FOR ING RED UK (BO'NESS) LTD - 05/0573/FUL

Meeting: PLANNING COMMITTEE

Date: 2 December 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor John Constable
Councillor Adrian Mahoney
Councillor Ann Ritchie

Community Council: Bo'ness

Case Officer: John Milne (Senior Planning Officer), ext 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 These applications relate to a mixed use development including residential and leisure/commercial uses, reinstatement of harbour to create marina and associated roads and infrastructure on land at Bo'ness Harbour, Union Street, Bo'ness.
- 1.2 The applicant has submitted detailed proposals for a mixed use development on Phase 1 of the site and an Outline application for the remaining area of land.

2. REASON FOR REFERRAL TO COMMITTEE

- 2.1 The applicant has intimated a change in development strategy for the site, and as such, terms of the S75 Legal Agreement are subject to alteration. Alterations to the previously approved S75 Legal Agreement are outwith the Scope of Actions deferred to the Director of Development Service under the scheme of delegation.
- 2.2 Members may recall that the then Regulatory Committee was minded to grant the above planning applications on 19 April 2007 (Annex 1). The applications were presented to Scottish Ministers as a consequence of an 'Advise Against' from the Health and Safety Executive and returned to Falkirk Council to secure the outstanding S75 agreement.

- 2.3 On 11 March 2008 a paper was presented by the Director of Community Services to the Policy and Resources Committee (Annex 2) outlining the impact that market conditions and site constraints have had on the scheme, and seeking to enter into a revised development agreement with the applicant.
- 2.4 In planning terms, the revised strategy has the consequence of:-
- 1) The initial “Phase 1” detailed planning application will not be initiated and completed; instead
 - 2) Elements of residential housing will be progressed within the area subject to the Outline planning application, with a percentage of funding dedicated to incrementally developing the “Phase 1” area; while
 - 3) The proposed housing within the area subject to outline consent will be subject to further Reserved Matters or Detailed planning applications, as no definitive details of the proposed housing are approved at this time.
 - 4) The terms of the initial S75 Legal Agreement are still relevant, but require a change in delivery mechanism to ensure compliance at appropriate timescales.
 - 5) The S75 Legal Agreement will reflect the terms of the Commercial Development Agreement between Falkirk Council (as landowner) and the applicant, where levels of development profit and pro-rata funding to the scheme as a whole are set.

In relation to the issues as related to the previous report, the changes include:-

2.6 Ecological Clerk of Works

The appointment of an Ecological Clerk of Works remains a stipulation.

2.6 Recreational Facilities Payment

In place of an initial sum of £75,000 to augment nearby recreational facilities, the method of delivery is altered to provide three sums of £25,000 linked to completion of sales of housing within the development.

This will be index linked from the first occasion when the proposals were considered by the Committee (26 July 2006). The phasing arrangement for the Recreational Contribution should be:

- £25,000 – prior to completion of 35 units
- £25,000 – prior to completion of 114 units
- £25,000 – prior to completion of 222 units

2.7 Fire Protection and Gas Detection

The provision of fire protection and gas detection equipment within relevant structures remains a stipulation.

2.8 Public Transport Service Financial Contribution

In place of an initial sum towards public transport, the method of delivery is altered to provide two sums of £25,000 and one sum of £24,000 relating to completion of sales of housing within the development.

This will be index linked from the date when this issue was first considered by Committee (19 April 2007). The first payment should be submitted before the first house is occupied and the other two payments at 12 monthly intervals:

£24,000 – prior to completion of 1st unit
£25,000 – 12 months thereafter
£25,000 – Further 12 months

2.9 Habitat Enhancement Measures

Positive habitat enhancement measures remains a stipulation.

3. CONCLUSION

- 3.1 The applicant has proposed a change to the order in which various parts of the site would be developed. This would affect the phasing of payments of developer contributions for public transport and recreation provision. These amendments are considered to be acceptable.

4. RECOMMENDATION

- 4.1 It is recommended that the amendments to the proposed Section 75 Legal Agreement are accepted, the agreement concluded and planning permissions issued at an early date.

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Director of Development Services

Date: 25 November 2009

LIST OF BACKGROUND PAPERS

1. Annex 1 Planning Report dated 19 April 2007
2. Annex 2 Report by Director of Community Services dated 11 March 2008.

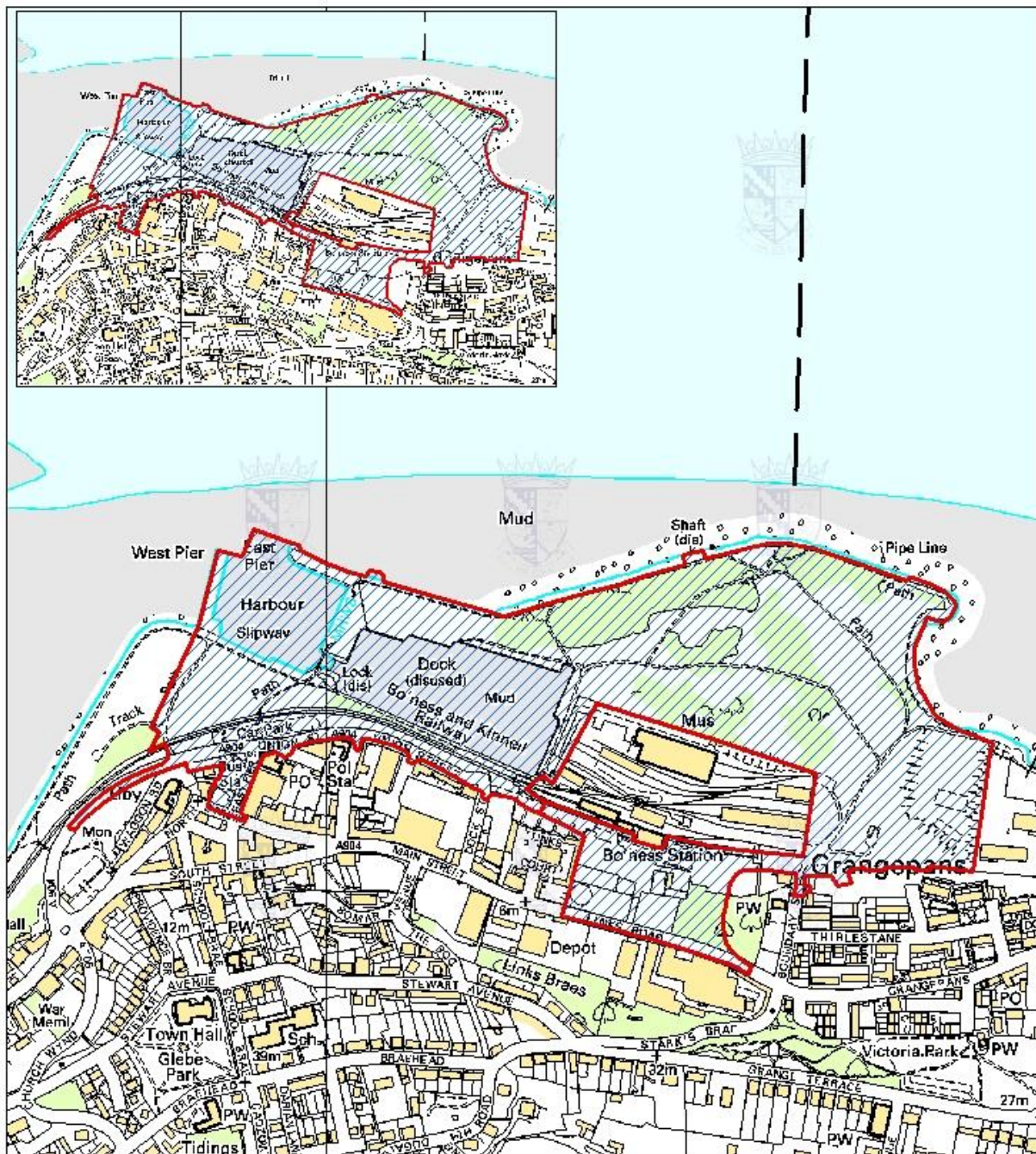
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson (Planning Officer).

Regulatory Committee

Planning Application Location Plan

05/0571/OUT

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



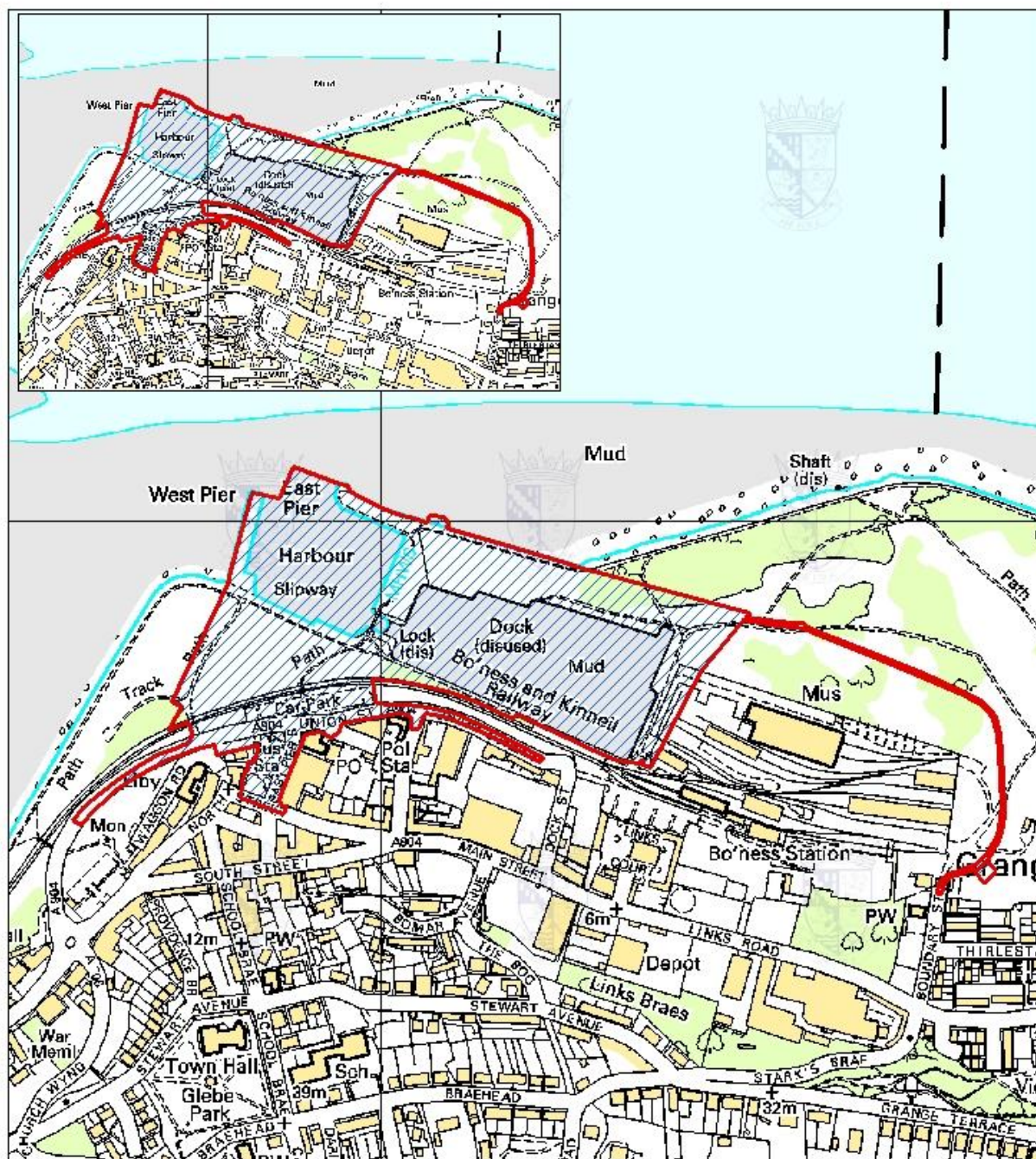
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Regulatory Committee

Planning Application Location Plan

05/0573/FUL

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FALKIRK COUNCIL

Subject: PROPOSED MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL AND LEISURE/COMMERCIAL USES; REINSTATEMENT OF HARBOUR TO CREATE MARINA; AND ASSOCIATED ROADS AND INFRASTRUCTURE (OUTLINE) AT LAND AT BO'NESS HARBOUR, UNION STREET, BO'NESS. FOR ING RED UK (BO'NESS LTD) (05/0571/OUT)

FORMATION OF MIXED USE DEVELOPMENT INCLUDING 123 FLATTED APARTMENTS, 75 TOWNHOUSES, 90 BEDROOM HOTEL, YACHT CLUB, RESTAURANT/BARS, RETAIL, REINSTATEMENT OF HARBOUR TO CREATE MARINA AND ASSOCIATED ROADS AND INFRASTRUCTURE (DETAILED) AT LAND AT BO'NESS HARBOUR, UNION STREET, BO'NESS - FOR ING RED UK (BO'NESS) LTD (05/0573/FUL)

**Meeting: REGULATORY COMMITTEE
Date: 19 April 2007
Author: DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: Councillor Beth Eaglesham / Councillor Harry Constable

Community Council: Bo'ness Community Council

Case Officer: John Milne (Senior Planning Officer), ext 4815

1. BACKGROUND

- 1.1 These planning applications were considered at the 26 July 2006 meeting of the Regulatory Committee. At that time the Committee resolved to grant planning permission subject to:

05/0571/OUT

- (a) Committee agreement to the appropriate assessment required by Regulation 48 of the Conservation (Natural Habitats & c) Regulations 1994.
- (b) The conclusion of any non-material amendments, notifications or changes to the proposal required as a consequence of further consideration by the Director of Development Services.
- (c) Notification of the application to the Scottish Ministers by virtue of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.
- (d) The satisfactory completion of an Agreement under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure:

- (i) an Ecological Clerk of Works shall be appointed to oversee the implementation of the Construction Method Statement and Wintering Bird Protection Plan for the duration of Phase 1 of the development. The Ecological Clerk of Works shall be experienced and knowledgeable in both the ecological issues associated with the SPA and the workings of the Habitats Regulations, and how they apply to such developments. The appointment of the Ecological Clerk of Works shall be with the agreement of, and shall report to, the Planning Authority and shall be paid for by the applicant;
 - (ii) with regard to phase 1 of the development, the provision of effective fire precaution and gas detection measures within structures;
 - (iii) a financial contribution of £75,000 to augment nearby recreational facilities;
 - (iv) Positive habitat enhancement measures are introduced to the development.
- (e) And thereafter on conclusion of the Agreement and notification procedure in satisfactory terms, to remit to the Director of Development Services to grant planning permission subject to the following conditions (or such other conditions as may be required as a consequence of the further consideration of the proposal by the Director of Development Services). A total of 22 conditions were listed.

05/0573/FUL

- (a) Committee agreement to the appropriate assessment required by Regulation 48 of the Conservation (Natural Habitats & c) Regulations 1994.
- (b) The conclusion of any non-material amendments, modifications or changes to the proposal required as a consequence of further consideration by the Director of Development Services.
- (c) Notification of the application to the Scottish Ministers by virtue of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.
- (d) The satisfactory completion of an Agreement under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure;
 - (i) An Ecological Clerk of Works shall be appointed to oversee the implementation of the Construction Method Statement and Wintering Bird Protection Plan for the duration of Phase 1 of the development. The Ecological Clerk of Works shall be experienced and knowledgeable in both the ecological issues associated with the SPA and the workings of the Habitats Regulations, and how they apply to such developments. The appointment of the Ecological Clerk of Works shall be with the agreement of, and shall report to, the Planning Authority and shall be paid for by the applicant.
 - (ii) The provision of effective fire precaution and gas detection measures within structures.
 - (iii) Positive habitat enhancement measures are introduced into the development.
- (e) And thereafter on conclusion of the Agreement and notification procedure in satisfactory terms, to remit to the Director of Development Services to grant planning permission subject to the following conditions (or such other conditions as may be required as a consequence of the further consideration of the proposal by the Director of Development Services). A total of 30 conditions were listed.

- 1.2 The relevant minutes of the Regulatory Committee meeting of 26 July 2006 are attached for reference purposes.

2. UPDATED POSITION

- 2.1 In the period from the Regulatory Committee on 26 July 2006 the following matters of note have occurred:

Architecture & Design Scotland

- 2.2 A presentation was given to Architecture & Design Scotland (ADS) on Tuesday 3 October 2006. ADS are generally supportive of the masterplan proposal and commend the commitment to integrate the development with the Townscape Heritage Initiative. ADS suggest that further consideration be given to the integration of the masterplan with the existing town, particularly at the west end of the development, and to the design of phase 2 and other detailed aspects of the proposal.

Transport Assessment

- 2.3 Transport Scotland Trunk Roads Network Management Directorate confirmed on 15 January 2007 that it had no objections to the two applications subject to the inclusion of a condition relating to the modification of the M9 junction 3 eastbound on-slip junction with the A904, as per drawing no. 20140 RD/1/02 RWA dated 4 October 2006.
- 2.4 A travel plan framework was also submitted by the applicant's agent on 26 September 2006 and subject to review and modification is recommended for acceptance by Falkirk Council subject to the satisfactory implementation of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure:
- (i) A financial contribution of £74,000 over 4 years towards public transport services to the site shall be committed.
 - (ii) The applicant should commence payment prior to the occupation of the first dwelling. Payment shall be divided into 4 equal amounts and submitted at 12 month intervals from the first payment date.

Referral to Scottish Ministers

- 2.5 The applications were referred to Scottish Ministers on 5 December 2006. Scottish Ministers advised, on 14 March 2007 that it is not their intention to intervene in these applications by either issuing a direction restricting the granting of planning permission or by calling in the applications for their own determination. Accordingly, Falkirk Council is authorised to deal with the applications in the manner it thinks fit.

Progress with the Section 75 Agreement

Ecological Clerk of Works

- 2.6 Scottish Natural Heritage has confirmed that it does not require to be directly involved in the recruitment of the post-holder but requests that a suitably qualified individual is appointed.

Effective Fire Precaution and Gas Detection Methods

- 2.7 Two main areas of perceived risk occur within Phase 1:

- the proximity of development to the adjacent BP Forties unstabilised crude pipeline raised concern with regard to fire risk in the unlikely event of a major pipeline incident;
- the positioning of residential development above the dock area, where mud deposits have accrued;

2.8 To achieve resolution, the applicant has been requested to submit further details within an agreed timescale of remedial measures dealing these matters.

Recreational Facilities

2.9 A financial contribution of £75,000 to augment nearby recreational facilities will be made prior to the issuing of the outline planning decision notice.

Positive Habitat Measures to be Introduced to the Development

2.10 The creation of a new roosting area on the edge of the harbour wall will form part of the proposal.

2.11 Information boards and leaflets providing guidance for visitors on the best way to avoid sensitive sites, at the same time as promoting a positive message about the Firth of Forth SPA will form part of the overall proposal.

3. Conclusions

3.1 It is considered that consultees on the applications have had relevant issues accommodated either through the imposition of conditions or inclusion of matters in the proposed legal agreement.

3.2 The applicant has been requested to contribute further information relating to:

- Details of the additional fire precautions and gas detection within structures.
- Details of a new roosting area on the edge of the harbour walls.
- Details of information boards / leaflet guidance on the adjoining Firth of Forth SPA.

3.3 The initial Committee recommendation therefore requires to be adjusted in terms of the Transport Scotland requirement to upgrade the M9 (Junction 3) on-slip junction with the A904 and the Transport Assessment conclusion that a £74,000 financial contribution is required towards public transport services to the site.

4. RECOMMENDATION

4.1 It is recommended that Committee:

- (a) indicate that it remains minded to grant both outline (ref: 05/0571/OUT) and detailed (Ref: 05/0573/FUL) planning permission as per the recommendations in the reports determined by the Regulatory Committee on 26 July 2006 but subject to the following two amendments;
- (i) The satisfactory completion of an Agreement under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to also include;

- a financial contribution of £74,000 over 4 years towards public transport services to the site.
- (ii) An additional condition to be attached to both planning permissions to read as follows;
- No part of the development shall be occupied until the modifications at the M9 Junction 3 Eastbound On-slip junction with the A904, as indicated in the Goodson Cole Transportation Drawing No 20140 RD/1/02 Rev A dated 4 October 2006, have been provided to the satisfaction of the Planning Authority in consultation with Transport Scotland - Trunk Road Network Management Directorate.

Reason

- 1) To minimize interference with the safety and free flow of traffic accessing the trunk road.

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Director of Development Services

Date: 12 April 2007

LIST OF BACKGROUND PAPERS

1. Planning Application ref: 05/0573/FUL
05/0571/OUT
05/0572/LBC

2. Public Representations:

Paul Shave	FYCA Pilot Handbook Co-ordinator SEERAD Room 414 Pentland House 47 Robb's Loan
Graham S. Crawford	Hon. Secretary FYCA 2 Coillesdene Gardens Edinburgh EH15 2JS
Andrew Carnduff	Canals Representative FYCA 29 Hawkcraig Road Aberdour Fife
Mrs Jane Prentice	2 Union Street Bo'ness EH51 0AD
Mary Maguire	6 Union Court Union Street Bo'ness EH51 9AJ
Mr J Muirhead	4 Union Court Union Street Bo'ness
Mr Alexander Prentice	2 Union Street Bo'ness EH51 0AD
Mr Stewart McKenzie	5 Union Court Bo'ness EH51 9AJ
Ron McIntosh	16 Union Court Bo'ness EH51 9AJ
The Scottish Railway Preservation Society	FAO: John Burnie 12 Park Avenue Dunfermline Fife
Mr Robert Wright	12 Verona Avenue Scotstoun Glasgow G14 9DZ
Mr B Arnott	Briarose 82 Deanfield Road Bo'ness EH51 0ER
Forth Yacht Clubs Association	Graham S Crawford Hon Secretary FYCA 2 Coillesdene Gardens Edinburgh
Michael Matheson MP	The Scottish Parliament Edinburgh EH99 1SP
Farmfoods	7 Greens Road Blairlinn Cumbernauld Glasgow
Mr William T Kelly	19 Marchlands Terrace Bo'ness West Lothian EH51 9ES

Mr John Meikle	Glen Stuart Erngath Road Bo'ness West Lothian
Mr J Scullion	9A Seaview Place Bo'ness West Lothian EH51 0AJ
Valda Deans	85 Dean Road Bo'ness West Lothian EH51 9BA
June Meikle	Glen Stuart Erngath Road Bo'ness West Lothian
The Scottish Railway Preservation Society	12 Park Avenue Dunfermline Fife KY12 7HX
Sanderson Weatherall	22-24 Grey Street Newcastle Upon Tyne NE1 6AD
L Kilgallon	55 Castlehill Bo'ness EH51 0HL
M Broomhead	18 Newtown Bo'ness EH51 9HL
Bob And Julie Keltie	76 Stewart Avenue Bo'ness EH51 9NW
Mr Robert Scotland	67 Ochilview Road Bo'ness EH51 0LD
Kirstine McLaren	27 Douglas Drive Bo'ness EH51 0JD
Kevin Scotland	67 Ochilview Road Bo'ness EH51 0LD
Laura Scotland	67 Ochilview Road Bo'ness EH51 0LD
Barry Scotland	67 Ochilview Road B'ness EH51 0LD
Mrs Andrea Scotland	59 Douglas Drive Bo'ness EH51 0JA
Shonagh McLaren	27 Douglas Drive Bo'ness EH51 0JD

3. Falkirk Council Structure Plan (2002).
4. Bo'ness Local Plan (1995).
5. Falkirk Council Structure Plan (1st alteration)(March 2005).
6. Falkirk Council Local Plan (Finalised Draft)(2005).
7. Report by Atkins Consultants Ltd on Independent assessment of health and safety land use planning issues associated with the Bo'ness Harbour development (2006) (extract) (Appendix I).
8. Appropriate assessment of the implications for the Conservation Interests (Appendix II).
9. National Planning Policy Guidelines 5 - archaeology and planning.
10. National Planning Policy Guidelines 8 - Town centres and retailing.
11. National Planning Policy Guidelines 11 - Sport, physical recreation and open space
12. National Planning Policy Guidelines 14 - Natural heritage.
13. National Planning Policy Guidelines 17 - Planning and Transport.
14. National Planning Policy Guidelines 18 - Planning and historic Environment
15. Scottish Planning Policy 7 – Planning and flooding
16. Planning Advice Note 33 – Development of Contaminated Land.
17. Planning Advice Note 38 – Housing land.
18. Planning Advice Note 42 – Archaeology.
19. Planning Advice Note 44 – Fitting new housing development into the landscape.
20. Planning Advice Note 52 – Small towns.
21. Planning Advice Note 56 – Planning and noise.
22. Planning Advice Note 57 – Transport and Planning.
23. Planning Advice Note 60 – Planning for natural heritage.
24. Planning Advice Note 61 – Planning and Sustainable Urban Drainage Systems.
25. Planning Advice Note 65 – Open Space.
26. Planning Advice Note 67 – Housing quality.
27. Planning Advice Note 74 – Affordable housing.
28. Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas.
29. The Scottish Executive's 'Designing Places' a policy statement for Scotland.

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

APPENDIX

R38. PROPOSED MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL AND LEISURE/COMMERCIAL USES: REINSTATEMENT OF HARBOUR TO CREATE MARINA; AND ASSOCIATED ROADS AND INFRASTRUCTURE ON LAND AT BO'NESS HARBOUR, UNION STREET, BO'NESS FOR ING RED UK (BO'NESS) LTD (05/0571/OUT)

There was submitted Report (circulated) dated 20 July 2006 by the Director of Development Services for planning permission for the proposed mixed use development including residential and leisure/commercial uses: reinstatement of harbour to create marina and associated roads and infrastructure on land at Bo'ness Harbour, Union Street, Bo'ness.

AGREED:-

- (i) that Committee approve the appropriate assessment of the project required by Regulation 48 of the Conservation (Nat. Habs) Regs 1994 as detailed in appendix 2 to the report, and
- (ii) that Committee indicate that it is minded to grant outline planning permission subject to:-
 - (a) The conclusion of any non-material amendments, notifications or changes to the proposal required as a consequence of further consideration by the Director of Development Services.
 - (b) Notification of the application to the Scottish Ministers by virtue of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.
 - (c) The satisfactory completion of an Agreement under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure:
 - (i) an Ecological Clerk of Works shall be appointed to oversee the implementation of the Construction Method Statement and Wintering Bird Protection Plan for the duration of Phase 1 of the development. The Ecological Clerk of Works shall be experienced and knowledgeable in both the ecological issues associated with the SPA and the workings of the Habitats Regulations, and how they apply to such developments. The appointment of the Ecological Clerk of Works shall be with the agreement of, and shall report to, the Planning Authority and shall be paid for by the applicant;
 - (ii) with regard to phase 1 of the development, the provision of effective fire precaution and gas detection measures within structures;
 - (iii) a financial contribution of £75,000 to augment nearby recreational facilities;
 - (iv) Positive habitat enhancement measures are introduced to the development.
 - (d) And thereafter on conclusion of the Agreement and notification procedure in satisfactory terms, to remit to the Director of Development Services to grant planning permission subject to the following conditions (or such other conditions as may be required as a consequence of the further consideration of the proposal by the Director of Development Services)

- (1) This permission is granted under the provisions of paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 as an outline application and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby reserved before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of hard and soft landscaping of the site, including provision of play areas.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, in the case of the reserved matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of outline permission; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

- (3) That the development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (a) the expiration of 5 years from the date of the grant of this outline planning permission; or
 - (b) the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (4) A strategy of phasing on the masterplan area shall be submitted to and approved in writing by the Planning Authority prior to the submission of the first reserved matters application.
- (5) Development shall not begin within each phase until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. other artifacts and structures such as street furniture, play equipment programme for completion and subsequent maintenance.
- (6) The development shall be implemented in accordance with the approved phasing scheme. The approved landscape scheme for each phase shall be fully implemented by the end of the first planting and seeding season following the occupation of the last house within that phase of the development.

- (7) Development shall not begin within each phase until details of earthworks have been submitted to and approved in writing by the Planning Authority. Details shall include existing and proposed levels (in relation to a fixed datum, preferably ordnance) and contours in relation to surrounding vegetation and landform (with datum levels). Development shall be carried out in accordance with the approved details.
- (8) Before development begins in each phase a scheme for the maintenance of open space, including any play areas, within the development shall be submitted to and approved in writing by the Planning Authority.
- (9) The development shall be implemented in accordance with the approved phasing scheme and all works required for the provision of play area(s) within each phase shall be fully completed prior to the occupation of the last dwellinghouse within each phase.
- (10) Where dwellinghouses are designed with hipped roofs, side elevations of the dwellinghouses shall be a minimum distance of 1 metre from the boundary and on dwellinghouses with a gable wall design, the side elevations of the dwellinghouse shall be a minimum distance of 2 metres from the boundary of the plot.
- (11) The development shall be carried out on strict accordance with the submitted and approved plans and layouts contained within the masterplan in the accompanying Environmental Statement dated August 2005 and its further Addendum dated May 2006.
- (12) Prior to development commencing on site, the applicant shall submit a Wintering Bird Protection Plan for the written approval of the Planning Authority (which shall consult with SNH). The Wintering Bird Protection Plan shall detail the methods to be employed to avoid construction disturbance to wintering waders (1st October to 30th April), including details of timetabling of works and any indirect impacts likely to be caused by temporary or permanent lighting and noise. Thereafter the Wintering Bird Protection Plan shall be strictly adhered to both during the construction and development of the site and once the site is operational.
- (13) Prior to the development commencing on site, the applicant shall submit a Construction Method Statement for the written approval of the Planning Authority (which shall consult with SNH). The Construction Method Statement shall include details of all on-site construction, ground investigation works, site preparation, drainage, temporary and permanent roads, storage of materials, restoration and the timetable for such works as well as the impacts of construction during the shelduck moulting period (beginning of July to the end of August). Thereafter, construction and development works shall be undertaken strictly in accordance with the Construction Method Statement.
- (14) Prior to development commencing on site, full details of the construction works proposed for the harbour shall be submitted for the written approval of the Planning Authority (which shall consult with SNH and SEPA). This shall include details of a soft start protocol if pile driving is to be utilised at any stage in the construction works connected to the harbour. Thereafter these written details shall be strictly adhered to during the construction and development of the harbour area.
- (15) Prior to the commencement of the operation of the harbour, a detailed operation plan shall be submitted for the written approval of the Planning Authority (which shall consult with SNH). This plan shall include details of the times of operation of the harbour during summer and winter months, proposed harbour regulations (which shall include the prohibition of jet skis) and guidance to boats and walkers on best practice to avoid sensitive areas within the Firth of Forth SPA. Thereafter the operation plan shall be strictly adhered to during the lifetime of the operation of the harbour unless otherwise agreed in writing with the planning authority (which shall consult with SNH).

- (16) Prior to development commencing on site, further details of the design and maintenance of all open space in accordance with the principles of the submitted and approved concept plans shall be submitted for the written approval of the Planning Authority. Thereafter the design and maintenance of all open space shall be undertaken strictly in accordance with these approved details.
- (17) Prior to the commencement of any construction works on site, design codes establishing the principles of design and materials to be used shall be submitted for the written approval of the Planning Authority.
- (18) East Pier Street and the bus station shall remain in operation until such times as further information is submitted to and approved in writing by the planning authority, demonstrating that bus movements can be accommodated within the proposed road network.
- (19) No development shall take place within the site until a scheme of archaeological investigation (including a timetable) has been submitted to and approved in writing by this Planning Authority.
- (20) Prior to works commencing on site, evidence shall be submitted to the planning authority to demonstrate that agreement has been reached between the developer and Scottish Water to increase capacity within the public water supply and waste water treatment infrastructure to accommodate the development. No occupation of development shall take place until the requisite capacity has been implemented.
- (21) Before construction works commence on each phase, the measures to treat contamination as detailed in the Environmental Statement and its Addendum (and such other measures as may be required by this Planning Authority) shall be fully implemented.

For the avoidance of doubt, such measures shall include the following:

- (i) Details of the nature, extent and type(s) of contamination within the site.
- (ii) Measures to treat/remove contamination to ensure the site is fit for the proposed end use.
- (iii) Measures to deal with contamination during construction works.
- (iv) Condition of the site on completion of decontamination measures.
- (v) Details of a monitoring programme following site redemption.

Before any unit is occupied, the measures to decontaminate the site shall be fully implemented.

- (22) Prior to works commencing on site the applicant shall submit details, for the written approval of the planning authority, of an effective and efficient road layout serving the development which shall also include measures to accommodate public transport facilities.

Reason(s):

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2-3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.

- (4) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (5-8) To safeguard the visual amenity of the area.
- (9) To ensure that adequate play facilities are provided.
- (10) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (11) In the interest of the proper planning of the area and the ecological importance of the Firth of Forth SPA.
- (12-13) To minimise disturbance and impacts to the Firth of Forth SPA and its qualifying features.
- (14) To ensure the construction works in the harbour are carried out in a manner to prevent direct impacts to the Firth of Forth SPA and the European Protected Species (cetaceans).
- (15) To ensure the harbour operations post development do not impact on the Firth of Forth SPA.
- (16) To ensure open space is appropriately located, designed and maintained throughout the site to appropriate standards.
- (17) To ensure that the development is appropriately designed and uses appropriate materials.
- (18) To ensure that bus movements within Bo'ness are accommodated within the development.
- (19) To ensure archaeological remains are safeguarded.
- (20) To enable the planning authority to consider these aspects in detail.
- (21) To ensure the ground is suitable for the proposed development.
- (22) To safeguard the interests of the users of the highway.

R39. FORMATION OF MIXED USE DEVELOPMENT INCLUDING 123 APARTMENTS, 75 TOWNHOUSES, 90 BEDROOM HOTEL, YACHT CLUB, RESTAURANTS/BARS, RETAIL, REINSTATEMENT OF HARBOUR TO CREATE MARINA AND ASSOCIATED ROADS AND INFRASTRUCTURE AT LAND AT BO'NESS HARBOUR, UNION STREET, BO'NESS – FOR ING RED UK (BO'NESS) LTD (05/0573/FUL)

There was submitted Report (circulated) dated 21 July 2006 by the Director of Development Services for planning permission for the formation of mixed use development including 123 apartments, 75 town houses, 90 bedroom hotel, yacht club, restaurants/bars, retail, reinstatement of harbour to create marina and associated roads and infrastructure at land at Bo'ness Harbour, Union Street, Bo'ness.

AGREED:-

- (i) that Committee approve the appropriate assessment of the project required by Regulation 48 of the Conservation (Natural Habitats 2c) Regulations 1994 as detailed in appendix 2 to the report, and

- (ii) that Committee indicate that it is minded to **GRANT** detailed planning permission subject to:-
- (a) The conclusion of any non-material amendments, modifications or changes to the proposal required as a consequence of further consideration by the Director of Development Services.
 - (b) Notification of the application to the Scottish Ministers by virtue of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.
 - (c) The satisfactory completion of an Agreement under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure;
 - (i) An Ecological Clerk of Works shall be appointed to oversee the implementation of the Construction Method Statement and Wintering Bird Protection Plan for the duration of Phase 1 of the development. The Ecological Clerk of Works shall be experienced and knowledgeable in both the ecological issues associated with the SPA and the workings of the Habitats Regulations, and how they apply to such developments. The appointment of the Ecological Clerk of Works shall be with the agreement of, and shall report to, the Planning Authority and shall be paid for by the applicant.
 - (ii) The provision of effective fire precaution and gas detection measures within structures.
 - (iii) Positive habitat enhancement measures are introduced into the development.
 - (d) And thereafter on conclusion of the Agreement and notification procedure in satisfactory terms, to remit to the Director of Development Services to grant planning permission subject to the following conditions (or such other conditions as may be required as a consequence of the further consideration of the proposal by the Director of Development Services)
- (1) The development to which this permission relates must be begun within five years from the date of this permission.
 - (2) No development shall take place within the site until a scheme of archaeological investigation (including a timetable) has been submitted to and approved in writing by the Planning Authority.
 - (3) Samples of materials including roof and wall finishes, hard surface treatment and street furniture provision to be used in the development shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.
 - (4) Details of the design of doors/windows to shopfronts and other architectural details such as a strategy of advertisement display shall be submitted to the Planning Authority in the form of drawings at a scale of 1:200. The drawings should include dimensions of doors/windows, materials etc. No work shall begin until written approval of the Planning Authority to the details has been given.
 - (5) Before construction works commence on site the measures to treat contamination as detailed in the Environmental Statement and its Addendum (and such other measures as may be required by this Planning Authority) shall be fully implemented.

For the avoidance of doubt, such measures shall include the following:

- (i) Details of the nature, extent and type(s) of contamination within the site.
- (ii) Measures to treat/remove contamination to ensure the site is fit for the proposed end use.
- (iii) Measures to deal with contamination during construction works.
- (iv) Condition of the site on completion of decontamination measures.
- (v) Details of a monitoring programme following site remediation.

Before any unit is occupied, the measures to decontaminate the site shall be fully implemented.

- (6) All approved landscaping works shall be implemented by the end of the first planting and seeding season following the occupation of the last house on the development.
- (7) Before development begins a scheme for the maintenance of open space/civic space within the development shall be submitted to and approved in writing by the planning authority.
- (8) Access to the parking areas for Blocks 4 and 5 will be by means of a strengthened footway crossing.
- (9) Prior to any occupation of Blocks 4 and 5, the means of controlling vehicular access to the associated parking area (as indicated green on the approved plans) shall be approved in writing by the planning authority.
- (10) Access to the parking areas to the rear of Block 6 (as indicated yellow on the approved plans) shall be by means of a strengthened footway crossing.
- (11) Prior to any occupation of Block 6, the means of controlling vehicular access to the associated parking area (as indicated blue on the approved plans) shall be approved in writing by the planning authority.
- (12) Full details of the proposed railway level crossing shall be submitted to and approved in writing by the planning authority following consultation with the Railways Inspectorate or equivalent body prior to any works on site and completed prior to the access road over the railway line being opened.
- (13) The proposed lifting bridge, cantilever walkways, footway extended jetties and access bridges shall be designed in accordance with Falkirk Council's Design Manual for Roads and Bridges and such approvals will be obtained prior to any commencement of works on site.
- (14) Further details, including design calculations and drawings, of the proposed alterations to existing harbour walls shall be submitted to and approved in writing by the planning authority prior to any works commencing on site.
- (15) A structural assessment shall be submitted to and approved in writing by the planning authority prior to any works on site to consider the impact on the existing harbour structures as a result of the proposed buildings, roads and structures which will lie on or adjacent to them.

- (16) Prior to any works on site, further details shall be submitted to and approved in writing by the planning authority indicating details of the sea lock and measures to achieve water circulation through the outer and inner harbours, including details of the proposed operation/maintenance regimes.
- (17) The proposed cycleway shall be signed and lined prior to the occupation of any premises, as approved by the planning authority. Details shall be submitted for the written approval of the planning authority prior to works commencing on site.
- (18) The two-way section of road between the A904 and the lifting bridge and one-way loop road around the inner harbour shall be traffic calmed as approved by the planning authority. Details of the traffic calming measures shall be submitted to and approved in writing by the planning authority prior to any works on site.
- (19) For the avoidance of doubt, the proposed one-way road system around the inner harbour shall operate in the directions indicated red on drawing no. 3586/C/008/C.
- (20) A stage 2 Safety Audit shall be carried out relating to all proposed roads, footways and car parking areas adjacent to both the outer and inner harbours, submitted to and approved in writing by the planning authority prior to any works commencing on site.
- (21) Prior to any works commencing on site, evidence shall be submitted to the planning authority to demonstrate that agreement has been reached between the developer and Scottish Water to increase capacity within the public water supply and wastewater treatment infrastructure to accommodate the development. No occupation of development shall take place until the requisite capacity has been implemented.
- (22) The development shall be carried out in strict accordance with the submitted and approved plans and layouts contained within the masterplan and the accompanying Environmental Statement dated August 2005 and its further Addendum dated May 2006.
- (23) Prior to the development commencing on site, the applicant shall submit a Construction Method Statement for the written approval of the planning authority (which shall consult with SNH). The Construction Method Statement shall include details of all on-site construction, ground investigation works, site preparation, drainage, temporary and permanent roads, storage of materials, restoration and the timetable for such works as well as the impacts of construction during the shelduck moulting period (beginning of July to the end of August). Thereafter, construction and development works shall be undertaken strictly in accordance with the Construction Method Statement.
- (24) Prior to development commencing on site, the applicant shall submit a Wintering Bird Protection Plan for the written approval of the planning authority (which shall consult with SNH). The Wintering Bird Protection Plan shall detail the methods to be employed to avoid construction disturbance to wintering waders (1st October to 30th April), including details of timetabling of works and any indirect impacts likely to be caused by temporary or permanent lighting and noise. Thereafter the Wintering Bird Protection Plan shall be strictly adhered to both during the construction and development of the site and once the site is operational.
- (25) Prior to development commencing on site, full details of the construction works proposed for the harbour shall be submitted for the written approval of the Planning Authority (which shall consult with SNH and SEPA). This shall include details of a soft start protocol if pile driving is to be utilised at any stage in the construction works connected to the harbour. Thereafter these approved details shall be strictly adhered to during the construction and development of the harbour area.

- (26) Prior to the commencement of the operation of the harbour, a detailed operation plan shall be submitted for the written approval of the Planning Authority (which shall consult with SNH). This plan shall include details of the times of operation of the harbour during summer and winter months, proposed harbour regulations (which shall include the prohibition of jet skis) and guidance to boats and walkers on best practice to avoid sensitive areas within the Firth of Forth SPA. Thereafter the operation plan shall be strictly adhered to during the lifetime of the operation of the harbour unless agreed otherwise by this planning authority (which shall consult with SNH).
- (27) Prior to development commencing on site, further details of the design and maintenance of all open space in accordance with the principles of the submitted and approved concept plans shall be submitted for the written approval of the Planning Authority. Thereafter the design and maintenance of all open space shall be undertaken strictly in accordance with these approved details.
- (28) Prior to the commencement of any construction works on site, design codes establishing the principles of design and materials to be used shall be submitted for the written approval of the Planning Authority.
- (29) East Pier Street and the bus station shall remain in operation until such times as further information is submitted to and approved in writing by the planning authority demonstrating that bus movements can be accommodated within the proposed road network.
- (30) Prior to works commencing on site the applicant shall submit details, for the written approval of the planning authority, of an effective and efficient road layout serving the development which shall also include measures to accommodate public transport facilities.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that any archaeological remains are safeguarded.
- (3) To safeguard the visual amenity of the area.
- (4) In order that the works do not detract from the appearance of the building.
- (5) To ensure the ground is suitable for the proposed development.
- (6-7) To safeguard the visual amenity of the area.
- (8-11) To safeguard the interests of the users of the highway.
- (12-16) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (17) To safeguard the environmental amenity of the area.
- (18-20) To safeguard the interests of the users of the highway.
- (21) To enable the Planning Authority to consider these aspects in detail.
- (22) In the interest of the proper planning of the area and the ecological importance of the Firth of Forth SPA.
- (23-24) To minimise disturbance and impacts to the Firth of Forth SPA and its qualifying features.

- (25) To ensure the construction works in the harbour are carried out in a manner to prevent direct impacts to the Firth of Forth SPA and the European Protected Species (cetaceans).
- (26) To ensure the harbour operations post development do not impact on the Firth of Forth SPA.
- (27) To ensure open space is appropriately located, designed and maintained throughout the site to appropriate standards.
- (28) To ensure that the development is appropriately designed and uses appropriate materials.
- (29) To ensure that bus movements within Bo' ness are accommodated within the development.
- (30) To safeguard the interests of users of the highway.

Committee Report by Director of Community Services
(Policy and Resources Committee -11 March 2008)

FALKIRK COUNCIL

Subject: TOWN CENTRES STRATEGY: BO'NESS INITIATIVE
Meeting: POLICY & RESOURCES COMMITTEE
Date: 11TH MARCH 2008
Authors: DIRECTOR OF COMMUNITY SERVICES

1.0 INTRODUCTION

- 1.1 The purpose of this report is to update members on the progress of regeneration proposals for Bo'ness harbour and foreshore including the outcome of ongoing negotiations between the Council and ING Real Estate, as agreed by the Policy & Resources Committee on 16th March 2004, 19th October 2004 and 12th June 2007. The report outlines the impact that market conditions and site constraints have had on the scheme and progress in negotiating the proposed development agreement relating to the site. It recommends that the Council enter into a development agreement with ING RED UK (Bo'ness) Ltd., on the basis of a phased programme of works to regenerate the harbour and develop the site in accordance with the overall masterplan.

2.0 BACKGROUND

- 2.1 The Council's strategy for the regeneration of Bo'ness was agreed at the 16th March 2004 Policy and Resources Committee, approving recommendations that it should:-
- a) Appoint ING Real Estate Development UK Support Ltd (formerly ING Real Estate Development UK Ltd) as the Council's preferred developer, subject to more detailed negotiations to satisfy financial and project feasibility conditions; and
 - b) Note that the Director of Community Services will report back on the outcome of these negotiations, prior to conclusion of an appropriate Development Agreement.
- 2.2 On 19th October 2004 the Policy and Resources Committee:-
- a) Agreed that the Council enter into a formal agreement with ING Real Estate Development UK Limited in the form of a Co-operation Agreement; and
 - b) Noted that the Director of Community Services will report back on the outcome of these negotiations, prior to conclusion of an appropriate Development Agreement.
- 2.3 On 12th June 2007 the Policy and Resources Committee agreed to:-
- a) The Council entering into a development agreement with ING RED UK (Bo'ness) Ltd with ING RE BV as guarantor;
 - b) extend the Co-operation agreement; and
 - c) proceed as Harbour Authority in the management and maintenance of the harbour once restored and operational.

- 2.4 Following these approvals, Council staff, ING and specialist advisers have been progressing the masterplan proposals with a view to commencing the scheme once a development agreement is concluded.

3.0 MARKET CONDITIONS

- 3.1 The recent collapse of the sub-prime mortgage market in America and the subsequent crisis experienced by Northern Rock Building Society has led to a significant slowdown in the UK housing market. It has also created a substantial degree of uncertainty in the commercial development sector. Even before these events there were signs that the boom in the residential market was coming to an end. The British Bankers Association has reported that mortgage approvals in December 2007 were nearly 40% below their level a year earlier, reflecting a new 10 year low.
- 3.2 The resulting impact of this uncertainty on the residential market has been a slowdown in sales of new build housing, particularly over the last 3 months. Consequently housebuilders are cautious in looking at new developments until the direction of the market becomes more certain.
- 3.3 The residential market in Scotland is not normally affected to the same extent as England. However a significant slowdown has been witnessed, fuelled by both market conditions and media speculation about a potential downturn affecting housebuyers perceptions. While the residential market has slowed, construction costs are continuing to rise with construction inflation anticipated to outstrip house price growth.
- 3.4 In Bo'ness, the construction of 750 houses is vital to the regeneration of the site. Following the conclusion of design works and site investigations and, taking into account rising construction costs, the costs for delivery of the scheme have risen significantly. Harbour restoration work is now assessed as £20m compared to previous estimates of £12m. Taking into account land remediation measures and costs for the provision of services and infrastructure, the "up-front" capital costs for the site now exceed £40m.

4.0 DEVELOPER POSITION

- 4.1 The change in market conditions and increases in construction costs associated with the scheme have resulted in a significant change for the developer and have substantially increased the level of financial risk involved. This is materially different from the position during 2006 and early 2007 when the market sustained high residential price growth. Given this situation, ING are no longer willing to fund the full extent of harbour works planned at Bo'ness as the first phase of the development as originally conceived. However they are keen to proceed with the masterplan as agreed and wish the development agreement to reflect an amended phasing of works, with an initial phase of flood defence works to the harbour and to commence housing development in Phases 15 and 16.
- 4.2 To appraise these concerns and to understand the market circumstances facing the scheme, the Council independently instructed specialist housing regeneration consultants to review the financial appraisal issued by ING. This has confirmed that, given present market conditions, the project as originally proposed is not financially viable. This validates ING's financial assessment and suggests that an alternative approach to delivery of the scheme is appropriate.

5.0 DEVELOPMENT AGREEMENT

- 5.1 The original heads of terms to the development agreement agreed through Policy and Resources Committee dated 12th June 2007 are now considered by both ING and the Council's commercial advisers, not to be deliverable.
- 5.2 As a result, negotiations have been undertaken to secure revised Heads of Terms and a development agreement with ING for delivery of the harbour and foreshore scheme. It is important to stress that this still involves the delivery of the overall masterplan as proposed. However ING now propose to rephrase the scheme to improve cash flow and allow the delivery of the scheme to be more sensitive to market demand. These negotiations have now been concluded and have been validated by the Council's advisors. It is proposed that the Development Agreement can now be concluded on the basis of delivering the regeneration project as follows:-
- The transfer of Council land on the foreshore incorporating Blocks 15 and 16 with an option over Block 14 (see Appendix 1).

In return for:-

- A residual site value of £500,000, subject to various conditions including pre-sale requirements.
 - Payment of a £100,000 in return for an option agreement on Block 14. (Total value of Block 14 being £500,000).
 - A further payment of £400,000 where the option for block 14 is taken up.
 - Payment to the Council of 100% of the overage above 12% developers profit on sales revenue.
 - Establishment of a framework partnership agreement confirming agreed terms for the development of future blocks within the regeneration project sensitive to market conditions.
 - ING's commitment to work in partnership with the Council in the phased development of the harbour works as funding becomes available from receipts generated by the scheme.
- 5.3 The residual value of the project taking into account the development value based on total house sales deducting development costs including 12% developer profit (12% of total house sales value) is identified as the profit overage of the project.

Development Value -- Development Cost = Profit Overage

- 5.4 As part of the framework agreement between the Council and ING, future sites will be transferred to ING at market value, assessed by the District Valuer. It is proposed that 100% of any development overage will also transfer to the Council, until the harbour restoration works are completed, with a 50:50 split thereafter. The Council will require to transfer the residual value of each block and any overage payments into a partnership account and this will be utilised to fund the restoration of the harbour.
- 5.5 The terms of the Development Agreement include provision for cost validation and assessment of profit overage. This is to ensure that the Council obtains best value for its part in the project. The development will be taken forward on an 'Open Book' basis with all costs validated through an independent consultant. The costs will be assessed quarterly throughout the term of the project to confirm that the costs identified by the developer are realistic and have been reasonably incurred as part of the foreshore project and should be incorporated into the financial assessment in determining the residual profit. On completion of the project any residual profit value above the developer's 12% profit on

sales revenue will be transferred to Falkirk Council, subject to a 50:50 split for future blocks after the harbour and flood prevention works have been fully funded.

- 5.6 The Council's interests in the site, identified as the location for Blocks 15 and 16 as well as the site for Block 14 where the option agreement is exercised, have been valued. In consideration of the developer's financial appraisal, the Council's independent advisors have confirmed that, on the basis of the proposed heads of terms detailed in item 5.2 above, the Council is receiving best value for its interests. The Council's Development Services will instruct an independent consultant to validate the costs incurred by the developer as detailed in 5.5 above.

6.0 HARBOUR WORKS

- 6.1 Through the revised development agreement, the Council and developer will work in partnership to deliver the overall masterplan including the regeneration of the harbour. Funding for harbour works will come from both committed sources and future uncommitted sources as detailed below:-

a) Partnership funding:

▪ SEFV	£950,000
▪ Council (Capital Programme/Receipts)	£819,000
▪ BP	£150,000
▪ Residual site value (Blocks 15 & 16):	£500,000
▪ Option Agreement(Block 14)	£100,000
▪ Residual Site Value (Block 14)	£400,000
▪ Profit overage (Blocks 15 & 16)	To be determined
▪ Residual site value for future blocks	To be determined
▪ 100% overage on future blocks	To be determined

TOTAL = £2,919,000 + overage + site values

- 6.2 The first phase of works will include the flood prevention requirements around the harbour including a coffer dam at the entrance to the inner dock. The delay in implementing the scheme has forced the withdrawal of ERDF funding support for the scheme, as this would have demanded the works to have commenced in 2007. Further phases of restoration of the harbour will now proceed on a phased basis as funding from the development of the site becomes available. Specialist harbour restoration consultants will be appointed through the partnership to establish the detailed specification for each phase and relevant cost. Once available a development timescale for each phase can be established.

7.0 DEVELOPMENT TIMETABLE

- 7.1 The following key stages have been identified by ING and the Council in order to progress the revised phasing of the masterplan:-

ING Approvals	March 2008
Policy & Resources Decision	March 2008
Flood Prevention Scheme starts	March 2008
Development Agreement Concluded	April 2008
Detailed Planning Process for Blocks 15, 16 & Programming of Harbour Works	June 2008-February 2009
Building Warrant Process	February 2009-May 2009
Block 16 Construction	May 2009-March 2010
Block 15 Construction	April 2010-February 2011

- 7.2 The initial works around the harbour will relate to the Flood Prevention Scheme (FPS) over a construction period from March 2008 to September 2010. This will put in place the necessary safeguards to facilitate occupation of the site. Additionally, it will incorporate a coffer dam at the entrance at the Inner Dock utilised to retain a body of water within the dock area. A report will be submitted by Development Services to the Environment & Heritage Committee confirming any changes to the detail and programme timetable in relation to the Flood Prevention Scheme. Further restoration work around the Harbour will be subject to specialist consultants identifying elements of work that can be incorporated into deliverable contracts, initiated once funding is available.

8.0 IMPLICATIONS

8.1 Financial

The Council's contribution of £819,000 towards the scheme involves a contribution from the Capital Programme and a receipt from the sale of Corbiehall Flats. On the basis of transferring a site accommodating Blocks 15 & 16 to ING, the Council will receive a receipt of £500,000 which has been independently confirmed to the Council as representing best value. This is on the basis that it represents best price available in present market conditions and permits the regeneration scheme to proceed as proposed. A further £100,000 receipt will be received committing the council to an option agreement on the site for Block 14, with a further £400,000 on sale of the site if the option is exercised. This is also considered to provide best value for the Council.

- 8.2 In addition the developer has accepted a maximum level of profit of 12% on sale revenue which is considered to be lower than normal practice for schemes of this type. Any value above 12% will be transferred to the Council and can be invested in the completion of regeneration works on site, until the harbour and flood prevention works are fully funded, with a 50:50 split thereafter.

8.3 Legal

The Council's consultant valued the Council's interest to determine whether ING's proposals are considered to meet the requirements of S74 of the Local Government (Scotland) Act 1973 for the Council to obtain best consideration for assets disposed. It has been confirmed that on the basis of the agreed heads of terms, the Council is receiving best value.

8.4 Planning & Policy

The regeneration proposals for the foreshore site are consistent with the Structure Plan strategy of 'Sustainable Growth in All Our Communities'. The proposals support policies aimed at promoting the vitality and viability of the Town Centre, enhancing the tourism role of the town and conserving the built heritage. Planning applications will be required

for Blocks 15 and 16 and will be dealt with in due course. The full context of the scheme, including detailed planning and roads issues, will be fully assessed through the planning application process. The proposals are also consistent with the Strategic and Local Community Plans and the My Future's in Falkirk Initiative.

9.0 CONCLUSION

- 9.1 The proposals for the regeneration of Bo'ness Harbour and Foreshore face significant pressures due to changes in market conditions and the up-front costs of the site's preparation for development. While the masterplan proposals to develop the harbour and foreshore remain intact, it is now proposed to change the way it will be delivered, with a revised method of phasing the programme of works. However it remains the full intention of the Council and ING to complete this exciting project.
- 9.2 The Council has received independent confirmation that the residual values proposed for Blocks 15 and 16 provide best value to the Council. In addition ING's agreement to restrict profit levels to 12% and to give the Council 100% of any overage until completion of the harbour offers benefits to the Council. It reinforces ING's commitment to this project. The Council is unlikely to have secured such an agreement from developers who do not have a vested interest in the success of this project. As a result it is recommended that the Council should proceed on the terms set out in this report.

10.0 RECOMMENDATIONS

10.1 It is recommended that the Policy and Resources Committee agrees to:-

- a) Approve the Council entering into a development agreement with ING RED UK (Bo'ness) Ltd with ING RE BV as guarantor and subject to financial assessment for the Bo'ness Foreshore and Harbour regeneration scheme as outlined in Item 5 above; and
- b) Agree the phased development of the harbour restoration works as outlined in Items 6 and 7 of this report.

.....
Director of Community Services

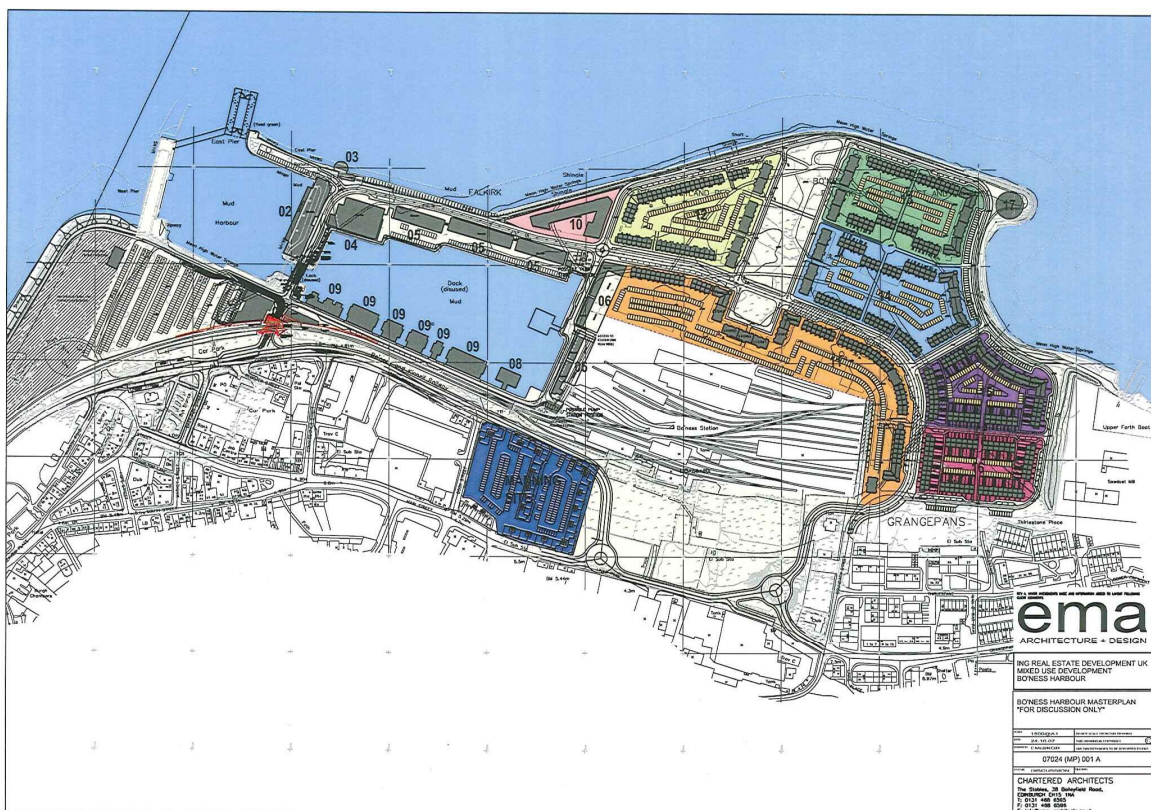
5th March 2008

Contact Officer: Colin Frame. Ext: 0972.

LIST OF BACKGROUND PAPERS

1. Town Centre Strategy Files.

Any person wishing to inspect the background papers listed above should telephone 01324 590972 and ask for Colin Frame.



ema
ARCHITECTURE + DESIGN

ING REAL ESTATE DEVELOPMENT UK
MIXED USE DEVELOPMENT
BONESS HARBOUR

BONESS HARBOUR MASTERPLAN
"FOR DISCUSSION ONLY"

DATE	15/05/2014	BY	ema
DATE	25/05/2014	BY	ema
DATE	25/05/2014	BY	ema
DATE	25/05/2014	BY	ema

0724 (MP) 001 A

CHARTERED ARCHITECTS

The Masterplan is a preliminary design and is not to be used for construction purposes without the written consent of ema.

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