

**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR OUTDOOR SPORTS (AIRSOFT) AND ERECTION OF ANCILLARY SHELTERS AND FORMATION OF CAR PARK AT LAND TO THE SOUTH OF GREENRIGG FARM, FALKIRK FOR PLAYERS OF WAR AIRSOFT - P/09/0373/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 27 January 2010

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Gerry Goldie  
Councillor Joe Lemetti  
Councillor John Patrick  
Councillor Georgie Thomson

**Community Council:** Falkirk South

**Case Officer:** Brent Vivian (Senior Planning Officer), ext 4935

**UPDATE REPORT FOLLOWING CONSIDERATION BY PLANNING COMMITTEE**

1. Members will recall that this planning application was considered at the meeting of the Planning Committee on 2 December 2009 (copy of previous report appended), when it was agreed to continue this planning application to enable further discussion of the proposal with the applicants. The main issue for further consideration related to the extension of the exclusion zone (to further protect users of the core path adjacent to the site).
2. The applicants have confirmed their willingness to accept the extended exclusion zone as put forward by the Convener at the Planning Committee meeting on 2 December 2009. A condition has been attached to address this issue.
3. The applicants have also requested that the planning permission is permanent as the “exclusion zone” has now been extended, and there will now be no conflict with users of the core path to the south of the site. This request is considered acceptable and the recommendation has now been changed to reflect this. Furthermore, this would be in line with the Rebellion Paintball operation adjacent, which has a permanent planning permission.
4. The extension of the exclusion zone requires the relocation of a number of war game structures in addition to the new car park/safe zone. The applicants have confirmed their intention to relocate the safe zone/car park immediately on receipt of planning permission. A condition requiring this is to be undertaken within 2 months of the receipt of planning permission is included in the recommendation, and the applicants have confirmed their acceptance of this timescale. This 2 month timescale also applies to the coming into force of the exclusion zone to enable the applicant in the transition of the removal of game structures from the exclusion zone to the revised playing area within the wood.

## 5. RECOMMENDATION

5.1 It is recommended that detailed planning permission be granted subject to the following conditions:-

- (1) The development to which this permission relates must be begun within three years of the date of this permission.
- (2) The development shall operate on not more than one day of a week and within the hours of 8.30 a.m and 6.00 p.m only.
- (3) The locations of the structures indicated on approved plan 5A are hereby not approved. Within 2 months of the date of this decision, the new locations for the game structures and their design shall be agreed in writing by the Planning Authority.
- (4) The No Play/exclusion zone indicated hatched on approved plan 10A shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.
- (5) Warning signs shall be posted along the adjoining core path during the operation of all war games. The exact location and details of the signs shall be subject to the written approval of this Planning Authority; the no plan/exclusion zone shall come into force within 2 months of the date of this permission.
- (6) Within 2 months of the date of this decision, the existing Safe Zone shall be reinstated in accordance with an approved restoration plan and the new Safe Zone, car park and vehicular access indicated on approved plan 5A shall be fully completed in accordance with details approved in writing by this Planning Authority. Once completed, the new car park and vehicular access shall provide the sole means of access and parking facility for the operation.
- (7) The 30 metre exclusion zones around the two badger setts indicated on approved plan 10A shall be enforced during the operation of all war games and shall be demarcated by high-visibility tape of a height at least one metre above the ground.
- (8) The unsurveyed area of the site indicated on approved plan 11 shall be subject to a badger survey. Any necessary mitigation measures shall be agreed in writing by this Planning Authority in consultation with Scottish Natural Heritage. This area shall not be used for war games until the approved measures have been fully implemented. Thereafter, the approved measures shall be enforced during the operation of all war games.
- (9) The bingo area No Play Zone indicated on approved plan 5A shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.
- (10) The vehicular access to the site shall have a minimum width of 6 metres, with a 12 metre radii to form a bellmouth, and shall extend at a minimum width of 6 metres for at least 15 metres as measured from the edge of the carriageway.

- (11) The vehicular access shall be constructed at right angles to the carriageway, at a gradient of 1 in 10, and in a manner to ensure that no surface water run-off or loose material is discharged onto the public road.
- (12) There shall be no obstruction to visibility greater than one metre in height above the carriageway for a minimum distance of 65 metres east of the vehicular access.
- (13) Notwithstanding the provisions of Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), any use of the site for war games or associated development, following the date of grant of this permission, shall be carried out in accordance with the conditions of this permission.

**Reason(s):**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-6) To safeguard the environmental amenity of the area.
- (7-8) To safeguard the interests of a protected species.
- (9) To preclude an area which is not suitable for use.
- (10-12) To safeguard the interests of the users of the highway.
- (13) To ensure proper control over the use of the site.

**Informative(s):**

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference numbers 01, 02, 03, 04, 05A, 06, 07, 08, 09, 10A, 11 and 12.
- (2) The vehicular access will require a Minor Roadworks Consent, issued and approved by Roads Services, Earls Road, Grangemouth.
- (3) The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) regulate the disposal of sewage effluent to the water environment. The applicant should contact the SEPA local area team to ensure that any proposals for foul drainage are agreed and can be authorised under CAR.
- (4) Surface water drainage is required to comply with General Binding Rules (GBRs) 10 and 11 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR).
- (5) Any noise or odour complaints would be investigated by the Environmental Health Unit and acted upon as appropriate under Statutory Nuisance Legislation contained in the Environmental Protection Act.

- (6) Any tree thinning or felling that would disturb badgers or damage their setts would require a licence from the Scottish Government's Habitats and Species Unit.

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For Director of Development Services

Date: 19 January 2010

## LIST OF BACKGROUND PAPERS

1. Letter of support from Mr Mark Baillie, 107 Ash Avenue, East Kilbride G75 9EP received on 22 June 2009
2. Letter of support from Mr Christopher Neill, 20 Shawfarm Gardens, Prestwick KA9 2GZ received on 23 June 2009
3. Letter of objection from Hannah Beckman BHS AI UKCC2 Reg'd, Beam Farm Falkirk FK1 3AF received on 08 July 2009
4. Letter of objection from William & Linda Beckman, Beam Farm Falkirk FK1 3AF received on 08 July 2009
5. Letter of support from Mr Brian Barton, 37 Cameron Grove, Inverkeithing, Dunfermline KY11 1AP received on 22 June 2009
6. Letter of support from Mr Jonathan Dickie, 87 Lounsdale Road, Paisley PA2 9DU received on 24 June 2009
7. Letter of support from Mr. Brian Smith, 39, Ochilview, Denny FK6 5NH received on 21 June 2009
8. Letter of support from Mr William Thomson, 76 Glenallan Drive, Edinburgh EH16 5RB received on 06 July 2009
9. Letter of support from Mr Ryan Kennedy, 34 Harvie Gardens, Armadale EH48 2GW received on 20 June 2009
10. Letter of support from Mr Paul MacLeod, 31 Main Street, Shieldhill, Falkirk FK1 2DZ received on 21 June 2009
11. Letter of support from Doctor Alex McKenzie, 22 Woodmill, Kilwinning KA13 7PT received on 21 June 2009
12. Letter of support from Mr Ross Elliott, 32 Rosedale Avenue, Paisley PA2 0RR received on 21 June 2009
13. Letter of support from Mr Giovanni Gentles, 8 Ochilview, Alva FK12 5EU received on 21 June 2009
14. Letter of support from Mr Paul McNamara, 100 Glenmuir Drive, Priesthill, Glasgow G53 6LR received on 21 June 2009
15. Letter of support from Mr Krzysztof Ruchomski, 81/6, Restalrig Road South, Edinburgh EH7 6JD received on 21 June 2009
16. Letter of support from Mr Gareth Fotheringham, 36 Glamis Gardens, Polmont, Falkirk FK2 0YJ received on 20 June 2009
17. Letter of support from Mrs Mary Fraser, Leyswood Cottage, High Bonnybridge, FK4 2EU received on 02 July 2009
18. Letter of support from Mr Jarrod Finn, 29 Wallaceneuk, Kelso TD5 8BR received on 20 June 2009
19. Letter of support from Mr Brian Walker, 31 Craighend Road, Cumbernauld, Glasgow G67 4JX received on 22 June 2009
20. Letter of objection from Mrs Judith Delissen, West Cottage High Forrester Quarter Farm FK4 2HA received on 23 June 2009 (petition with 155 signatories).
21. Letter of objection from Mr Alastair MacLeod, 19 Dunure Street Bonnybridge FK4 1EF received on 15 September 2009
22. Letter of representation from British Horse Society, Mrs Pat Somerville The Loaning Achengate Irvine received on 08 September 2009
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24. Letter of support from Mr Dean Turner, 56 Castleton Drive, Glasgow G77 5LE received on 24 June 2009

25. Letter of support from Miss Teresa Harkin, Glenholme, Castlegate, Jedburgh TD86BD received on 21 June 2009
26. Letter of support from Mr John Murphy, 2/7 Hesperus Crossway, Edinburgh EH5 1GH received on 21 June 2009
27. Letter of support from Mr James Shaw, 16 Hazel Crescent, Dunipace, Denny FK6 6IN received on 21 June 2009
28. Letter of support from Mr Steven J Graham, 5 Drumlanrig Place, Stenhousemuir, Larbert FK5 4UN received on 21 June 2009
29. Letter of support from Mr Jakub Oszczepalinski, 12/1 West Newington Place, Edinburgh EH9 1QU received on 21 June 2009
30. Letter of support from Mr Nicholas White, 38 Braeview, Stenhousemuir, Larbert FK5 3DT received on 21 June 2009
31. Letter of support from Mr Marc McIntosh, 19 Weaver Place, East Kilbride G75 8SH received on 06 July 2009
32. Letter of support from Mr Alan Brown, Hawthorn, 121 St Johns Road, Corstorphine, Edinburgh EH12 7SB received on 21 June 2009
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37. Letter of support from Mr Michael Edmond, 27 Glen Crescent, Glen Village, Falkirk FK1 2AQ received 22 June 2009
38. Approved Falkirk Council Structure Plan
39. Adopted Rural Local Plan
40. Falkirk Council Local Plan Finalised Draft (Deposit Version)

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504756 and ask for Ian Dryden (Assistant Development Manager).

**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR OUTDOOR SPORTS (AIRSOFT) AND ERECTION OF ANCILLARY SHELTERS AND FORMATION OF CAR PARK AT LAND TO THE SOUTH OF GREENRIGG FARM, FALKIRK FOR PLAYERS OF WAR AIRSOFT - P/09/0373/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 2 December 2009

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Gerry Goldie  
Councillor Joe Lemetti  
Councillor John Patrick  
Councillor Georgie Thomson

**Community Council:** Falkirk South

**Case Officer:** Brent Vivian (Senior Planning Officer), ext 4935

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this planning application was considered at the meeting of the Planning Committee on 4 November 2009 (copy of previous report appended), when it was agreed to continue consideration to allow a site visit by members. This site visit took place on 23 November 2009.
2. In support of this application, the applicant explained the background to the planning application and in particular highlighted the changes made to the proposal, including a new site access from Lochgreen Road which would be shared by Rebellion Paintball, who operate a site adjacent to the east. The revised proposals also incorporate a relocated car parking area/safe zone, relocated temporary structures, towards the eastern end of the site. The applicant also intimated that a 50 metre wide "no play zone" had been introduced as a safety measure to reduce the issue of conflict and related safety issues with users of the core path which lies adjacent to the south-eastern corner of the site. The applicant also described the safety measures in place in the event that members of the public entered the site during a game. Two letters from members of the public were read out by the Convener on site in support of the proposal, and a number of supporters present also expressed their support for the proposal.
3. Mr Guy Wederburn, acting on behalf of the landowners, Callendar Estates, intimated that he was aware of the tensions in respect of the proposal. He outlined the aims of the estate to promote tourism/recreational activities for a variety of users including walkers, horse riders and game enthusiasts. He also acknowledged the measures undertaken by the applicant to address the concerns raised in respect of this planning application.

4. The Convener read out two e-mails from individuals unable to attend the visit who raised an objection to this proposal. Further representations were also made from individuals present, who reiterated their objections to the proposal. The objections raised have previously been raised in the earlier Committee report dated 4 November 2009. In summary, the main concerns relate to the health and safety concerns of users of the adjacent core path being hit by pellets from the site, injury/scaring of horses, and noise.
5. In response to the issue of the close proximity of the core path to the site and the adequacy of the safe zone, the applicant has now confirmed that the safe zone will be increased to 100 metres where it abuts the core path. This is considered an adequate distance in terms of addressing the use of safety for other users of the core path. This would also address the concerns of Scottish Natural Heritage in respect of the "knock-on" effect the proposal could have in respect of the Slamannan Plateau Special Protection Area if an alternative access was sought away from the core path.
6. The applicant has also confirmed that it is now their intention to use the faster degradable pellets and prospective game players using the facility will be advised to use this type of pellet. The use of a planning condition to control this would be inappropriate as it would be difficult to enforce.
7. The applicant is also in the process of making contact with the adjacent operator of the Rebellion Paintball site in respect of sharing their toilet facilities. Although there is no legal requirement to provide a toilet facility in this instance, the applicant has recognised the need to address the situation.

## **8. RECOMMENDATION**

### **8.1 It is recommended that temporary permission should be granted subject to the following conditions:-**

- (1) The permission shall be valid for a limited period until 31 December 2011 and at that time, unless further permission is granted, the site shall be vacated and reinstated in accordance with an approved restoration plan.**
- (2) The development shall operate on not more than one day of a week and within the hours of 8.30 a.m and 6.00 p.m only.**
- (3) The locations of the structures indicated on approved plan 5A are hereby not approved. Within 3 months of the date of this decision, the structures shall be erected in accordance with locations agreed in writing by the Planning Authority.**
- (4) The No Play Zone indicated on approved plan 5A shall be increased to a minimum of 100 metres and shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.**
- (5) Warning signs shall be posted along the adjoining core path during the operation of all war games. The exact location and details of the signs shall be subject to the written approval of this Planning Authority.**



- (6) Within 3 months of the date of this decision, the existing Safe Zone shall be reinstated in accordance with an approved restoration plan and the new Safe Zone, car park and vehicular access indicated on approved plan 5A shall be fully completed in accordance with details approved in writing by this Planning Authority. Once completed, the new car park and vehicular access shall provide the sole means of access and parking facility for the operation.
- (7) The 30 metre exclusion zones around the two badger setts indicated on approved plan 10A shall be enforced during the operation of all war games and shall be demarcated by high-visibility tape of a height at least one metre above the ground.
- (8) The unsurveyed area of the site indicated on approved plan 11 shall be subject to a badger survey. Any necessary mitigation measures shall be agreed in writing by this Planning Authority in consultation with Scottish Natural Heritage. This area shall not be used for war games until the approved measures have been fully implemented. Thereafter, the approved measures shall be enforced during the operation of all war games.
- (9) The ping area No Play Zone indicated on approved plan 5A shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.
- (10) The vehicular access to the site shall have a minimum width of 6 metres, with a 12 metre radii to form a bellmouth, and shall extend at a minimum width of 6 metres for at least 15 metres as measured from the edge of the carriageway.
- (11) The vehicular access shall be constructed at right angles to the carriageway, at a gradient of 1 in 10, and in a manner to ensure that no surface water run-off or loose material is discharged onto the public road.
- (12) There shall be no obstruction to visibility greater than one metre in height above the carriageway for a minimum distance of 65 metres east of the vehicular access.
- (13) Notwithstanding the provisions of Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), any use of the site for war games or associated development, following the date of grant of this permission, shall be carried out in accordance with the conditions of this permission.

**Reason(s):**

- (1) The proposal may not be an acceptable form of permanent development.
- (2-6) To safeguard the environmental amenity of the area.
- (7-8) To safeguard the interests of a protected species.
- (9) To preclude an area which is not suitable for use.

(10-12) To safeguard the interests of the users of the highway.

(13) To ensure proper control over the use of the site.

**Informative(s):**

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference numbers 01, 02, 03, 04, 05A, 06, 07, 08, 09, 10A, 11 and 12.
- (2) The vehicular access will require a Minor Roadworks Consent, issued and approved by Roads Services, Earls Road, Grangemouth.
- (3) The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) regulate the disposal of sewage effluent to the water environment. The applicant should contact the SEPA local area team to ensure that any proposals for foul drainage are agreed and can be authorised under CAR.
- (4) Surface water drainage is required to comply with General Binding Rules (GBRs) 10 and 11 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR).
- (5) Any noise or odour complaints would be investigated by the Environmental Health Unit and acted upon as appropriate under Statutory Nuisance Legislation contained in the Environmental Protection Act.
- (6) Any tree thinning or felling that would disturb badgers or damage their setts would require a licence from the Scottish Government's Habitats and Species Unit.

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For Director of Development Services

Date: 25 November 2009

## LIST OF BACKGROUND PAPERS

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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504756 and ask for Ian Dryden (Development Manager).

**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR OUTDOOR SPORTS (AIRSOFT) AND ERECTION OF ANCILLARY SHELTERS AND FORMATION OF CAR PARK AT LAND TO THE SOUTH OF GREENRIGG FARM, FALKIRK FOR PLAYERS OF WAR AIRSOFT – P/09/0373/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 04 November 2009

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Gerry Goldie  
Councillor Joe Lemetti  
Councillor John Patrick  
Councillor Georgie Thomson

**Community Council:** Falkirk South

**Case Officer:** Brent Vivian (Senior Planning Officer) Ext: 4935

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

- 1.1 The application site consists of a woodland area owned by Callendar Estates. The current access to the site is from Beam Road and a public right of way (a core path). The site is currently used by Airsoft for war gaming. Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 allows for this provided the number of days of use does not exceed 28 days in any calendar year. Class 15 does not, however, cover the permanent war games structures on this site.
- 1.2 The proposal is to increase the frequency of use to a maximum of once a week and a minimum of twice a month. The access to the site is proposed to change to Lochgreen Road, where formation of a new access to serve a paintball operation has commenced. As a consequence, the existing car park and safe zone would relocate to the vicinity of the new access and the existing war games structures would probably relocate to closer to the new safe zone (further away from the core path which lies along part of the southern boundary of the site).

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in by Councillor Buchanan.

### **3. SITE HISTORY**

- 3.1 Planning application ref. P/08/0336/FUL for the use of land for outdoor sports (paintball) and erection of ancillary shelters, fencing, netting and portable toilets was refused by the Planning Committee. The applicant was Rebellion Paintball Limited and the site adjoins the Airsoft site, to the west. The application is currently the subject of an appeal against the Council's refusal.
- 3.2 Planning application ref: P/09/0170/FUL for the use of land for outdoor sports, (paintball) and erection of ancillary structures, fencing, netting and portable toilets was granted. The applicant was Rebellion Paintball Limited and the site adjoins the Airsoft site, to the east.

### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has detailed the requirements for the new vehicular access.
- 4.2 The Transport Planning Unit has accepted the Transport Statement submitted with the application.
- 4.3 Scottish Water has no objections to the application.
- 4.4 The Environmental Protection Unit is satisfied with the applicant's proposal to create a No Play Zone around an existing bing and shaft area.
- 4.5 Scottish Natural Heritage has noted that exclusion zones will apply to two badger setts and is satisfied that a requirement to survey the unsurveyed part of the site for badgers could be the subject of a condition.
- 4.6 The Scottish Environment Protection Agency has no comments.
- 4.7 The Scottish Rights of Way and Access Society (Scotsway) has withdrawn its objection to the application provided the proposed 50 metre buffer zone between the war games area and the adjoining core path is strictly enforced.
- 4.8 Civic Licensing has advised that any requirement under the Civic Government (Scotland) Act 1982 for a licence for the Airsoft operation is currently under consideration

### **5. COMMUNITY COUNCIL**

- 5.1 Falkirk South Community Council have not made any representations.

### **6. PUBLIC REPRESENTATION**

- 6.1 Thirty-seven representations have been received to the application. These representations include 31 letters of support and 4 letters of objection. One of the letters of objection is in the form of a petition with 155 signatories.

6.2 In addition, the applicant has submitted a petition in support of the application, which has 45 signatories.

6.3 The concerns raised in representations can be summarised as follows:-

- Disturbance to horse riders using public right of way.
- Use of woods by horse riders would no longer be possible.
- Inadequate shielding of horses from players; shadowy type movements cause horses to bolt.
- Noise from fireworks/smoke grenades at start of games and shouting startles horses.
- Walkers and dog walkers have stopped using the woods.
- Participants have no respect for anyone who approaches them.
- Disturbance to peace and tranquility of the area.
- Potential for serious injury if a child is hit.
- Roads are close enough to play area so that the power of the guns could cause a road hazard by breaking car windows.
- A 365 day operation would cause accidents as complete avoidance of the operation would not be possible.
- Concern at number of days proposed per year.
- A 50 metre buffer zone is inadequate.
- Concerns at extension to existing activities.
- Shifting the car park will not solve the problem, as participants will still be in the core path area.
- The existing exclusion zone is inadequate, the core path and adjoining land have pellets on them.
- No sign that the pellets are biodegradable.
- Adverse impact on wildlife.
- Significant increase in traffic on local roads and use of junction which is unsafe due to visibility constraints.
- The activity has been operating without toilet facilities.

- Permanent structures have been erected, showing scant regard for rules and regulations.
- The applicant is not a member of the UKASGB, the UK Airsoft Site Governing Body, which sets limits for the power of guns.
- The use of air rifles is dangerous, as evidenced by Scottish Government proposed legislation.
- The application should be rejected on moral grounds.

6.4 The reasons given in support of the application can be summarised as follows:-

- Players travel from throughout the UK and the site now has international interest.
- Economic benefits to local businesses as players spend money in local shops, restaurants and petrol stations.
- Source of employment to the local area.
- Good location as there are plenty of amenities in the area.
- Enhances facilities in the area.
- Regarded as world class site by the Airsoft community.
- The site is friendly and professionally run.
- Behaviour of players and organisers is exemplary.
- High regard for health and safety.

## **7. DETAILED APPRAISAL**

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

Accordingly,



## 7a The Development Plan

### ***Approved Falkirk Council Structure Plan***

#### 7a.1 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 Under this policy there is a general presumption against new development unless it can be demonstrated that a countryside location is essential for the proposal. In this instance, by virtue of the nature of the development and the need for a woodland setting, it is accepted that a countryside location is essential. The development therefore complies with this policy.

#### 7a.3 Policy ENV.3 ‘Nature Conservation’ states:

*“The protection and promotion of nature conservation interests will be an important consideration in assessing all development proposals. Accordingly:*

- (1) Any development likely to have a significant effect on a designated or potential European Site under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or on a Ramsar or Site of Special Scientific Interest (see Schedule Env.3), must be subject to an appropriate assessment of the implications for the sites conservation objectives. The development will only be permitted where the appropriate assessment demonstrates that:*
- (a) it will not adversely affect the integrity of the site, or;*
- (b) there are no alternative solutions and there are imperative reasons of overriding national public interest.*
- (2) Sites of local or regional importance, including Wildlife Sites and Sites of Importance for Nature Conservation, will be defined in Local Plans. The designation of Sites will be based on Scottish Wildlife Trust criteria. Development likely to have an adverse impact on any such site or feature will not be granted planning permission unless it can be clearly demonstrated that there are reasons which outweigh the need to safeguard the site or feature. Until such areas are defined in Local Plans, identified or potential sites will be afforded the same protection.*
- (3) Local Plans will identify opportunities for enhancing the natural heritage including new habitat creation, the identification of ‘wildlife corridors’ and measures to ensure the protection of priority local habitats and species as identified in the forthcoming Falkirk Local Biodiversity Action Plan.*

- (4) *The aims and objectives of the forthcoming Falkirk Local Biodiversity Action Plan and any associated Species Action Plans and Habitat Action Plans will be a material consideration in assessing any development proposal likely to impact on local priority species and habitats.”*

7a.4 The development does not impact on any designated or potential national, regional or local nature conservation site as described in items 1 and 2 of this policy.

7a.5 In overall nature conservation terms, the development is considered to be acceptable given the nature and frequency of operation. Whilst the site contains 2 badger setts, these areas would be subject to exclusion zones. This is acceptable to Scottish Natural Heritage. Whilst part of the site has not been surveyed for badgers, Scottish Natural Heritage are content that survey of this area could be the subject of a condition. Subject to the implementation of all necessary mitigation, the development is considered to accord with this policy.

7a.6 Policy ECON.7 ‘Tourism’ states:

*“The Council will support the development of sustainable tourism in the Council area, through the provision of an improved range and quality of attractions and supporting infrastructure. Accordingly:*

- (1) the key locations for development will be the Millennium Canals, Falkirk Town Centre/Callendar Park and Bo’ness;*
- (2) development which supports and expands the main target markets of day trips, short breaks, visiting friends and family and business tourism will be particularly encouraged; and*
- (3) tourism development must be environmentally sustainable, in terms of its location and design. In particular, any development outwith the urban areas must demonstrate that a countryside location is essential.”*

7a.7 The proposed development is considered to represent a sustainable form of tourism, and therefore accords with this policy. In particular, a countryside location is essential and appropriate to the nature of the activity, the environmental impact is low and the development has the potential to sustain economic benefits by attracting visitors to the area.

### ***Adopted Rural Local Plan***

7a.8 The application site lies within the Countryside under the adopted Rural Local plan.

7a.9 Policy RURAL 1 ‘New Development in the Countryside’ states:

*“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-*

- 1. Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
- 2. On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*

3. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
4. *Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
5. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council's Tourism Strategy are particularly welcomed.*
6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

*The scale, siting and design of those developments which are granted permission will be strictly controlled. Building designs compatible with the District Council's "Design Guide For Buildings In The Rural Areas" and sympathetic to vernacular architectural forms will be expected."*

7a.10 Under this policy, there is a general presumption against new development in the countryside except in limited circumstances. The circumstances of relevance in this instance is circumstance (5), which provides for development for tourism and countryside recreation purposes which requires a rural setting. For the reasons detailed in paragraph 7a.2, it is considered that a rural setting is required. In addition, the impact of the development on the character of the countryside is negligible as the new locations for the safe zone, car park and war game structures would be within the woodland setting. The development is therefore considered to accord with this policy.

7a.11 Policy RURAL 22 'Countryside Access' states:

*"That the District Council seeks to protect and signpost existing rights of way and other recognised footpaths and, where appropriate, will encourage the creation of new means of access to the countryside for walking, cycling and equestrian purposes."*

7a.12 The development does not prevent use of an adjoining core path. However, users of the path are concerned that the war games create a disturbance. The proposal is to relocate the vehicular access to the site, the car park area and the safe zone to the Lochgreen Road side of the site, well away from the core path, which should reduce the level of disturbance. In addition, a 50 metre wide buffer zone adjoining the core path and the placement of warning signs along the core path when the war games are in play are proposed. It is therefore considered that the existing network of countryside access routes would be protected and that this policy is complied with.

7a.13 Accordingly, the development is considered to accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration in assessment of this application are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the consultation responses, the representations received and the Transport Statement submitted with the application.

### ***Falkirk Council Local Plan Finalised Draft (Deposit Version)***

- 7b.2 The application site lies within the countryside under the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7b.3 The relevant policies of the Falkirk Council Local Plan Finalised Draft (Deposit Version) are Policy EQ19 (Countryside), Policy EQ24 (Ecological Sites and Features), Policy 29 (Outdoor Access), Policy EP16 (Leisure and Tourism Development in the Countryside) and Policy ST11 (Core Path Network). These policies are similar to those policies of the Development Plan which the development has been assessed against. For the same reasons, the development is considered to accord with these policies of the Falkirk Council Local Plan Finalised Draft (Deposit Version).

### ***Consultation Responses***

- 7b.4 The matters raised by the Roads Development Unit and the Environmental Protection Unit would be the subject of conditions of any grant of permission. The Environmental Protection Unit is satisfied with the applicant's proposal to erect high visibility sprayed posts to mark the boundaries of a "no play zone" around an existing bing and shaft area.
- 7b.5 The Transport Planning Unit has accepted the Transport Statement submitted with the application.
- 7b.6 Scottish Natural Heritage are content with the proposed badger mitigation involving taping around the two identified badger setts to create a 30 metre radius exclusion zone around each sett. In addition, Scottish Natural Heritage are content that a requirement to survey all of the site for badger could be the subject of a condition.
- 7b.7 The Scottish Rights of Way and Access Society (Scotsway) originally objected to the application on the grounds that the nature of the activity and noise generated by those taking part could seriously impinge on the enjoyment of those using the adjoining right of way/core paths. Scotsway subsequently withdrew its objection upon clarification that a right of way to the east does not bound the site and subject to strict enforcement of the proposed 50 metre buffer zone when Airsoft play is in action, in order to separate the public and players.

### ***Representations Received***

- 7b.8 As indicated in Section 6 of this report, 37 representations to the application including a petition objecting to the development, have been received. In addition, the applicant has submitted a petition in support of the development. In relation to the grounds in opposition to and support of the application, the following comments are considered to be relevant:-
- The concerns raised in relation to nuisance and disturbance to users of the path network are noted. However, these concerns should be considered in the context of the multiple use of the woodland by recreational groups, e.g. horse riders, mountain bikers, dog walkers, a shooting club and the short length of the path network which adjoins the Airsoft site.
  - The applicant has advised that the proposed 50 metre buffer zone between the playing area and the core path is outwith the range of the Airsoft guns. This is accepted.

- The proposal is to increase the number of play days to a maximum of one a week. A restriction on the number of days of operation would be the subject of a condition.
- The proposed buffer zone, the relocation of the access, car park, safe zone and start area to the Lochgreen Road end of the site, and a restriction on the frequency of operation are measures that would mitigate nuisance and disturbance to users of the core path.
- The proposed play area does not adjoin any public road. The applicant has advised that the playing guns are not powerful enough to break a car window. This is accepted.
- The applicant has advised that the pellets are biodegradable, and that the time it takes for them to break down depends on conditions such as exposure to water, sun and soil. In a dry, well drained area, the breakdown time could be six months or longer. In a moist environment, the breakdown time could be three months. The pellets are broken down by water and micro organisms.
- It is not considered that the proposed development would have any significant impacts on wildlife given the nature and frequency of the operation. The entire site will be subject to a badger survey, and exclusion areas are proposed for the badger setts identified to date.
- The applicant has advised the Council's Food and Safety Regulation Unit, Environmental and Regulatory Services that the operation does not provide any paid employment. On this basis, the Food and Safety Unit has advised that no toilet facilities are required under the Health and Safety at Work Act.
- The applicant has advised that the Airsoft guns are classified as toys. They are not air rifles or classified as firearms.
- The applicant has advised that there is no requirements to be a member of the UK Airsoft Site Governing Body (UKASGB). The applicant is a member of UKARA (the United Kingdom Airsoft Retailer's Association) and SASPRA (the Scotland Airsoft Sites, Players and Retailer's Association). This matter is not a material planning consideration.
- Any consideration regarding the morality of war gaming is not a material planning consideration.
- The reasons given in support of this proposed Airsoft operation are noted.

### ***Transport Statement***

7b.9 A Transport Statement has been submitted with the application. It indicates that:-

- Hours of operation for traffic purposes are arrival between 8.30a.m and 10a.m and departure from the site between 4.30p.m and 5.30p.m every second Sunday. There is the possibility of operating weekly on Sundays.
- Anticipated vehicle numbers are in the range of 30-40 vehicles. This is based on current activity.

- The only access to the site would be from Lochgreen Road. This is a new access road which could be shared with a Rebellion Paintball operation.

7b.10 The Transport Planning Unit is satisfied that the level of traffic generated by the development, especially on a Sunday (normally the quietest day of the week) would have a negligible impact on the existing road infrastructure in the local area.

## **7c Conclusion**

7c.1 The application is considered to accord with the Development Plan and Falkirk Council Local Plan Finalised Draft (Deposit Version), for the reasons detailed in this report. A significant body of public representation has been received to the application, both for and against the development. The concerns at the potential disturbance to users of the adjoining core path are noted, however, it is considered that relocation of the activity away from the core path, imposition of a buffer zone and a restriction on the frequency of operation should mitigate these concerns to a large extent. The potential benefits of the development as detailed in the report are also noted. No concerns have been raised in consultation responses that could not be the subject of conditions of any grant of permission.

7c.2 Taking all matters into account, the application is recommended for approval subject to the imposition of appropriate conditions. Temporary permission is recommended to allow for a review of the effectiveness of the measures to mitigate any impacts on the local area. In addition, a condition is recommended to relinquish the Class 15 permitted development rights which currently apply to the operation, to ensure the operation is carried out in accordance with the conditions of the permission if granted. Granting permission can therefore be seen as an opportunity to exercise greater control over the use of the site and mitigate potential impacts and address concerns raised in representations.

## **8. RECOMMENDATION**

**8.1 It is recommended that temporary permission should be granted subject to the following conditions:-**

- (1) The permission shall be valid for a limited period until 30 June 2011 and at that time, unless further permission is granted, the site shall be vacated and reinstated in accordance with an approved restoration plan.**
- (2) The development shall operate on not more than one day of a week and within the hours of 8.30 a.m and 6.00 p.m only.**
- (3) The locations of the structures indicated on approved plan 5A are hereby not approved. Within 3 months of the date of this decision, the structures shall be erected in accordance with locations agreed in writing by the Planning Authority.**
- (4) The 50 metre wide No Play Zone indicated on approved plan 5A shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.**

- (5) Warning signs shall be posted along the adjoining core path during the operation of all war games. The exact location and details of the signs shall be subject to the written approval of this Planning Authority.
- (6) Within 2 months of the date of this decision, the existing Safe Zone shall be reinstated in accordance with an approved restoration plan and the new Safe Zone, car park and vehicular access indicated on approved plan 5A shall be fully completed in accordance with details approved in writing by this Planning Authority. Once completed, the new car park and vehicular access shall provide the sole means of access and parking facility for the operation.
- (7) The 30 metre exclusion zones around the two badger setts indicated on approved plan 10A shall be enforced during the operation of all war games and shall be demarcated by high-visibility tape of a height at least one metre above the ground.
- (8) The unsurveyed area of the site indicated on approved plan 11 shall be subject to a badger survey. Any necessary mitigation measures shall be agreed in writing by this Planning Authority in consultation with Scottish Natural Heritage. This area shall not be used for war games until the approved measures have been fully implemented. Thereafter, the approved measures shall be enforced during the operation of all war games.
- (9) The bingo area No Play Zone indicated on approved plan 5A shall be enforced during the operation of all war games and shall be demarcated in accordance with details approved in writing by this Planning Authority.
- (10) The vehicular access to the site shall have a minimum width of 6 metres, with a 12 metre radii to form a bellmouth, and shall extend at a minimum width of 6 metres for at least 15 metres as measured from the edge of the carriageway.
- (11) The vehicular access shall be constructed at right angles to the carriageway, at a gradient of 1 in 10, and in a manner to ensure that no surface water run-off or loose material is discharged onto the public road.
- (12) There shall be no obstruction to visibility greater than one metre in height above the carriageway for a minimum distance of 65 metres east of the vehicular access.
- (13) Notwithstanding the provisions of Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), any use of the site for war games or associated development, following the date of grant of this permission, shall be carried out in accordance with the conditions of this permission.

**Reason(s):**

- (1) The proposal may not be an acceptable form of permanent development.
- (2-6) To safeguard the environmental amenity of the area.

- (7-8) To safeguard the interests of a protected species.
- (9) To preclude an area which is not suitable for use.
- (10-12) To safeguard the interests of the users of the highway.
- (13) To ensure proper control over the use of the site.

**Informative(s):**

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference numbers 01, 02, 03, 04, 05A, 06, 07, 08, 09, 10A, 11 and 12.
- (2) The vehicular access will require a Minor Roadworks Consent, issued and approved by Roads Services, Earls Road, Grangemouth.
- (3) The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) regulate the disposal of sewage effluent to the water environment. The applicant should contact the SEPA local area team to ensure that any proposals for foul drainage are agreed and can be authorised under CAR.
- (4) Surface water drainage is required to comply with General Binding Rules (GBRs) 10 and 11 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR).
- (5) Any noise or odour complaints would be investigated by the Environmental Health Unit and acted upon as appropriate under Statutory Nuisance Legislation contained in the Environmental Protection Act.
- (6) Any tree thinning or felling that would disturb badgers or damage their setts would require a licence from the Scottish Government's Habitats and Species Unit.

Pp

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**Director of Development Services**

**Date: 27 October 2009**



## LIST OF BACKGROUND PAPERS

1. Letter of support from Mr Mark Baillie, 107 Ash Avenue, East Kilbride G75 9EP received on 22 June 2009
2. Letter of support from Mr Christopher Neill, 20 Shawfarm Gardens, Prestwick KA9 2GZ received on 23 June 2009
3. Letter of objection from Hannah Beckman BHSAI UKCC2 Reg'd, Beam Farm Falkirk FK1 3AF received on 08 July 2009
4. Letter of objection from William & Linda Beckman, Beam Farm Falkirk FK1 3AF received on 08 July 2009
5. Letter of support from Mr Brian Barton, 37 Cameron Grove, Inverkeithing, Dunfermline KY111AP received on 22 June 2009
6. Letter of support from Mr Jonathan Dickie, 87 Lounsdale Road, Paisley PA2 9DU received on 24 June 2009
7. Letter of support from Mr. Brian Smith, 39, Ochilview, Denny FK6 5NH received on 21 June 2009
8. Letter of support from Mr William Thomson, 76 Glenallan Drive, Edinburgh EH16 5RB received on 06 July 2009
9. Letter of support from Mr Ryan Kennedy, 34 Harvie Gardens, Armadale EH48 2GW received on 20 June 2009
10. Letter of support from Mr Paul MacLeod, 31 Main Street, Shieldhill, Falkirk FK1 2DZ received on 21 June 2009
11. Letter of support from Doctor Alex McKenzie, 22 Woodmill, Kilwinning KA13 7PT received on 21 June 2009
12. Letter of support from Mr Ross Elliott, 32 Rosedale Avenue, Paisley PA2 0RR received on 21 June 2009
13. Letter of support from Mr Giovanni Gentles, 8 Ochilview, Alva FK12 5EU received on 21 June 2009
14. Letter of support from Mr Paul McNamara, 100 Glenmuir Drive, Priesthill, Glasgow G53 6LR received on 21 June 2009
15. Letter of support from Mr Krzysztof Ruchomski, 81/6, Restalrig Road South, Edinburgh EH7 6JD received on 21 June 2009
16. Letter of support from Mr Gareth Fotheringham, 36 Glamis Gardens, Polmont, Falkirk FK2 0YJ received on 20 June 2009
17. Letter of support from Mrs Mary Fraser, Leyswood Cottage, High Bonnybridge, FK4 2EU received on 02 July 2009
18. Letter of support from Mr Jarrod Finn, 29 Wallaceneuk, Kelso TD5 8BR received on 20 June 2009
19. Letter of support from Mr Brian Walker, 31 Craighend Road, Cumbernauld, Glasgow G67 4JX received on 22 June 2009
20. Letter of objection from Mrs Judith Delissen, West Cottage High Forrester Quarter Farm FK4 2HA received on 23 June 2009 (petition with 155 signatories).
21. Letter of objection from Mr Alastair MacLeod, 19 Dunure Street Bonnybridge FK4 1EF received on 15 September 2009
22. Letter of representation from British Horse Society, Mrs Pat Somerville The Loaning Achengate Irvine received on 08 September 2009
23. Letter of representation from Rebellion Paintball, 73 Thornbridge Road Falkirk FK2 9AZ received on 08 September 2009
24. Letter of support from Mr Dean Turner, 56 Castleton Drive, Glasgow G77 5LE received on 24 June 2009

25. Letter of support from Miss Teresa Harkin, Glenholme, Castlegate, Jedburgh TD86BD received on 21 June 2009
26. Letter of support from Mr John Murphy, 2/7 Hesperus Crossway, Edinburgh EH5 1GH received on 21 June 2009
27. Letter of support from Mr James Shaw, 16 Hazel Crescent, Dunipace, Denny FK6 6IN received on 21 June 2009
28. Letter of support from Mr Steven J Graham, 5 Drumlanrig Place, Stenhousemuir, Larbert FK5 4UN received on 21 June 2009
29. Letter of support from Mr Jakub Oszczepalinski, 12/1 West Newington Place, Edinburgh EH9 1QU received on 21 June 2009
30. Letter of support from Mr Nicholas White, 38 Braeview, Stenhousemuir, Larbert FK5 3DT received on 21 June 2009
31. Letter of support from Mr Marc McIntosh, 19 Weaver Place, East Kilbride G75 8SH received on 06 July 2009
32. Letter of support from Mr Alan Brown, Hawthorn, 121 St Johns Road, Corstorphine, Edinburgh EH12 7SB received on 21 June 2009
33. Letter of support from Mr Kenneth Wilson, 277, Thornhill Road, Falkirk FK2 7EB received on 20 June 2009
34. Letter of support from Mr Keith Henderson, 67 Dover Heights, Masterton, Dunfermline KY11 8HS received on 20 June 2009
35. Letter of support from Mr Stephen Pringle, 17 Melville Gardens, Burntisland KY3 0DT received on 23 June 2009
36. Letter of support from Mr Thomas Burke, 3 Woodburn Crescent, Bonnybridge FK4 2DJ received on 02 July 2009
37. Letter of support from Mr Michael Edmond, 27 Glen Crescent, Glen Village, Falkirk FK1 2AQ received 22 June 2009
38. Approved Falkirk Council Structure Plan
39. Adopted Rural Local Plan
40. Falkirk Council Local Plan Finalised Draft (Deposit Version)

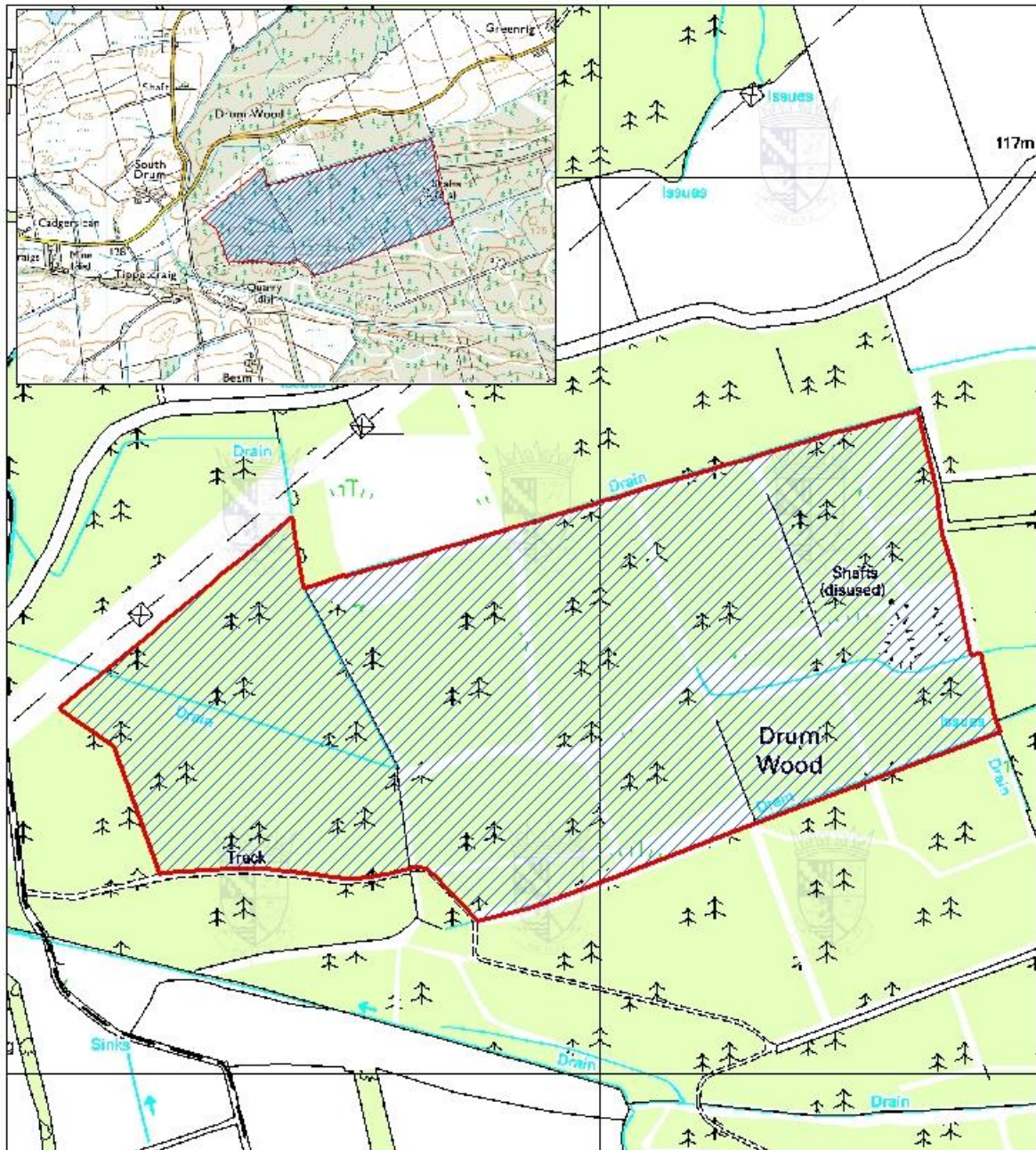
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian (Planning Officer).

# Regulatory Committee

## Planning Application Location Plan

# P/09/0373/FUL

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



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