

FALKIRK COUNCIL

Subject: MIXED DEVELOPMENT COMPRISING OFFICES, LIGHT INDUSTRIAL UNITS AND GENERAL MANUFACTURING (CLASSES 4, 5 & 6) AT LAND TO THE NORTH WEST OF GRANGEMOUTH TECHNOLOGY PARK, EARLS ROAD, GRANGEMOUTH FOR KEMFINE UK LTD P/08/0615/OUT

Meeting: PLANNING COMMITTEE

Date: 22 September 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Allyson Black
Councillor Angus MacDonald
Councillor Alistair McNeill
Councillor Robert Spears

Community Council: Grangemouth

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks to establish the principle of development for Business, General Industry and storage and distribution (classes 4, 5, and 6) uses with associated infrastructure and landscaping, on land near Earls Road, Grangemouth.
- 1.2 The site extends to some 18 hectares and is located to the south of Forth Clyde Way, east of Glenburgh Road and north east of Earls Road, in close proximity to Junctions 5 and 6 of the M9 motorway.
- 1.3 Land uses in the surrounding area are mainly industrial and transport related, with the predominantly residential area of Glensburgh to the north. Land uses in the local area include:
- Predominantly residential area of Glensburgh to the north;
 - Industrial uses on land to the east, including the existing chemical complex and Scottish Enterprise Forth Valley Grangemouth Technology Park;
 - The west boundary shared with the A905 Glensburgh Road, with motor retail and licensed premises on the west side of the road;
 - A904 Earls Road defining the southern boundary with the Earls Gate Park site comprising mixed commercial / industrial uses;

- 1.4 Much of the site was previously used for private recreational purposes, with bowling facilities, football practice area and a football pitch. The remaining areas are semi-mature planted woodland and mown amenity grassland, with a recreation / social club established in the south west corner of the site.
- 1.5 However, access to the site has been restricted by the owner / applicant, in view of health and safety considerations, and the majority of facilities are no longer utilized.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposal is required to be reviewed by the Planning Committee for the following reasons:
- Scottish Environment Protection Agency currently have a holding objection to the application, based on flood risk;
 - The application may be considered potentially contrary to the Development Plan in that the application site extends outwith the area designated for industrial use.

3. SITE HISTORY

- 3.1 F/2005/0085 – Redevelopment for class 4 Office, class 5 General Industry and class 6 Storage and Distribution – Outline – Granted 11 January 2006.

4. CONSULTATIONS

- 4.1 The Health and Safety Executive have been consulted on the application as, since the application seeks the principle of development, insufficient information is available to process the application through the Planning Advice for Development near Hazardous Installations (PADHI+) system available to Falkirk Council. The applicant has submitted a Health and Safety Statement, and is confident that further planning applications to reflect detailed proposals will not result in an 'advise against' when evaluated through PADHI+. The Health and Safety Executive concur with this assessment, but the applicant should be aware that any approval in principle may not assure detailed planning permission on any individual unit / use.
- 4.2 Scottish Environment Protection Agency object to the proposal in that the site has a risk of flooding and insufficient information has been submitted to date to allay such consideration. However, following discussion between interested parties, further information is expected to be lodged with Falkirk Council and available for review by the Scottish Environment Protection Agency.
- 4.3 Sportscotland has no objection to the application, subject to assurance that the applicant will support a local football team – Syngenta Juniors – to move their changing facilities to a new venue at Little Kerse, Grangemouth.
- 4.4 Scottish Natural Heritage has no objection to the application subject to planning conditions to ensure that the quantity and location of existing woodland to be retained, along with additional planting, will maintain connectivity within the site and connect with woodland corridors outwith the site; the identification and categorisation of trees to be removed; and site investigation and mitigation works to ensure the retention of bat habitats.

- 4.5 Transport Scotland have no objection subject to an appropriate financial contribution being secured for upgrading road network infrastructure at M9 Junction 6.
- 4.6 Falkirk Council's Transport Planning Unit have no objections subject to planning conditions relating to walking and cycling accessibility; public transport accessibility; parking provision; internal road layout and travel plan provision. As to vehicular impact on the existing road network, upgrading of Earls Gate roundabout (M9 Junction 6) and associated roadways will attract a requested commuted payment of £415,000.00.
- 4.7 Falkirk Council's Road and Development Unit have no objections subject to planning conditions addressing road layout; visibility splays; parking and the Sustainable Urban Drainage System to be employed.

5. COMMUNITY COUNCIL

- 5.1 On 3 August 2008 Grangemouth Community Council made the following observation:
- This proposal is contrary to the current and developing local plan in respect of designated land use;
 - The site lies within the inner Hazard Consultation zone pertinent to the operations of KemFine a point which has been reinforced by the actions of KemFine in recent weeks;
 - The broad description of what is proposed causes concern in terms of meeting established criteria under the terms of the PADHI+ matrix in the event that change of land use is permitted;
 - There are substantial numbers of mature trees on the proposed site which we would expect to be protected and factored into any decision should development be considered;
 - As this site is not currently designated for economic development we assume that there has been no provision made in terms of transport planning for the effects that such a development might create at an already identified pinch point.

6. PUBLIC REPRESENTATION

- 6.1 No public representations were received.

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 Structure Plan

7a.1 Policy ECON.1 ‘Strategic Development Opportunities’ states:

“The Council will promote the following as strategic locations for major economic development:

- Town Centres*
- 1 Falkirk Town Centre*
- 2 Grangemouth Docks*
- Gateways*
- 3 Middlefield/ Westfield, Falkirk*
- 4 Falkirk Canal Interchange*
- 5 North Larbert / Glenbervie*
- 6 Gilston, Polmont*
- Urban/rural Regeneration Areas*
- 7 Langlea/Bainsford, Falkirk*
- 7a Former Manuel Works, Whitecross*
- Specialist Sites*
- 8 Grangemouth/ Kinneil Kerse*

Site boundaries will be defined or confirmed in Local Plans. The range of acceptable uses at each of these strategic sites is indicated in Schedule ECON.1.”

7a.2 It is acknowledged that the application site is not within Grangemouth Docks nor will be used for chemical or petrochemical development. However, the application site is owned by an adjoining chemical industrialist and existing infrastructure – such as drainage provision, power, water supply and specialist utilities such as steam, compressed air, instrument air and nitrogen – will be shared with potential tenants.

7a.3 Policy ECON.3 ‘Local Business Development Opportunities’ states:

“Provision will be made for business and industrial land to meet local needs within settlements. Local Plans will assess local need and identify and safeguard suitable sites which should meet all relevant environmental, amenity, access and infrastructure requirements giving priority to previously developed sites.”

7a.4 It is considered that the site's allocation in terms of the Local Plan can be assessed in part (7b.31) of this report.

7a.5 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.6 Given the scale and nature of the proposal, it is considered appropriate to request a financial contribution towards upgrading road infrastructure to accommodate the application.

7a.7 Policy COM.6 ‘Open Space and Recreational Facilities’ states:

“The Council will seek to ensure that a satisfactory distribution and quality of open space and recreational facilities exists across the Council area. Accordingly:

- (1) the loss of open space and recreational facilities will not normally be permitted except where, as part of a community-wide assessment of provision, it is demonstrated that the loss will have no adverse impact on visual or recreational amenity and will release resources for qualitative improvements to facilities in the community as a whole;*
- (2) Local Plans will identify and seek to address any remaining localised deficiencies in provision;*
- (3) resources will generally be concentrated on improving the quality, management and accessibility of existing provision; and*
- (4) all new housing development must contribute to the provision and maintenance of open space and recreational facilities either through on-site provision or contributions to off-site provision. Standards will be set out in Local Plans based on the provision of 2.8ha per 1000 persons.”*

7a.8 While there will be identifiable loss of private open space and what was formerly recreational facilities, there is considered justification for such loss and the impact on the community as a whole may be considered limited. This is expanded upon in part (7b.30-31) of this report.

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 applicant has submitted habitat surveys, breeding bird surveys and bat surveys relating to the site. While there are no objections from consultees on these aspects, restrictive planning conditions protecting biodiversity will be imposed.

7a.11 Policy ENV.4 'Coastal Planning and Flooding' states:

"The Council will apply the following general principles with regard to coastal planning and flooding issues:

- (1) There will be a general presumption against development in the undeveloped coastal zone (as indicated generally on the key diagram), unless it is clearly demonstrated that a coastal location is essential for that development.*

- (2) *In assessing proposals for development within the coastal zone or coastal defence measures on the developed coast, particular attention will be paid to the likely implications in terms of flooding, existing and future coastal defence works, nature conservation, landscape impact, water pollution and the need to work in partnership with other agencies to promote the integrated management of the estuary and its resources.*
- (3) *The Coastal zone north of the River Carron will be a priority area for evaluating the feasibility for managed retreat and other coastal zone management measures.*
- (4) *In areas where there is a significant risk of flooding, there will be a presumption against new development which would be likely to be at risk or would increase the level of risk for existing development. Where necessary the Council will require applicants to submit supplementary information to assist in the determination of planning applications."*

7a.12 The risk regarding flooding of the site or flooding to neighbours as a consequence of development is subject to further review by the Scottish Environment Protection Agency.

7a.13 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.14 The Transport Assessment submitted by the applicant has contributed to the appropriateness of the financial contribution for works to the existing road network. In addition, a Travel Plan will seek to minimise the number of car trips generated from the site.

Grangemouth Local Plan

7a.15	Proposal no	Proposal	Agency	Comments
	14	Dalgrain Road 10 Hectares General Industry	Private Industry	The granting of planning permission on this site will be subject to a detailed assessment by HSE and FDC of any potential risks arising to adjacent residential areas.

7a.16 It should be noted that approximately one third of the current application site (area nearest Forth Clyde Way) is covered by the above proposal.

7a.17 Policy Grangemouth Two 'Development within the Urban Limit' states:

"That within the Urban Area, urban uses will generally be acceptable provided they accord with all other relevant District Council policies and standards of provision."

7a.18 This policy seeks to achieve a balance in the development of the urban area and, given the adjoining land uses, the proposal could be considered acceptable.

7a.19 Policy Grangemouth Seven 'Major Hazard Consultation Zones' states:

“That within a major hazard consultation zone development will not normally be permitted unless the District Council is satisfied that future users or occupants will not significantly add to the number of people exposed to the existing risks in the area.”

7b.20 The application seeks the principle of development while the evaluation of risk requires detailed information of storey heights, number of people in a building etc. The applicant recognizes that, while the proposal may be acceptable in principle, the detail of further applications will require to be assessed through PADHI+ by Falkirk Council.

7b.21 Policy Grangemouth Fifteen ‘Ecological Sites’ states:

“That in order to protect areas which are of value to wildlife, there will be a general presumption against any development on or affecting sites of special scientific interest or which might affect other important wildlife areas.”

7b.22 While the application site is not designated as an important wildlife area, the applicant has submitted information on biodiversity and wildlife. There are no issues precluding development of the site, but planning conditions will be imposed to respect the various features on the site and ensure mitigation for any loss of habitat.

7b.23 Policy Grangemouth Twenty ‘Trees and Woodlands’ states:

“That the economic and landscape importance of existing trees, woodland, afforested land and hedgerows be recognised, and that felling detrimental to either the character of the landscape or the economic resource itself will be discouraged and where necessary, endangered areas and trees will be statutorily protected. Furthermore, encouragement will be given to proposals to improve the landscape through the planting of appropriate species.”

7b.24 While it is recognized that a number of trees will require to be felled to allow development of the site, the applicant will be encouraged through planning condition to protect existing trees and introduce new planting where possible.

7b.25 Accordingly, the proposal does not accord with the Development Plan with regard to flood risk.

7b Material Considerations

7b.26 The material consideration include the terms of Scottish Planning Policy (February 2010), the policies within the Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010) and the points raised by consultees and contributors.

Scottish Planning Policy Flooding and Drainage

- 7b.27 Scottish Planning Policy (SPP) recognizes that flooding is a natural process which cannot be prevented entirely, but it can be managed to reduce its social and economic consequences and to safeguard the continued functioning of services and infrastructure. Some locations are already susceptible to intermittent flooding and climate change is expected to worsen the situation. Inadequate drainage infrastructure also increases the risk of flooding. Planning authorities must take the probability of flooding from all sources – coastal, fluvial (water course), pluvial (surface water), groundwater, sewers and blocked culverts) and the risks involved into account when preparing development plans and determining planning applications. Development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted. Prospective developers should take flood risk into account before committing themselves to a site or project. The responsibility of the planning authority is to have regard to the risk of flooding when preparing development plans and determining the planning applications, but this does not affect the liability position of applicants and occupiers who have responsibilities for safeguarding their property. Planning authorities should avoid any indication that a grant of planning permission implies the absence of flood risk.
- 7b.28 While the Scottish Environment Protection Agency have a holding objection to the application, consultation with relevant parties should result in additional information being submitted by the applicant, which will remove this objection.

Open Space and Physical Activity Playing Fields

- 7b.29 Playing fields are an important resource for sport and should be provided in sufficient quantity, quality and accessibility to satisfy current and likely future community demand. Local authorities are expected to develop a playing fields strategy in consultation with Sportscotland as part of the wider open space strategy. Playing fields, including those within education establishments, which are required to meet existing or future needs should be identified in the local development plan. Playing fields and sports pitches should not be redeveloped except where:
- The proposed development is ancillary to the principal use of the site as a playing field;
 - The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training;
 - The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or
 - A playing field strategy prepared in consultation with Sportscotland has demonstrated that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision.

Where a playing field is no longer required for formal sports use, planning authorities should consider whether the site has other recreational, amenity, landscape or biodiversity value which would warrant its retention as open space.

- 7b.30 In this instance, the area of recreation is privately owned and the applicant – by virtue of the area's close proximity to a Major Hazardous Installation – has restricted recreational access to the point that little of the facilities are now utilized. The applicant has approached Sportscotland with evidence that a local football club – Syngenta Juniors – have transferred to Little Kerse Sports facilities and that the applicant has continued to provide financial / asset support. Sportscotland do not object to the application, recognising that the loss of the facilities have been off-set by the development of Little Kerse, of which Syngenta Juniors are the primary users. The site, as well as providing grass pitches, has a synthetic pitch for training. Sportscotland would seek assurance that KemFine support Syngenta Juniors by facilitating transfer of existing changing facilities from the KemFine site to Little Kerse.

Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modification (June 2010)

- 7b.31 Proposal ED GRA 8 (Earls Road)

*"ED GRA 8 Earls Gate Park Phase 2
Opportunity Business / Industry
Site Area 14.05 hectares
Agency KemFine UK Ltd / SEFV
Comment Site would be suitable for use classes 4, 5, and 6, with an opportunity to share spare capacity in power and effluent treatment. Development of the site should retain the woodland area and important trees.*

The loss of sports facilities requires to be addressed either by replacing them with new ones, or upgrading existing ones, all inline with national planning policy guidance. Other matters which potentially have to be addressed include flooding, access, and European protected species. Any proposals for hazardous substances consent will require to be assessed under Policy EP19"

Reason: In response to an objection by KemFine UK Ltd, this amendment reflects the Reporters' recommendation and the Council's acceptance that is appropriate to extend the site, with suitable provision for mitigation relating to sports facilities and woodland protection

- 7b.32 The submitted planning application accords with the identified proposal subject to confirmation of the views of the Scottish Environmental Protection Agency and the retention of an area of open space, controlled by planning condition.

7b.33 Opportunities TR.GRA6/TR.GRA8 M9 Junctions 5 and 6

TR.GRA6 M9 Junction / Glensburgh Road

Opportunity: Junction Improvement

Agency: Falkirk Council / Transport Scotland

Comments: Junction identified as requiring upgrade to cope with projected traffic growth. Appraisal has identified specific mitigation measures which would resolve capacity issues over the term of this Local Plan. Signalisation likely to control staggered junction at Glensburgh. Signals and road widening at Earlsgate roundabout. Developer contributions required from major developments contributing to growth in the vicinity. All contributions will be raised in accordance with national planning policy guidance. Longer term solutions will be pursued through STPR and the National Development mechanism set out in NPF2.

TR.GRA8 M9 Junction 5

Opportunity: Junction Improvement

Agency: Falkirk Council / Transport Scotland

Comments: Junction identified as requiring upgrade to cope with projected traffic growth. Appraisal has identified specific mitigation measures which would resolve capacity issues over the term of this Local Plan. Signalisation and road widening likely on entry arms with possible dedicated left turning lane connecting M9 and A9. Developer contributions required from major developments contributing to growth in the vicinity. All contributions will be raised in accordance with national planning policy guidance. Junction 5 operates largely in tandem with Junction 6 and specific measures for Junction 5 to deal with longer term traffic growth will be identified consequential to the STPR and the National Development related work referred to in Opportunity TR.GRA6.

Reason: In response to an objection by Transport Scotland, and as confirmed and modified by the Reporters' recommendation, this amendment reflects and clarifies the outcome of traffic modelling work which has been carried out, and the approach to the improvement of these junctions.

7b.34 Transport Scotland have been consulted and a commuted payment of £415,000.00 has been agreed by the applicant to contribute to improvements to the road network.

7b.35 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.36 Policy EQ25 'Biodiversity' states:

"The Council will promote the biodiversity of the Council area and ensure that the aims and objectives of the Falkirk Area Biodiversity Action Plan are promoted through the planning process. Accordingly:

- (1) *Developments which would have an adverse effect on the national and local priority habitats and species identified in the Falkirk Area Biodiversity Action Plan will not be permitted unless it can be demonstrated that there are overriding national or local circumstances;*
- (2) *The safeguarding, enhancement and extension of the broad and key habitats and the species of conservation concern identified in 'The Biodiversity of Falkirk' will be given particular attention in the consideration of development proposals;*
- (3) *Development proposals should incorporate measures to promote, enhance and add to biodiversity, through overall site planning, and infrastructure, landscape and building design, having reference to the Supplementary Planning Guidance Note on 'Biodiversity and Development'; and*
- (4) *Priority will be given to securing appropriate access to and interpretation of areas of local nature conservation interest. The designation of Local Nature Reserves, in consultation with communities, local wildlife groups and statutory bodies will be pursued."*

7b.37 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.38 The applicant has submitted a biodiversity report, including tree survey and bat survey, which will allow suspensive planning conditions to be imposed protecting ecological assets within the site and allowing mitigation where, for example, trees are subject to removal.

7b.39 Policy SC11 – ‘Developer Contributions To Community Infrastructure’ states;

“Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities where development will create or exacerbate deficiencies in, or impose significantly increased burdens on, existing infrastructure. The nature and scale of developer contributions will be determined by the following factors:

- (1) *Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) *In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) *In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) *Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 1/2010."*

7b.40 The applicant has been requested to submit a sum of £415,000.00 towards improvement to the road network, which may be secured through legal agreement. In accordance with this emerging Local Plan, this request is based on an assessment of the impact of this development and other likely developments on relevant motorway junctions; the emerging costs of likely mitigation measures; the appropriate sharing of costs between developments; the principles of Circular 1/2010; and the existing commitment by the applicant (through a legal agreement linked to planning permission for a nearby site) to contribute to mitigation measures.

7b.41 Policy SC12 – ‘Urban Open Space’ states;

“The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) In the case of recreational open space, it can be clearly demonstrated from the Council’s open space audit, or a site-specific local audit of provision in the interim, that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded.”*

7b.42 While the loss of private open space is regrettable, it was necessary for health and safety reasons and the applicant has submitted mitigation for such loss, through the intention to retain much of the treescape and the opportunity to introduce further landscaping at the point of the precise development strategy for the site being known.

7b.43 Policy EP4 ‘Business and Industrial Development within the Urban and Village Limits’ states:

- “(1) New business and industrial development, or extensions to such uses, will be supported within the business areas highlighted in Policy EP2 and EP3(1), where it accords with the use specified for the area, is compatible with the established level of amenity in the business area, and protected habitats and species are safeguarded in accordance with Policy EQ24. Office development will also be supported within the Town and District Centres, providing it is also consistent with the specific policies for the relevant centre, particularly with regard to the safeguarding of the centre’s retail function.*
- (2) Outwith these areas, proposals within the Urban Limit will only be permitted where the nature and scale of the activity will be compatible with the surrounding area, there will be no adverse impact on neighbouring uses or residential amenity, and the proposal is satisfactory in terms of access, parking and traffic generation.”*

7b.44 It is considered that the proposal would be compatible with the surrounding area – given the industrial / commercial uses on adjoining land – and is satisfactory in terms of traffic generation. Detailed issues of parking, access and built form may be considered on Matters Subject to Condition (MSC) applications.

7b.45 Policy EP18 – ‘Major Hazards’ states;

“Within the Major Hazard and Pipeline Consultation Zones identified on the Proposals Map, proposals will be judged in relation to the following criteria:

- (1) The increase in the number of people exposed to risk in the area, taking into account the advice of the Health and Safety Executive, any local information pertaining to the hazard, and the existing permitted use of the site or buildings; and*

- (2) *The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means.*
- (3) *The potential impact that the proposals may have upon chemical and petrochemical establishments.”*

7b.46 The current application seeks to establish the principle of development of the site, which is within the consultation zones of several Major Hazard Installations. However, the lack of specific detail (height of buildings, number of occupants, distance from installations etc) hamper such evaluation and no specific advice can be offered at this juncture. The applicant is aware of the onerous nature of new development within consultation zones and is confident that the introduced development will comply with current Health and Safety Executive (HSE) Guidelines. HSE have no objections at this stage.

7b.47 Policy ST2 – ‘Pedestrian Travel And Cycling’ states;

“New development will be required to provide an appropriate standard of pedestrian and cycle infrastructure. This will consist of on- and where appropriate off-site measures that allow pedestrian and cycle movements within and beyond developments, and ensure that those wishing to use pedestrian/cycle networks are not dissuaded from doing so through the absence of suitable infrastructure.

- (1) *All pedestrian and cycle routes will comply with the standards set out in the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area. Where appropriate, infrastructure supporting the two modes will be combined.*
- (2) *Pedestrian and cycle facilities in new developments should offer appropriate links to existing networks in surrounding areas, to other amenities and community facilities and support objectives in agreed Travel Plans where relevant.*
- (3) *Pedestrian and cycle movement within developments should be allowed for via direct routes without barriers.*
- (4) *Pedestrian and cycle links should be provided that offer connections to public transport connections in the surrounding area. For guidance, in new developments, no pedestrian should have to walk more than 400m to the nearest bus stop.*
- (5) *Where practical, no pedestrian route should be obstructed by features that render it unsuitable for the mobility impaired.*
- (6) *The surfacing, lighting, design, maintenance and location of pedestrian and cycle routes should promote their safe use. Particular emphasis should be given to the provision of suitable lighting, and the provision of suitably designed and located crossing facilities where routes meet the public road network.*
- (7) *Pedestrian and cycle routes for school journeys should be provided in residential development where a need to do so is identified. In all cases, the aim should be to provide an overall walking/cycling distance between home and school of not more than 2 miles wherever practical, or not more than 1 mile for pedestrian journeys to primary school.*
- (8) *Cycle parking should be provided in accordance with the standards set out in Falkirk Council's Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.”*

7b.48 While the application seeks the principle of development, provision for pedestrian travel and cycling have been reflected in the submitted Transport Assessment and will be addressed on further submissions to the planning authority.

7b.49 Policy ST6 - 'Improving The Road Network' states:

"Falkirk Council will work with other authorities, the Scottish Executive and developers in delivering necessary improvements to the road network. Any improvements identified will be taken forward as part of packages of measures that support sustainable transport."

7b.50 Consultation response has been received from Transport Scotland and a commuted payment of £415,000.00 to implement road network improvements will be secured.

7b.51 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.52 While the Scottish Environment Protection Agency have objected to the proposal due to flood risk, it is envisaged that the applicant will submit additional information to allow this objection to be withdrawn.

Points Raised Through Consultation

7b.53 The Scottish Environment Protection Agency have objected to the application on the basis of flood risk. A recent meeting of interested parties concluded that further information needs to be submitted by the applicant and reviewed by the Scottish Environmental Protection Agency to remove the current objection. For the avoidance of doubt, no planning decision will be issued by Falkirk Council without the removal of the Scottish Environment Protection Agency objection and, if the objection were to remain, the application would need to be referred to Scottish Ministers, if the Committee were minded to grant planning permission.

Points Raised Through Comment

7b.54 In response to the points raised, the following comments may be applied:

- The emerging Local Plan's designated land use of the site has changed to accommodate industrial use;
- The site's location within an inner consultation zone would not preclude development, but that appropriate development be screened through the Health and Safety Executive's PADHI+ system;
- The detailed evaluation of specific uses, building sizes, occupancy levels etc, will be subjected to further consideration on Matters Subject to Condition (MSC) planning applications;
- A tree survey has been carried out and further proposals will consider tree retention or replacement planting in detail;
- The site has now been identified for industrial purposes and a Transport Assessment submitted and evaluated.

7c Conclusion

- 7c.1 The application is considered potentially contrary to the Development Plan in that, under the Grangemouth Local Plan, the application area exceeds the area designated for industrial purposes. However, the emerging Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the proposed modifications (June 2010) allows for further development of the site, albeit retaining a small area of open space.
- 7c.2 The area of proposed open space (south west corner of site) to be excluded from industrial development can be controlled by planning condition.
- 7c.3 Objection to the application has been received from Scottish Environment Protection Agency, concerned over flood risk.
- 7c.4 Additional information is expected from the applicant to address flood risk. On this basis, it is expected that the objection shall be withdrawn at an early date. For the avoidance of doubt, should the objection not be withdrawn, the application would be referred to Scottish Ministers, if the Committee is minded to grant permission.
- 7c.5 Matters regarding woodland protection and biodiversity can be addressed through planning condition.
- 7c.6 In respect of a commuted payment towards road transport infrastructure, the applicant is expected to submit a sum of £415,000.00 towards such provision.

8. RECOMMENDATION

- 8.1 It is recommended that the Committee indicate that it is minded to grant outline planning permission subject to:-
 - (a) the satisfactory completion of an agreement within the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of the payment of a financial contribution of £415,000 towards the provision of the transport mitigation scheme at M9 Junction 6 as per the following drawings:
 - (i) Falkirk Council's drawing number A905/IA0151/02A/R relating to the improvement of the M9 trunk road junction at the Earlsgate Interchange (off-slip); and
 - (ii) Falkirk Council's drawing number A905/IA0151/03A/R relating to the improvement of the M9 trunk road junction at the Earlsgate Interchange;
 - (b) the Scottish Environment Protection Agency withdrawing its current objection, or the application being referred to Scottish Ministers for their consideration;
 - (c) and thereafter, on the conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission subject to the following conditions:-

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.
- (3) That the development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or
 - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (4) Prior to the occupation of any of the proposed development a Travel Plan for said part, aimed at promoting sustainable travel modes and reducing the reliance on the private car, shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland. In particular, the Travel Plan will identify measures to be implemented, the system of management, monitoring, review, reporting and duration of the plan.

- (5) (i) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
- (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
- (iii) Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (6) For the avoidance of doubt, the area of open space in the South West corner of the site - coloured blue - shall remain clear of development and be retained as open space.
- (7) All road and footway construction shall be carried out in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
- (8) Development shall not begin until details of earthworks have been submitted to and approved in writing by the Planning Authority. Details shall include existing and proposed levels (in relation to a fixed datum, preferably ordnance) and contours in relation to surrounding vegetation and landform (with datum levels). Development shall be carried out in accordance with the approved details.
- (9) Prior to any works onsite, further details as to the quantity and location of existing woodland to be retained (and any additional planting) and connectivity with existing woodland corridors outwith the site, shall be submitted to and approved in writing by the Planning Authority.
- (10) Prior to any works on site, further details of the identification and categorisation of trees - following Bat Conservation Trust guidelines - which are planned for removal or tree surgery, shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, this shall include subsequent resurvey, mitigation and working methods where relevant.

- (11) Prior to any works on site, further details of site investigation, construction, operation impact and a proposed mitigation and compensation programme for bat habitats (including timings, lighting and bat box / brick installation) shall be submitted to and approved in writing by the Planning Authority.
- (12) Prior to any works on site, further details of the Sustainable Urban Drainage System to be employed shall be submitted to and approved in writing by the Planning Authority.

Reasons:

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2, 3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4) To accord with the requirements of SPP and PAN 75.
- (5) To ensure the ground is suitable for the proposed development.
- (6) To ensure that the Planning Authority can control the future use of the premises.
- (7) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (8) To safeguard the interests of the users of the highway.
- (9– 12) To enable the Planning Authority to consider this/these aspect(s) in detail.

Informatives:-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 - 07
- (2) The primary responsibility for safeguarding land or property against flooding remains with the owner. Approval of this application does not imply the absence of flood risk. Development at risk of flooding may face difficulties with the cost or availability of insurance and the applicant may wish to seek the views of insurers at an early stage.
- (3) For the avoidance of doubt, this permission does not imply nor infer that any structure will obtain approval from the Health and Safety Executive as the site lies within the consultation zone of a COMAH installation.

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For Director of Development Services

Date: 20September 2010

LIST OF BACKGROUND PAPERS

1. Scottish Planning Policy (February 2010)
2. Falkirk Council Structure Plan
3. Grangemouth Local Plan
4. Falkirk Council Local Plan finalized Draft (Deposit Version) as amended by the Final Proposed Modification (June 2010)

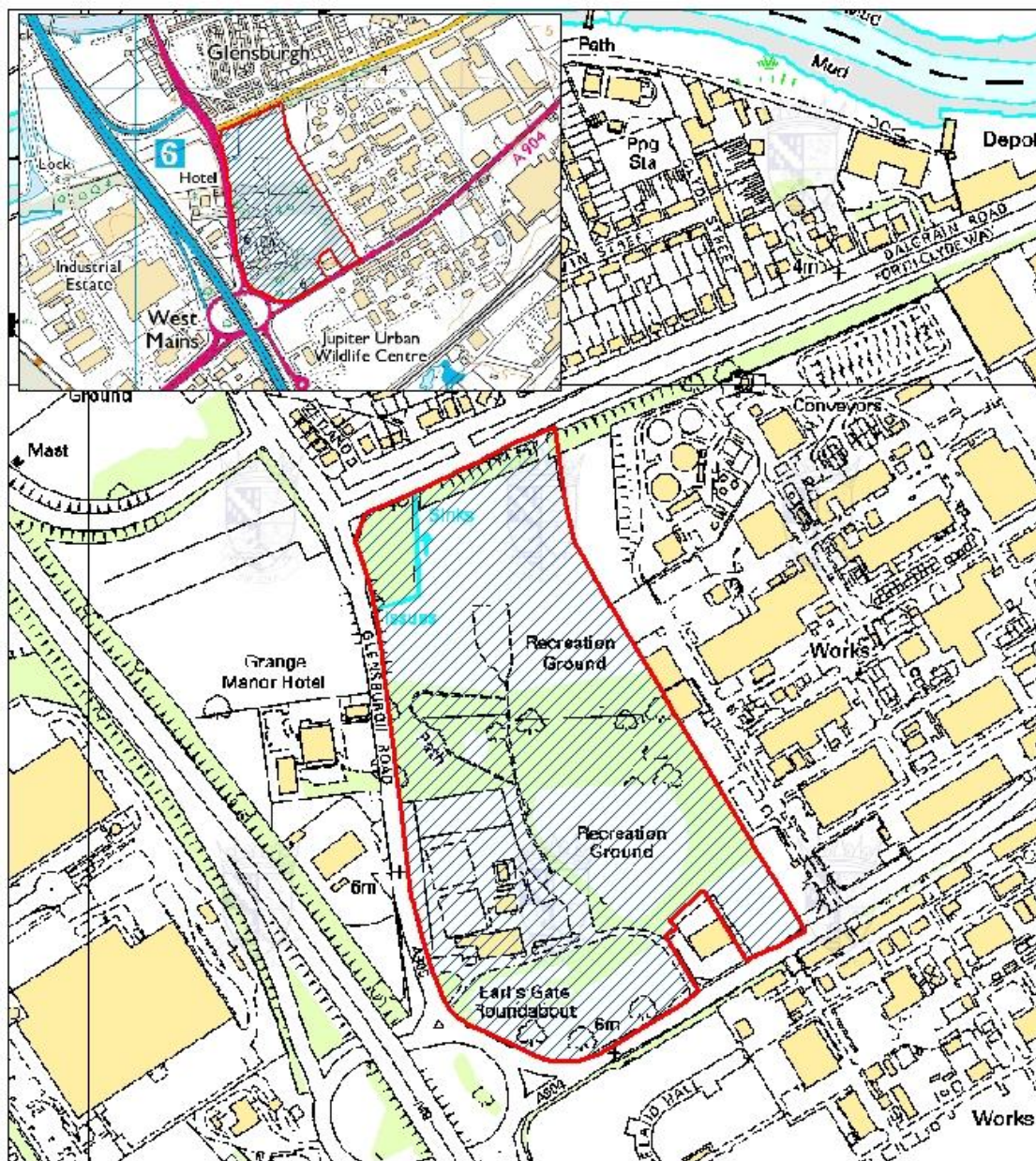
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne (Senior Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0615/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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