

**FALKIRK COUNCIL**

**Subject:** DEVELOPMENT OF LAND FOR RESIDENTIAL DEVELOPMENT AT PARKHALL FARM, VELLORE ROAD, MADDISTON, FALKIRK, FK2 0BN FOR MAGHERA DEVELOPMENTS - P/09/0483/OUT

**Meeting:** PLANNING COMMITTEE

**Date:** 24 March 2010

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Gordon Hughes  
Councillor Stephen Fry  
Councillor John McLuckie

**Community Council:** Maddiston

**Case Officer:** Kevin Brown, (Planning Officer) Ext 4701

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

1.1 This outline, major, planning application proposes that an area of farmland measuring approximately 7.5 ha, partially occupied with farm buildings and residential properties and accessed from Vellore Road, be developed for residential purposes.

**2. REASON FOR COMMITTEE CONSIDERATION**

2.1 A further outline application in this area is currently being considered by Falkirk Council (P/09/0527/OUT – development of land for residential purposes – land to east of Toravon Lodge, Vellore Road). A further application P/09/0457/OUT was considered by the Planning Committee on 27 January 2010 where the Committee was minded to grant planning permission for affordable housing subject to the conclusion of a legal agreement, further consultation with SEPA, SNH, financial contributions to play provision and education provision and clarification sought in respect of the housing to be for social and affordable housing. The potential cumulative impact of these developments may impact on the policies and performance of the Development Plan and emerging Falkirk Council Local Plan. For this reason both applications have been put forward for Committee consideration.

### **3. SITE HISTORY**

- 3.1 Three previous applications for the erection of single dwellinghouses and associated ancillary development within this site, (Ref. P/09/0361/OUT, P/09/0362/OUT and P/09/0363/OUT), were appealed to the Scottish Government Directorate for Planning and Environmental Appeals (DPEA) on the grounds of non-determination within the statutory time period. These appeals were dismissed by the DPEA on 27 November 2009 on the grounds that the applications were contrary to Development Plan policies referring to new development in the countryside and outwith urban limits.

### **4. CONSULTATIONS**

- 4.1 Scottish Environment Protection Agency has made no comment to date.
- 4.2 Scottish Natural Heritage (SNH) has reserved its position in light of the lack of information provided in relation to European Protected Species. In particular, SNH has identified that the application site includes areas that have the potential to act as habitats for bats and otter and has cited water voles and badger as other species of importance that need to be considered.
- 4.3 The Transport Planning Unit has raised a number of concerns in relation to this application in conjunction with other proposed developments off Vellore Road and have requested that a Transport Assessment be carried out to assess the cumulative impacts of these developments.
- 4.4 Scottish Water has no objections.
- 4.5 The Environmental Protection Unit has no objections, however a request has been made for a contaminated land survey to be carried out to establish if contamination is present on the site. This could adequately be covered by way of a condition attached to any consent given.
- 4.6 The Roads Development Unit has no objections. However the Unit has requested that a flood risk assessment and drainage impact assessment be carried out. In addition to this, the Unit has supported the request by the Transport Planning Unit for the access strategy for this site to be considered in tandem with applications on adjacent sites.
- 4.7 Education Services has objected to this application due to capacity issues and increased pressure on schools in the area. Should, however, planning permission be granted, a developer contribution towards Education Services is advised. This contribution would total £3,800 per house and would be used towards capacity related investment at Maddiston Primary, Braes High and St Mungo's High Schools.

### **5. COMMUNITY COUNCIL**

- 5.1 Maddiston Community Council has made no comment on the application.

### **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 2 letters of objection and 1 letter of support have been received. The salient issues are summarised below.

6.2 The two letters of objection to the current proposal identify issues in relation to the Development Plan policies, impact on the Maddiston Site of Importance for Nature Conservation (SINC), wildlife, flooding, land ownership, traffic, residential amenity, water and sewerage concerns. The other letter is in support of the proposal on economic and national planning grounds.

## 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

#### *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 A countryside location is not considered essential for this form of development, and as such the proposal is contrary to the terms of Policy ENV.1 of the Falkirk Council Structure Plan.

7a.3 Policy COM.3 ‘Special Needs and Affordable Housing’ states:

*“The Council will support the provision of affordable and special needs housing, based on housing needs assessments for each community. Local Plans will identify suitable sites and where appropriate, stipulate the proportion of larger housing sites which should be reserved to meet specific housing needs.”*

7a.4 The application site is located within an area identified as having a shortfall in affordable housing provision, and as such in this location, 25% of any housing on the site should be safeguarded for affordable housing.

7a.5 It is noted that the application site is in a countryside location and that the proposed development does not accord with Policy ENV.1 detailed above. It is also noted that the application site is not identified in the Polmont and District Local Plan as a housing land opportunity or as a suitable site for special needs and affordable housing. Furthermore, the applicant has not proposed to develop any portion of the site for affordable or special needs housing.

7a.6 The proposed development does not accord with Policy COM3.

7a.7 Policy COM.5 ‘Developer Contributions’ states:

*“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:*

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

*The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”*

7a.8 This policy sets out the Development Plan framework for seeking developer contributions to mitigate the impacts of development proposals. In this instance, should planning permission in principle be granted a developer contribution towards education provision should be sought based on the advice of Education Services and the Council’s approved Supplementary Planning Guidance “Education and New Housing Developments”. A contribution towards open space provision is not considered to be necessary in this instance. The application site and proposed development is of a size that would allow sufficient space for on-site provision. Should the Planning Committee be minded to grant planning permission in principle on-site open space provision standards could be conditioned and detailed within any subsequent planning application for approval of reserved matters.

7a.9 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.10 The site encompasses part of the Maddiston SINC and, following the consultation response from SNH, it would appear that insufficient information has been provided to demonstrate that the proposed development would not result in an adverse impact on the ecology of the area, particularly in reference to European Protected Species. The proposal is therefore contrary to the terms of Policy ENV.3 of the Falkirk Council Structure Plan.

7a.11 Policy TRANS.3 'Transport Assessment' states:

*"Proposals which could result in a significant increase in travel demand will be required to submit a Transport Assessment and where appropriate a Green Transport Plan. These should demonstrate how the impact of the development on the surrounding traffic network can be minimised and how other modes of travel rather than the car will be encouraged."*

7a.12 It is considered that the proposed development would result in a significant increase in traffic demand. It is noted that no Transport Assessment has been submitted. It has not, therefore, been possible to fully assess the impact of the proposed development on the transport network.

7a.13 The proposed development does not accord with Policy TRANS.3.

7a.14 Accordingly, the proposed development does not accord with the Falkirk Council Structure Plan.

### ***Polmont and District Local Plan***

7a.15 Policy POL 11.1 'New Development in the Countryside' states:

*"Within the countryside (i.e. outwith the urban limit), there will be a general presumption against new development except in the following circumstances:*

- (i) *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 277(1) of the Town and Country Planning (Scotland) Act 1997, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons;*
- (ii) *appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms;*

- (iii) *industrial/ business development where there is an overriding national or local need and a rural site is the only suitable location;*
- (iv) *development for tourism and countryside recreation purposes where the 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 area. Proposals which accord with the Council's Economic Development Strategy are particularly welcomed; and*
- (v) *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 Council.*

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

7a.16 The proposed development site lies outwith the urban limit as defined in the Development Plan and there is no evidence to suggest that a countryside location is essential. The development would not be an appropriate form of agricultural diversification or be essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The site is not considered to form an appropriate infill development. With these comments in mind it is clear that the development is contrary to Policy POL 11.1 of the Polmont and District Local Plan.

7a.17 Policy POL 8.5 'Ecological Sites' states:

*"In order to protect and conserve species, habitats and other natural features of importance:*

- (i) *there will be an overriding presumption against development which would be likely to adversely affect Natura 2000 sites, designated or proposed under the EC Habitats and Wild Birds Directives, wetlands of international importance designated under the Ramsar convention, existing or proposed Sites of Special Scientific Interest, or sites which support species protected by specific legislation;*
- (ii) *development likely to adversely affect Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation, wildlife corridors and other sites considered to be of regional or local nature conservation value, will not be permitted unless it can be clearly demonstrated that there are reasons for the proposals which clearly outweigh the need to safeguard the intrinsic nature conservation value of the site or feature and there are no reasonable alternative means of meeting the development need;*
- (iii) *where development is to be approved which could affect any site of significant nature conservation value, appropriate measures will be required to conserve, as far as possible, the site's nature conservation interest and to provide for replacement habitats or features where damage is unavoidable;*
- (iv) *consent will not normally be given to development likely to adversely affect species which are specially protected under the Wildlife and Countryside Act 1981, as amended (Schedules 1.5 and 1.6), or the Protection of Badgers Act 1992;*
- (v) *in partnership with relevant interests, the Council will develop management proposals to conserve the nature conservation interest and enhance the biodiversity of sites of local value; and*
- (vi) *the Council will designate Local Nature Reserves as appropriate, in consultation with communities, local wildlife groups and statutory bodies."*

7a.18 The site encompasses part of the Maddiston SINC and, following the consultation response from SNH, it would appear that insufficient information has been provided to demonstrate that the proposed development would not result in an adverse impact on the ecology of the area, particularly in reference to European Protected Species. The proposal is therefore contrary to the terms of Policy POL 8.5 of the Polmont and District Local Plan.

7a.19 Policy POL 8.8 'Flooding' states:

*"In areas where there is significant risk of flooding, there will be a presumption against new development which would be likely to be at risk, would increase the level of risk for existing development or would be likely to require high levels of public expenditure on flood protection works. Applicants will be required to provide information demonstrating measures to mitigate the effects of flooding both within and outwith the site."*

7a.20 The site has been identified as being at risk from flooding. However, no information has been submitted to demonstrate that the development of the surrounding area would not be adversely affected and as such, the development is contrary to the terms of Policy POL 8.8 of the Polmont and District Local Plan.

7a.21 Policy POL 6.4 'Roads and New Development' states:

*"Road layout, access and parking provision in new developments should generally conform with the Council's standards entitled 'Design Guidelines and Construction Standards for Roads in the Falkirk Council Area'. In the case of major development proposals likely to generate significant volumes of additional traffic, a Transport Impact Assessment will be required. (see also Policy POL 7.2 'Landscape Design')."*

7a.22 The Transport Planning Unit has requested that a Transport Assessment be undertaken for this site. As this has not been carried out, the proposal is considered contrary to Policy POL 6.4 of the Polmont and District Local Plan.

### **Rural Local Plan**

7a.23 Policy RURAL 2 'Village Limits' states:

*"That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside."*

7a.24 The proposed development would result in undesirable sporadic development in the countryside, and as such the proposed development does not accord with Policy Rural 2.

7a.25 Accordingly, the proposed development does not accord with the Rural Local Plan.

7a.26 Accordingly, the proposal does not accord with the Development Plan.

### **7b Material Considerations**

7b.1 The following matters were considered to be material in the consideration of the application:

- Falkirk Council Local Plan Finalised Draft (Deposit Version).
- Supplementary Planning Guidance “Education and New Housing Developments”.
- Scottish Planning Policy.
- Responses to Consultation.
- Assessment of Public Representations.
- Additional information from applicants following the recent Committee decision on P/09/0457/OUT.

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

7b.2 Policy EQ19 - ‘Countryside’ states:

*“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*

- *it can be demonstrated that they require a countryside location;*
- *they constitute appropriate infill development; or*
- *they utilise suitable existing buildings.*

*(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*

- *the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- *building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council’s ‘Design Guide for Buildings in the Rural Areas’; and*
- *boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7b.3 The proposed development would result in an expansion of Maddiston Village beyond the village limit identified in the Development Plan. Furthermore, it is noted that the proposed development is not considered to be essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a countryside location is essential. The proposed development does not accord with Policy SC3 of the Plan, detailed in sections 7b.5-7b.6 of this report, which is included in the criteria detailed in table 3.3 of the Plan which, in turn, is referred to in Policy EQ19.

7b.4 The proposed development does not accord with Policy EQ.19.

7b.5 Policy SC3 - ‘Housing Development In The Countryside’ states:

*“Housing development in the countryside will only be permitted in the following circumstances:*

- (1) Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
  - The operational need for the additional house in association with the business*
  - That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
  - That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
  - That the business as a whole is capable of providing the main source of income for the occupant;*
  
- (2) Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
  - The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
  - The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
  - The restored or converted building is of comparable scale and character to the original building*
  - In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
  
- (3) Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8.”*

7b.6 Policy SC3 affirms the position of the Polmont and District Local Plan, and therefore the proposal does not accord with Policy SC3 ‘Housing Development in the Countryside’.

7b.7 Policy SC4 ‘Special Needs and Affordable Housing’ states:

*“For large new housing developments, the Council will require a diversity of house types and tenures in order to create mixed communities. In particular there will be a requirement across the Council area for new housing sites of 100 units and over to provide 15% of the total number of units as affordable or special needs housing. In the settlement areas of Larbert/Stenhousemuir, Polmont and District and Rural North, where there is an identified shortfall in affordable housing provision, there will be a requirement for sites of 60 units and over to provide 25% of the total number of units as affordable or special needs housing. Acceptable approaches could include:*

- (1) Provision of general needs social rented houses;*
- (2) Provision of social housing for people with particular needs (specifically the elderly and physically disabled); or*
- (3) Provision of shared equity or shared ownership housing*

*Developers will be expected to work in partnership with the Council, Communities Scotland and Registered Social Landlords to comply with this policy.”*

7b.8 It is noted that housing development proposals in the Polmont and District area require to provide 25% as special needs or affordable housing for developments of 60 units or more. Whilst final unit numbers for this site are unknown, an indicative capacity of approximately 80 units means that the 25% figure is appropriate in this instance. The application does not at present propose any portion of affordable housing.

7b.9 The proposed development does not accord with Policy SC4.

7b.10 Policy EQ22 'Landscape and Visual Assessment' states:

*“Development proposals which are likely to have a significant landscape impact must be accompanied by a comprehensive landscape and visual assessment as part of the Design Statement, which demonstrates that the setting is capable of absorbing the development, in conjunction with suitable landscape mitigation measures, and that best environmental fit has been achieved, in terms of the landscape character of the area.”*

7b.11 The applicants have submitted supporting information including indicative layouts and designs, in order to demonstrate that the site can accommodate the scale of development proposed. In principle, it is considered that the application site could absorb a housing development, however full design details would require to be assessed in order to fully satisfy this policy. As this is an outline application, it is not considered that this can be achieved at this stage.

7b.12 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

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

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.”*

7b.13 It is noted that no part of the site is affected by any Tree Preservation Order and, as the current application is for outline planning permission, there is no detailed layout available at this stage. The indicative layout submitted appears to have very little impact on the existing trees and vegetation on the site. With this in mind, it is considered that the current proposal broadly complies with the terms of this policy.

7b.14 Policy EQ24 ‘Ecological Sites and Features’ states:

- “(1) Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers)..*
- (2) Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) Development likely to have an adverse affect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*
- (5) Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site’s natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future management.*
- (6) The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.”*

7b.15 Policy EQ24 affirms the position of the Polmont and District Local Plan, and therefore the proposal does not accord with Policy EQ24 ‘Ecological Sites and Features’.

7b.16 Policy ST11 - ‘Sustainable Urban Drainage’ states:

*“Surface water management for new development should comply with current best practice on sustainable urban drainage systems, including opportunities for promoting biodiversity through habitat creation. A drainage strategy, as set out in PAN 61, should be submitted with planning applications and must include flood attenuation measures, details for the long term maintenance of any necessary features and a risk assessment.”*

7b.17 It is noted that no drainage strategy has been submitted in respect of the proposed development. It is not, therefore, possible to assess whether drainage in association with the proposed development would meet best practice in terms of sustainable drainage and whether sufficient flood attenuation measures can be put in place.

7b.18 The proposed development does not accord with Policy ST11.

7b.19 Policy ST12 - 'Flooding' states:

*"In areas where there is significant risk of flooding, there will be a presumption against new development which would be likely to be at risk, would increase the level of risk for existing development or would be likely to require high levels of public expenditure on flood protection works. Applicants will be required to provide information demonstrating that any flood risks can be adequately managed both within and outwith the site."*

7b.20 Policy ST12 affirms the position of the Polmont and District Local Plan. The applicant has not provided the required information, and therefore the proposal does not accord with Policy ST12.

7b.21 Policy ST7 - 'Transport Assessments' states:

- "(1) Falkirk Council will require transport assessments of developments where the impact of that development on the transport network is considered likely to require mitigation. In all cases, this mitigation will be delivered to a level that achieves no net detriment to the capacity of the network.*
- (2) Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development.*
- (3) Developers will agree the scope of the assessment with Falkirk Council, then undertake the assessment in accordance with the scoping. In all cases, the assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over unnecessary use of the car.*
- (4) The Council will only grant planning permission where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified."*

7b.22 Policy ST7 affirms the position of the Polmont and District Local Plan. The applicant has not provided the required information, and therefore the proposal does not accord with Policy ST7.

7b.23 The emerging Falkirk Council Local Plan Finalised Draft (Deposit Version) supports the policies set out in the existing Falkirk Council Structure Plan and Polmont and District Local Plan covering this site and described earlier in this report. The proposed development is contrary to most of the relevant terms of this document.

### ***Supplementary Planning Guidance "Education and New Housing Developments"***

7b.24 The Falkirk Council approved supplementary guidance note provides guidance on the implementation of Development Plan policies relating to developer contribution to education provision and explains the reasoning and the technical basis upon which impacts on schools are judged. Should planning permission in principle be granted, a developer contribution of £3,800 per dwellinghouse should be secured in accordance with this guidance and the advice of Education Services as set out in paragraph 4.7.

### ***Scottish Planning Policy***

- 7b.25 It is noted that the aim of the Scottish Government's approach to housing is to provide a range of tenures at sites which are accessible to good transport links and community amenities. Local authorities are required to formulate strategies to meet these needs. It is considered that the majority of housing land requirements will be met within or adjacent to existing settlements. This, however, requires to be part of a strategy. In planning terms, the Development Plan sets out the strategy in order that development can be promoted in a structured manner and co-ordinated with infrastructure improvements and availability of community facilities and services.
- 7b.26 It is noted that the proposed development does not accord with the Development Plan and would be additional to housing land which has been identified by means of such a structured and co-ordinated Development Plan process.
- 7b.27 It is not considered that the proposed development accords with the strategic approach promoted in the Scottish Planning Policy which requires to be implemented through the Development Plan process.

### ***Responses to Consultation***

- 7b.28 The consultation responses received have raised a number of concerns and have resulted in the request by consultees for significant levels of additional information to be provided. The applicant has been made aware of these responses and the probable recommendation to refuse permission. However, this information has not been formally requested by the planning authority in light of the weight given to the policy assessment and the recommendation to refuse planning permission.

### ***Assessment of Public Representations***

- 7b.29 The points raised by each letter of representation in relation to national and local policy, flooding, wildlife, traffic, water and sewerage are all noted and addressed elsewhere in this report. Issues in respect of land ownership are not material planning considerations and it is considered that issues in relation to residential amenity would be better addressed at the time of any detailed application instead of the current outline application.

### ***Additional Considerations Following Recent Committee Decision***

- 7b.30 Following the decision by the Planning Committee on application P/09/0457/OUT in January 2010 that it was minded to grant application P/09/0457/OUT, the applicants for the current application felt that the context for consideration of this application had now changed. In light of these circumstances, a letter dated 26 February 2010 was received from the applicant's agent in support of the proposals.
- 7b.31 The applicants contend that the recent decision on P/09/0457/OUT should remove any major reason to refuse the current application as they feel the Planning Committee has clearly signaled its support for housing development in this area. In fact, the recent decision by the Planning Committee was in the context of social/affordable housing and other factors, and does not set a general precedent for further development. The application should be determined upon its own merits.

7b.32 The applicants have intimated that they are happy to supply any studies/information on habitats/flood risk that is required and have advised that they would be willing to phase the development should the Committee feel that this was appropriate. The phasing suggested implies a partial approval on the front field which has an approximate capacity of around 30 units and is similar in size to application P/09/0457/OUT. Committee should bear in mind however that the application site currently before Committee consists of boundaries larger than merely this front field, and as such any approval would relate to the site as a whole. Irrespective of potential phasing, the proposed development does not accord with the Development Plan and is unacceptable at this time.

## **7c Conclusion**

7c.1 The proposal is contrary to the terms of the Falkirk Council Structure Plan, adopted Polmont and District Local Plan and the emerging Falkirk Council Local Plan Finalised Draft (Deposit Version). There are no material planning considerations that warrant an approval of planning permission in these circumstances. If, however, the Committee were minded to approve this application, it would be subject to referral to Scottish Ministers in regard to potential objections from SNH.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee refuse the planning application for the following reason(s):**

- (1) The proposal forms an unplanned intrusion into the countryside and does not form a logical rounding-off of the urban limit, and as such the proposal is contrary to Policy ENV 1 - Countryside and Protected Areas of the Falkirk Structure Plan, Policy POL 11.1 - New Development in the Countryside of the Polmont and District Local Plan, Policy Rural 2 - Village Limits of the Rural Local Plan, and Policy EQ19 - Countryside and SC3 - Housing Development in the Countryside of the Falkirk Council Local Plan Finalised Draft (Deposit Version).**
- (2) It has not been demonstrated that the proposed development will safeguard the ecological importance of the Maddiston SINC and other potential habitats for European Protected Species, as such the proposal is contrary to the terms of Policy ENV 3 - Nature Conservation of the Falkirk Council Structure Plan, Policy POL 8.5 - Ecological Sites of the Polmont and District Local Plan and Policy EQ 24 - Ecological Sites and Features of the Falkirk Council Local Plan Finalised Draft (Deposit Version).**
- (3) It has not been demonstrated that flood risk can be adequately managed both within and outwith the application site boundary and as such the development is contrary to the terms of Policy POL 8.8 - Flooding of the Polmont and District Local Plan and Policy ST12 - Flooding of the Falkirk Council Local Plan Finalised Draft (Deposit Version).**

- (4) It has not been demonstrated that the proposed development would not have an adverse impact on the surrounding transport network. The development has not been assessed by way of a Transport Assessment. As such, the development is contrary to the terms of Policy TRANS.3 - Transport Assessments of the Falkirk Structure Plan, Policy POL 6.4 - Roads and New Development of the Polmont and District Local Plan and Policy ST7 - Transport Assessments of the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- (5) The application site is not identified in the Polmont and District Local Plan, either as a housing land opportunity or as a site suitable for special needs and affordable housing. Furthermore, the applicant does not propose to develop any portion of the application site for special needs or affordable housing. The proposed development does not therefore accord with Policy COM.3 of the Falkirk Council Structure Plan 'Special Needs and Affordable Housing' or Policy SC4 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) 'Special Needs and Affordable Housing'.
- (6) There has been no drainage strategy submitted in respect of the proposed development. It has not therefore been possible to assess whether drainage in association with the proposed development would meet best practice in terms of sustainable drainage and whether sufficient flood attenuation measures can be put in place. The proposed development does not therefore accord with Policy ST11 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) 'Sustainable Urban Drainage'.

**Informative(s):**

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference 01, 02 and 03.

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 pp Director of Development Services

Date: 18<sup>th</sup> March 2010

## **LIST OF BACKGROUND PAPERS**

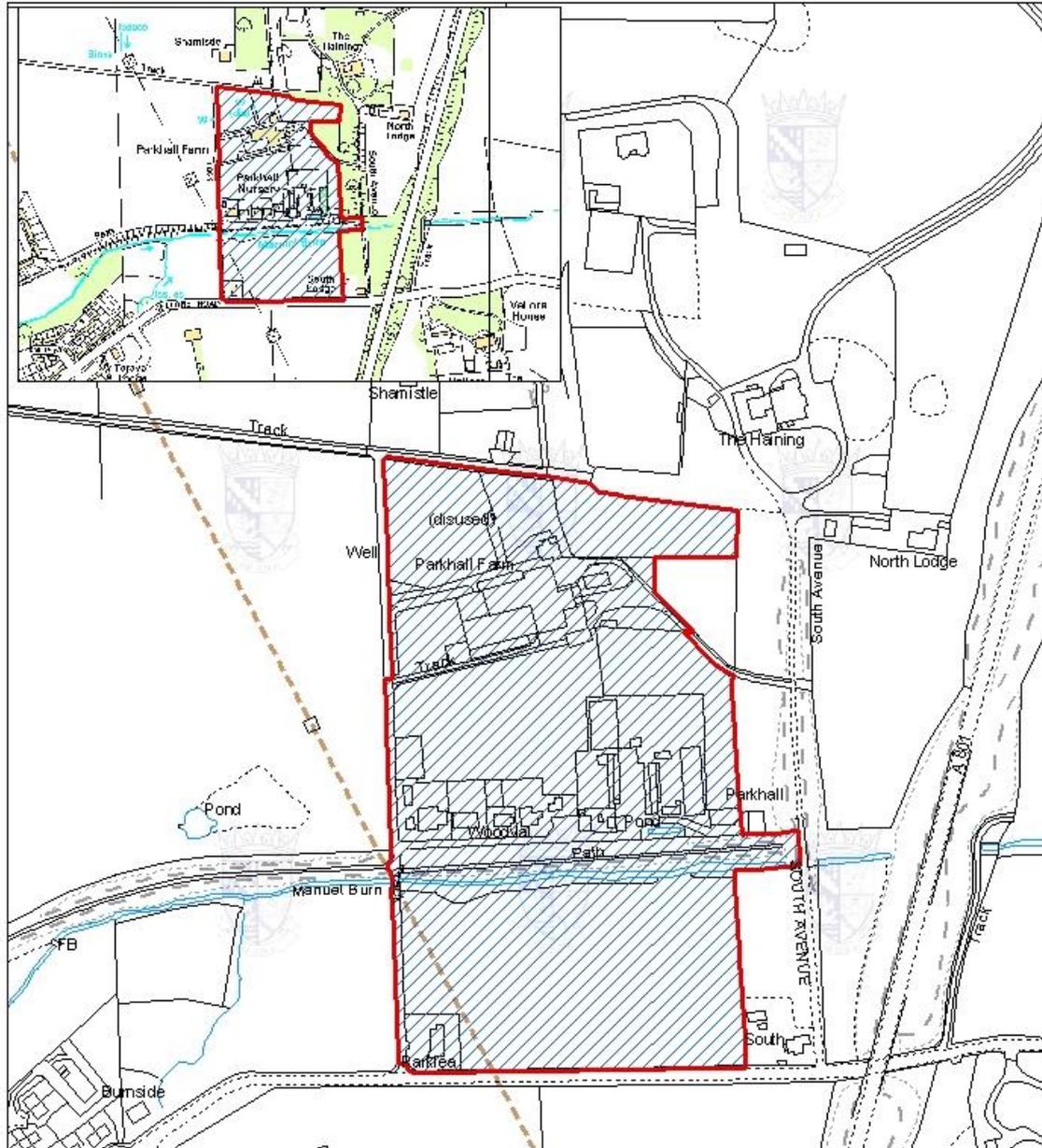
1. Falkirk Council Structure Plan.
2. Polmont and District Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Supplementary Planning Guidance “Education and New Housing Developments”.
5. Scottish Planning Policy.
6. Letter of objection received from Manor Forrest LTD, F.A.O Fiona Stewart, Atrium House, Callendar Boulevard, Falkirk on 10 August 2009.
7. Letter of support received from James Barr Ltd, Atholl Exchange, 6 Canning Street, Edinburgh, EH3 8EG on 10 September 2009.
8. Letter of objection received from Mr & Mrs T Millar, The Haining, Vellore Road, Maddiston, Falkirk on 27 July 2009.

Any person wishing to inspect the background papers listed above should telephone 01324 504701 and ask for Kevin Brown (Planning Officer).

# Regulatory Committee

## Planning Application Location Plan P/09/0483/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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