

FALKIRK COUNCIL

Subject: ERECTION OF 4 FLATTED DWELLINGS AND ASSOCIATED INFRASTRUCTURE AT LAND TO THE NORTH OF 17 KINACRES GROVE, BRIDGENESS ROAD, BO'NESS FOR BMR DEVELOPMENTS LTD - P/10/0321/FUL

Meeting: PLANNING COMMITTEE

Date: 3 November 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Ward Bo'ness and Blackness

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

Community Council: Bo'ness

Case Officer: Julie Seidel (Planning Officer), ext. 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of an area of private open space located on the south side of Bridgeness Road, Bo'ness. To the north of the site, interrupted by a roadway, is the existing Walker Timber sawmill and associated commercial / industrial yard area. To the west, east and south the application site is bounded by established residential properties, comprising a mixture of detached and semi-detached housing and flatted dwellings. The site is bounded by a 2 metre high wall onto Bridgeness Road and a 2 metre high fence encloses the remainder of the site.
- 1.2 The proposal is for the erection of four 2 bedroom flats within a 2 storey building. The proposed site layout does not include pedestrian access to the adjoining Kinacres Grove. Vehicular access would be taken via Bridgeness Road.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in to the Planning Committee by Councillor John Constable.

3. SITE HISTORY

- 3.1 F/85/0532 - erection of 47 houses and 12 detached garages - granted on 13 February 1986. The application site was developed as an open space/play area for the above established residential development.

- 3.2 P/08/0773/FUL - erection of 6 flats and associated infrastructure - refused on 27 November 2009. Appeal, Ref: AP/10/001/PPA, was dismissed on 2 March 2010, discussed later in this report (paras. 7b.28-7b.32).

4. CONSULTATIONS

- 4.1 The Roads Development Unit do not advise against the proposal subject to conditions regarding road construction. The Unit are satisfied with the Flood Risk Assessment and Drainage Impact Assessment submitted with the application.
- 4.2 Scottish Water has no objection to the planning application, but connection to Scottish Water infrastructure is not guaranteed.
- 4.3 The Environmental Protection Unit have requested a scheme for protecting the proposed dwellings from transport noise. In addition, the applicant should undertake a site investigation to establish if contamination is present on the site.
- 4.4 Community Services, Parks and Recreation, have advised that a financial contribution of £3,000 (£750 per flatted dwelling) would be required to offset the loss of the area of open space and to provide off site play/outdoor equipment in the nearby Kinningars Park.

5. COMMUNITY COUNCIL

- 5.1 The Bo'ness Community Council did not make comment.

6. PUBLIC REPRESENTATION

- 6.1 The application was advertised in the local press on 28 May 2010. Five letters of objection were received from 4 households raising the following issues:
- There has been very little change from the recently refused application for 6 flats on the same site,
 - The proposal will result in overlooking of adjacent properties. The proposed window positions and plot size do not allow an acceptable level of privacy,
 - No meaningful amenity areas are proposed,
 - The proposal is contrary to Policy BNS 10 of the adopted Bo'ness Local Plan and Policy SC2 of the emerging Local Plan as the development would not respect the privacy enjoyed by neighbouring residents and would not afford a satisfactory level of residential amenity,
 - The proposal would overshadow adjacent properties,
 - A lower density development would be acceptable on the site,

- The adjacent flats at Birdland Avenue have not effectively sold over the last 3 years and are empty or to let. There is no market for the proposed flats,
- Car parking for the proposal will overflow into adjacent residential areas due to limited parking,
- The application site was a safe haven for local children to play, who now play in the street,
- The front entrance is very close to the main road, and
- The submitted location plan does not show the extension of an adjacent property.

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 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.2 The application would result in the loss of an area of open space, planned and formed to serve the adjacent Kinacres Grove housing development (F/85/0532). The area is not identified as a principal area of open space in the adopted Bo'ness Local Plan or emerging Falkirk Local Plan. The area was planned as a children's play area, but there is no evidence of play equipment at the site and no complaints have been received in relation to the closure of the area by a 2 metre high fence.
- 7a.3 It is considered that the area of open space is of little recreational or amenity resource to the surrounding residential area, given its location within the development and quality of facilities provided. The area has limited natural surveillance and is bounded by 2 metre high boundary treatments, wall and fence, on all sides resulting in the area having limited visual amenity benefit. A small 2 metre wide footpath connected the area to the surrounding development but this is now closed by a 2 metre high fence.
- 7a.4 There is a direct pedestrian link from Kinacres Grove to Kinningars Park, this being a large landscape and recreational amenity space. The loss of the area of open space is considered acceptable and a commuted payment would offset the loss of the area of open space and contribute towards the provision of play/outdoor facilities within Kinningars Park. A reasonable level of amenity area and landscaping is proposed to serve the proposed flatted dwellings. The site is considered too small to achieve any meaningful open space or play provision. The application does not offend the terms of policy COM.6 'Open Space and Recreational Facilities'.
- 7a.5 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.6 The application site is not located in the undeveloped coastal zone as indicated on the key diagram. Due to the proximity of the application site to the Firth of Forth, a Flood Risk Assessment was required. The applicant has submitted information to assist in the determination of the application and it is considered that the issue of flooding has been addressed. The application involves some minor elevation in the ground levels <1 metre and a finished floor level of 5.450 AOD. The flooding mitigation measures would not affect the visual amenity of the area. The application accords with the policy ENV.4 'Coastal Planning and Flooding'.

Bo'ness Local Plan

7a.7 Policy BNS 8 'Environment Quality in New Housing' states:

"Proposals for new residential development will be required to achieve a high standard of design and amenity. In particular, they should:

- (i) respect and complement the character of the surrounding townscape and/or landscape;*
- ii) combine layout and built form in a manner which affords a visually attractive, safe, defensible and convenient environment;*
- (iii) incorporate amenity and recreational open space commensurate with the size and nature of the development (see Policy BNS 33);*
- (iv) incorporate adequate and appropriate landscaping (see Policy BNS 38);*
- (v) retain and enhance, where possible, existing landscape features and/or buildings where they make a contribution to the amenity of the area;*
- (vi) provide for the amenity and safety of pedestrians and cyclists, including the use, where appropriate, of traffic calming; and*
- (vii) take account of the potential for energy-efficient design"*

7a.8 The proposed two storey flatted development respects and complements the character of the Bridgeness Road area, which it fronts, in particular by continuing the strong frontage and building ridge line of the adjacent Birdland Avenue development. The proposed flatted development complements the adjacent detached and semi detached properties at Birdland Avenue and Kinacres Grove, being of a similar form and height. The proposed layout and built form would afford a visually attractive, safe and defensible environment. An adequate level of open space and landscaping is provided in relation to the size of the site and accommodation provided. The stone wall fronting Bridgeness Road is to be retained but reduced to 600 mm in height to allow visibility. No information has been submitted in relation to energy efficiency. On balance the application accords with policy BNS 8 'Environment Quality in New Housing'.

7a.9 Policy BNS 10 'Infill Development and Plot Sub-Division' states:

"Within the urban area, proposals for the erection of additional residential units within the curtilage of existing properties, or on small gap sites, will be considered favourably provided that, in the opinion of the District Council:

- (i) *the scale, design and disposition of the proposed houses are sympathetic to neighbouring properties;*
- (ii) *provision can be made for adequate garden ground associated with the proposed houses without an unacceptable reduction in the size of existing gardens;*
- (iii) *the proposal respects the privacy enjoyed by neighbouring residents;*
- (iv) *the proposal will not result in a loss of trees such as to cause unnecessary detriment to the amenity of the neighbourhood;*
- (v) *the proposal is satisfactory in terms of access and car parking; and*
- (vi) *the proposal does not constitute backland development (i.e. development of a plot without a road frontage).*

7a.10 The scale, design and disposition of the proposed flatted development is sympathetic to neighbouring properties, the adjacent flatted development at Birdland Avenue and semi-detached dwellinghouses at Kinacres Grove. Adequate open space and landscaping would be afforded to residents. The development faces onto the gable of adjacent dwellings, but it is accepted that there would be some overlooking of garden ground to the south of the application site. This is not considered to be significant given the distance of the development from mutual boundaries (approximately 6 metres at the closest point), the height of the proposal (two storey) and given that it is 4 first floor bedroom windows that would be able to overlook. A small number of trees would be lost as a result of the development, but this is not considered to cause visual detriment to the neighbourhood. The proposal is satisfactory in terms of access and car parking. The proposal does not constitute backland development. The application accords with policy BNS 10 'Infill Development and Plot Sub-Division'.

7a.11 Policy BNS 31 'Protection of Open Space' states:

"The District Council will protect parks, playing fields and other areas of public open space from unrelated development which would diminish their recreational or amenity value. Proposals involving the loss of any area of public open space, whether through built development or incorporation as private garden ground, will normally be resisted where:-

- (i) *the proposal will have an adverse effect on the recreational value of any area of active or passive open space, considered in relation to overall standards of provision in the local area;*
- (ii) *the proposal will result in the loss of amenity open space such that the character or appearance of the area or its setting will be adversely affected, or*
- (iii) *the proposal is likely to set an undesirable precedent for further incremental loss of public open space such that amenity or recreational provision in the area will be eroded."*

7a.12 It is considered that the proposed development would not have an adverse impact on the recreational value of open space in the area in relation to overall standards in the area and, in particular, the adjacent Kinningars Park. There is direct pedestrian access to Kinningars Park from Kinacres Grove. The development would not adversely affect the character or appearance of the area and is unlikely to set an undesirable precedent. The application does not offend the terms of policy BNS 31 'Protection of Open Space'.

7a.13 Policy BNS 33 'Open Space in New Developments' states:

"The District Council will require the provision of public open space and play areas in new residential developments and adequate arrangements to be made for their future maintenance. The extent of provision should be commensurate with the size, form and density of the development and the character of the site and in general accordance with the District Council's approved standards. The location, design and landscaping of the open space should be such that :

- (i) it forms an attractive and integral part of the development, contributing to its character and identity;*
- (ii) advantage is taken of existing natural features in, or adjacent to, the site; and*
- (iii) play areas are convenient, safe and allow easy surveillance."*

7a.14 The application site provides an adequate level of open space and landscaping given the size of the site and type of accommodation proposed. The site is considered too small to allow for the provision of any meaningful open space or play facilities. The application site is in close proximity to Kinningars Park and has strong pedestrian access routes. A condition should be applied to any planning permission requiring submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. The application accords with policy BNS 33 'Open Space in New Developments'.

7a.15 Policy BNS 37 'Townscape' states:

"Within the urban area, the District Council will require to be satisfied that proposals for development respect the character and appearance of the townscape in terms of form, layout and design. Cognisance should be taken of the architecture of neighbouring properties with particular regard to the established pattern of building lines and roof profiles, use of materials and window arrangement."

7a.16 The application site lies within an area of mixed use and there are a variety of house types. Fronted by an industrial user and adjoining parkway and existing housing, the proposal offers a strong frontage onto Bridgeness Road. The external finishing materials can be covered by condition. The proposal accords with policy BNS 37 'Townscape'.

7a.17 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 Material considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010), Scottish Planning Policy, consultations, public representations and the planning history for the application site

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

7b.2 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 a settlement and neighbourhood audit 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.3 The application site is not identified within the Bo'ness Local Plan as a housing site. The site comprises urban open space whose loss can be justified in the terms of Policy SC12. In land use terms the proposed development is compatible with neighbouring uses. The site enjoys a good level of residential amenity and can be accommodated through existing infrastructure and community facilities. There is no conflict with any other Local Plan policy or proposal. The application accords with policy SC2 'Windfall Housing Development within the Urban/Village Limit'.

7b.4 Policy SC6 - 'Housing Density And Amenity' states:

- "(1) Overall density in new residential developments should conform to the indicative capacity shown for allocated sites or, in the case of windfall sites, be dictated by the character of the surrounding area and the design objectives for the site, as established in the Design Concept Statement. Higher densities may be allowed where this helps to achieve design excellence.*
- (2) On large sites, housing density should be varied to create areas of different character, reflecting the structure of streets and spaces in the development. A mix of housing types will be required.*
- (3) Adequate properly screened private amenity space should be provided for dwellinghouses. In flatted developments, communal space for clothes drying and private amenity should be provided.*
- (4) Housing layouts should be designed to ensure adequate privacy and to avoid excessive overshadowing of houses or garden ground. A minimum distance between overlooking windows of 18 metres will generally be required."*

7b.5 The density of the application site is considered acceptable when consideration is given to the proximity of a major area of open space, Kinninggars Park, the relatively dense nature of the surrounding settlement pattern and the type of accommodation proposed. An adequate level of public and private communal amenity space is provided. The proposal would not result in overlooking between any windows and it should be noted that there are no windows on the side elevation of adjacent properties, although the adjacent property at 17 Kinacres Grove has erected a rear extension under permitted development rights. The two storey development would not have a significant impact on the privacy or available light of adjacent properties. The application accords with policy SC6 'Housing Density and Amenity'.

7b.6 Policy SC8 'Infill Development and Subdivision of Plots' states:

"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies."*

7b.7 Policy SC8 reinforces policy BNS 10 'Infill Development and Plot Sub-Division' of the adopted Bo'ness Local Plan. Although planned as part of the original development as an area of open space / play area, the site is considered to have little recreational or amenity value and its loss is not considered to have an adverse effect on the character and appearance of the area. The application accords with the terms of policy SC8 'Infill Development and Subdivision of Plots'.

7b.8 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 required to meet demand generated from new development. 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 12/1996."*

7b.9 A financial contribution is required to offset the loss of the area of open space and to provide off site play/outdoor facilities at Kinninggars Park. The applicant's agent has confirmed that the applicant has agreed to pay the financial contribution. The application accords with policy SC11 'Developer Contributions to Community Infrastructure'.

7b.10 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 a settlement and neighbourhood audit 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.11 Policy SC12 reinforces policy BNS 31 'Protection of Open Space' of the adopted Bo'ness Local Plan. The application site is not identified on the Proposals Map as a principal area of open space. It is considered that the loss of the area of open space would not adversely affect the character and appearance of the residential area as the site is poorly located, bounded on all sides by a 2 metre high wall and fence and does not benefit from natural surveillance. The application site was not included in the qualitative analysis of the Council's Open Space Audit. Development of the application site would be compensated by qualitative improvements to Kinningars Park. The application site is not an area of any ecological value and connectivity within the overall open space network will not be affected. The application accords with policy SC12 'Urban Open Space'.

7b.12 Policy SC13 'Open Space and Play Provision in New Development' states:

“New development will be required to contribute to open space and play provision. Provision should be informed by the Council's open space audit and strategy and the SPG Note on 'Open Space and New Development', once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:

- (1) Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*
- (2) Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where*
 - existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
 - in residential developments, the size of the development falls below the threshold of 10 houses indicated in Table 4.2, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
 - as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*

- *The required financial contribution per house will be set out in the SPG Note on 'Open Space and New Development'.*
- (3) *The location and design of open space should be such that it:*
- *forms an integral part of the development layout, contributing to its character and identity;*
 - *is accessible and otherwise fit for its designated purpose;*
 - *links into the wider network of open space and pedestrian/cycle routes in the area;*
 - *sensitively incorporates existing biodiversity and natural features within the site;”*
 - *promotes biodiversity through appropriate landscape design and maintenance regimes; and*
 - *enjoys good natural surveillance;*
- (4) *Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it.”*

7b.13 Policy SC13 reinforces policy BNS 33 'Open Space in New Developments' of the adopted Bo'ness Local plan. The application site provides an adequate level of open space and landscaping given the size of the site and type of accommodation proposed. The site is considered too small to allow any meaningful open space or play facilities. The application site is in close proximity to Kinningars Park and has strong pedestrian access routes. A financial contribution for off site play provision at Kinningars Park is considered acceptable. (A condition can be applied to any planning permission requiring the submission of a maintenance scheme prior to development commencing). The application accords with policy SC13 'Open Space and Play Provision in New Development'.

7b.14 Policy EQ1 'Sustainable Design Principles' states:

“New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:

- (1) *Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) *Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) *Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) *Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) *Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- (6) *Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.”*

7b.15 The development accords with good standards of sustainable design principles. Natural and built features, trees and the existing boundary wall (at a reduced height) would be integrated into the development. The scale, siting and design of the development responds positively and sympathetically to the site's surroundings. The application site lies on a bus route allowing the use of sustainable transport and provides safe access for all users. No information has been provided in relation to resource use. Infrastructure needs and their impacts are addressed and discussed later in this report. A condition should be applied to any planning permission requiring the submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. On balance the application accords with the terms of policy EQ1 'Sustainable Design Principles'.

7b.16 Policy EQ2 'Implementation of Sustainable Design Principles' states:

"In order to ensure that the principles set out in Policy EQ1 are incorporated into development proposals:

- (1) Masterplans will be required for development proposals requiring a comprehensive approach to design and infrastructure. The Council will set out the basis for the preparation of Masterplans in Development Frameworks or Briefs;*
- (2) Development Briefs will be prepared by the Council for other development sites where merited by the size, sensitivity or complexity of the site;*
- (3) Supplementary Planning Guidance Notes will be produced to provide detailed advice on the application of the sustainable design principles; and*
- (4) Planning applications for significant residential, business or commercial development, or smaller proposals affecting protected sites or buildings, should be accompanied by a Design Statement explaining how each of the factors in Policy EQ1 has been complied with."*

7b.17 The application is for a Local Development as defined in Town & Country Planning (Hierarchy of Development) (Scotland) Regulations 209. The submission of a Design Statement is therefore not required and the application is not contrary to Policy EQ2.

7b.18 Policy EQ3 'Townscape Design' states:

"New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:

- (1) The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site's environs and creates a sense of identity within the development;*
- (2) Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
- (3) The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) The contribution to the townscape of important landmarks, skylines and views should be respected."*

7b.19 Policy EQ3 reinforces policy BNS 8 'Environment Quality in New Housing' of the adopted Bo'ness Local Plan. It is considered that the proposed development would contribute positively to the quality of the built environment in the Bridgeness Road area and would complement the adjoining residential developments. The application accords with policy EQ3 'Townscape Design'.

7b.20 Policy EQ4 - 'Landscape Design' states:

“Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:

- (1) Be informed by the surrounding landscape;*
- (2) Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*
- (5) Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7b.21 The proposed development allows a reasonable level of open space and landscaping for the size of the site and accommodation provided. A condition should be applied to any planning permission requiring the submission of a scheme for the maintenance of open space and landscaping within the proposed residential development. The application accords with policy EQ4 'Landscape Design'.

7b.22 Accordingly, it is considered the proposal complies with the emerging Local Plan.

Scottish Planning Policy

7b.23 Scottish Planning Policy (SPP), a statement of the Scottish Government's policy on nationally important land use planning matters outlines the Government's commitment to increasing the supply of new homes, advising that the planning system should enable the development of well designed, energy efficient, good quality housing in sustainable locations across all tenures. Planning authorities should promote the efficient use of land and buildings, directing development towards sites within existing settlements to make effective use of existing infrastructure and service capacity and to reduce energy consumption.

7b.24 SPP advises that infill sites within existing settlements can often make a useful contribution to the supply of housing land. Such proposals should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

7b.25 The proposal is situated within an existing settlement and is well served by existing infrastructure and community facilities. It is considered that the proposed two storey flatted development would respect the scale, form and density of built development within the surrounding area, namely an established residential area comprising a mix of two storey detached and semi detached houses and flatted dwellings contained within a three storey block. The proposal is not considered an overdevelopment of the available site and it is noted that the proposal has been reduced by 1/3. The application accords with National Policy.

Consultation Responses

7b.26 Points raised by the Roads and Development Unit and the Environmental Protection Unit are addressed through the use of appropriate conditions. The Environmental Protection Unit have requested a scheme for protecting the proposed dwellings from transportation noise. In addition, the applicant should undertake a site investigation to establish if contamination is present on site. It should be noted that a Phase 1 Environmental Report has been submitted.

7b.27 A financial contribution is required to offset the loss of the application site area an area of open space and to provide off site play/outdoor equipment. This can be dealt with by way of an appropriate Legal Agreement.

Planning History

7b.28 Application P/08/0773/FUL, for a similar development of 6 flatted dwellings, was refused planning permission at the Planning Committee on 27 November 2009, for the following reasons:

1. *The proposal would have an adverse effect on the amenity of the area through the loss of an area of urban open space, contrary to Policy COM.6 'Open Space and Recreational Facilities' of the approved Falkirk Council Structure Plan, Policy BNS 31 'Protection of Open Space' of the adopted Bo'ness Local Plan and Policy SC 12 'Urban Open Space' of the Falkirk Council Local Plan Finalised Draft (Deposit Version).*
2. *The proposal would have an adverse impact on the amenity of the surrounding area, contrary to Policy BNS8 'Environment Quality in New Housing', Policy BNS 10 'Infill Development and Plot Sub-Division' of the adopted Bo'ness Local Plan, Policy SC6 'Housing Density and Amenity' and Policy SC8 'Infill Development and Sub-Division of Plots' of the Falkirk Council Local Plan Finalised Draft (Deposit Version).*
3. *The proposal would result in an unacceptable impact on road safety, contrary to Policy BNS10 'Infill Development and Plot Sub-Division of the adopted Bo'ness Local Plan and Policy SC8 'Infill Development and Sub-Division of Plots' of the Falkirk Council Local Plan Finalised Draft (Deposit Version).*

7b.29 The decision was subsequently appealed by the applicant. The appeal was dismissed and planning permission refused. The Reporter, in his decision, found the principle of residential development acceptable on the site and commented that the application site is of little recreational or amenity value, due to its condition and position relative to adjoining houses. Further, the Reporter was content that adequate visibility splays can be achieved and would not cause a road safety conflict with the adjacent industrial site. The Reporter also considered that an appropriate level of on-site parking would be provided and would not create any additional parking pressures on Bridgeness Road or Kinacres Grove.

- 7b.30 The Reporter raised concerns about the proposed 3 storey block and its relationship with adjoining property at Kinacres Grove. The rear garden of 17 Kinacres Grove would be overlooked by 8 upper-floor bedroom windows and 2 stair well windows. The Reporter considered a combination of building height, window positions and plot size would not allow an acceptable level of privacy. The Reporter found that the proposal would achieve a minimal standard of external amenity space and would result in an over development of the available site.
- 7b.31 It is considered that the reduction of the proposal to 4 units contained within a 2 storey block addresses the concerns of the Reporter, in particular in relation to privacy and the level of amenity space available. The building will be reduced in height from approximately 11 metres contained within a block of similar height and massing to the adjacent Birdland flatted development, to approximately 7.7 metres contained within a block of similar height and massing to the adjacent semi-detached dwellinghouses at Kinacres Grove. Four upper floor bedroom windows would overlook garden ground at 17 Kinacres Grove. Within a residential setting a degree of overlooking adjacent garden ground, particularly from bedroom windows, is considered acceptable. It should be noted that there are no windows on the gables of adjacent properties, however 17 Kinacres Grove has been extended to the rear under permitted development rights.
- 7b.32 Parking within the site will be reduced from 8 to 5 vehicular parking spaces. The number of parking spaces proposed accords with Falkirk Council's roads standards, reflects the reduction in units and allows a greater level of communal amenity space to serve a reduced number of units on the same site. It is considered that the revised proposals would not result in an overdevelopment of the available site and the layout and density of the proposal harmonizes with the settlement pattern of the surrounding established residential area.

Representations

- 7b.33 It is considered that the proposal would not significantly overlook adjacent properties. The two storey proposal would face onto the blank gables of the two directly adjacent properties. The garden ground of 17 Kinacres Grove would be overlooked by 4 first floor bedroom windows. This is not considered to be significant given the distance of the development from the mutual boundary (approximately 7 metres), the height of the proposal (two storey) and the type of room, bedroom.
- 7b.34 The application has reduced from 6 units to 4 units.
- 7b.35 The level of amenity space proposed is of a reasonable level given the type of accommodation provided, flats.
- 7b.36 It should be noted that the level of amenity space proposed would exceed that available at the adjacent Birdland Avenue flatted development and reflects the settlement pattern of the surrounding established residential area.
- 7b.37 The application is assessed as being in accordance with the Development Plan and emerging Local Plan in the body of this report.

- 7b.38 It is considered that the two storey structure would not overshadow adjacent properties. It should be noted that there are no gable windows on adjacent properties that could be affected by the proposal. The proposal is a lower density than the previous application and is considered acceptable on the site. The marketability of the proposal is not a material planning consideration.
- 7b.39 This application has no bearing on the car parking issues arising on the neighbouring housing development. The proposal would have dedicated car parking of a sufficient standard to serve the development.
- 7b.40 The existing use of the land is private open space, enclosed on all sides and of limited access and use. A financial contribution is required to offset the loss of the application site as an area of open space and to provide off site play provision. This can be dealt with by way of an appropriate legal Agreement.
- 7b.41 It is accepted that the front entrance is close to the main road.

7c Conclusion

- 7c.1 The application has been assessed and accords with the terms of the Development Plan and emerging Falkirk Local Plan. The points raised through comment are noted and discussed in this report. The comments of the Reporter are addressed by the revised proposal. There are no material considerations that would justify the laying aside of the terms of the Development Plan.
- 7c.2 The application is recommended for approval subject to the imposition of appropriate conditions and a Legal Agreement being entered into for a financial contribution towards off site play provision.

8. RECOMMENDATION

- 8.1 **It is recommended that planning permission is granted subject to:- (a) an appropriate Legal Agreement requiring the payment of a sum of £3,000 (£750 per flatted dwelling) as a contribution towards off site play provision and thereafter, (b) on conclusion of the forgoing matters, remit the Director of Development Services to grant planning permission subject to the following conditions:-**
- 1. The development to which this permission relates must be begun within three years of the date of this permission.**
 - 2. Development shall not commence until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.**

3. No development shall commence on site until a series of tests for ground contamination have been carried out. Full details of the test results shall be submitted to the Planning Authority. Any necessary remedial work to make the ground safe shall be carried out to the satisfaction of the Planning Authority before any work on the development commences.
4. Development shall not commence on site until a scheme for the maintenance of open space and landscaping within the development is submitted to and approved in writing by the Planning Authority.
5. All roads 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".
6. The footpath along the full frontage of the application site shall be widened to 2 metres in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
7. No building, structure, tree, shrub or other obstruction to visibility over 1 metres in height above carriageway level shall be allowed within 2.5 metres of the carriageway edge over the site's frontage with the public road.
8. Development shall not commence until a scheme for protecting residential properties from noise from Bridgeness Road and adjoining industrial / commercial premises has been submitted to and approved in writing by the Planning Authority. Thereafter the occupation of any flatted dwelling shall not take place until the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.
9. For the avoidance of doubt the ground floor finished floor level shall be 5.450 metres AOD.
10. All landscaping works shall be implemented by the end of the first planting and seeding season following the occupation of the last flatted dwelling.

Reason(s):

1. To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2, 4. To safeguard the visual amenity of the area.
3. To ensure the ground is suitable for the proposed development.
- 5-7. To safeguard the interests of the users of the highway.
8. To ensure that the occupants of the property are safeguarded against excessive noise intrusion.
9. As the development would not be acceptable without these additional works.

10. To safeguard the environmental amenity of the area.

Informative(s):

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02, 03A, 04 and additional information.



PP

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Director of Development Services

Date: 26 October 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Bo'ness Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by Final Proposed Modifications (June 2010).
4. Scottish Planning Policy.
5. Letter of Objection from Mr & Mrs Colin & Elspeth Bennie, 21 Kinacres Grove, Bo'ness EH51 9LT on 09 June 2010.
6. Letter of Objection from Mr Ross Johnston, 3 Birdland Avenue, Bo'ness EH51 9LX on 05 June 2010.
7. Letter of Objection from Mr Craig Grant, 17 Kinacres Grove, Bo'ness EH51 9LT on 06 June 2010.
8. Letter of Objection from Mr L S Meldrum, 13 Kinacres Grove, Bo'ness EH51 9LT on 07 June 2010.
9. Letter of Objection from Mrs Claire Edwards, 17 Kinacres Grove, Bo'ness EH51 9LT on 17 September 2010.
10. Appeal decision reference AP/10/001/PPA.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan P/10/0321/FUL

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



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