

FALKIRK COUNCIL

Subject: DEVELOPMENT OF LAND AS ANIMAL SANCTUARY, (INCORPORATING SHELTERS, STABLES AND STORES) AND SITING OF TEMPORARY RESIDENTIAL ACCOMMODATION (PART RETROSPECTIVE) AT LAND TO THE SOUTH WEST OF AN CALA, CALIFORNIA ROAD, MADDISTON FOR MR PAUL BORG GRECH - P/10/0197/FUL

Meeting: PLANNING COMMITTEE
Date: 20 April 2011
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Maddiston

Case Officer: Allan Finlayson (Senior Planning Officer), Ext. 4706

UPDATE REPORT FOLLOWING SITE VISIT

1. Members will recall this application was originally considered at the meeting of the Planning Committee on 23 March 2011 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This visit took place on 4 April 2011.
2. The case officer introduced the proposed development to the Planning Committee and referred to the salient points of assessment as being:-
 - Contradiction to Development Plan Policy with respect to housing in the countryside, landscape setting and ecological and biodiversity impacts.
 - Development not in the best interests of road safety given visibility concerns.
 - SNH concerns with regards to tree felling.
 - Letters of support.
 - The previous refusal of planning permission for a dwellinghouse on the site in 2001, and
 - The applicant's supporting statement in justification of the proposed development.

3. The applicant presented the development proposals for the Committee and outlined his plans for future development on the site and adjoining land. The applicant stated that his intentions for accommodation related only to shelter for coffee breaks when visiting the site. The applicant stated that he was seeking to work in partnership with Falkirk Council to provide a use on the site to benefit the public.
4. Members sought clarification from the case officer on the application description. The case officer advised that the application clearly proposed the siting of residential accommodation in the form of a static caravan. Furthermore the case officer advised that he had requested on a number of occasions that the applicant delete reference to residential occupation given the contradiction of that element of the proposal to the Development Plan. The case officer clarified that removal of reference to residential accommodation would be a material change to the application description. It should be noted that information submitted by the applicant in relation to the proposal refers on a number of occasions to his need for on-site residential accommodation.
5. Committee Members then raised questions. The applicant was asked why unauthorised development had taken place on the site when he was advocating working together with Falkirk Council. The applicant advised that this was as a result of naivety and frustration at how slowly the planning system operated.
6. The applicant was questioned on the potential contradiction with the seeking of residential accommodation in the application description and comments made in his presentation to Committee that accommodation was only required for short coffee breaks on the site. The applicant confirmed that short periods of residence at the site was sought for animal husbandry reasons.
7. Members questioned whether the increased activity resulting from more visitors to the site would disrupt the protection of the site as a designated wildlife site. The case officer confirmed that the formation of hardcore to accommodate visitors and use of the site for keeping of animals, in particular pigs was adversely affecting the characteristics that resulted in the site being designated as a Wildlife Site.
8. Members questioned the location of buildings not related to the applicant's proposal, on adjoining land. The case officer advised that planning permission had been granted in 2010 for the keeping of poultry on the site and temporary buildings for storage of related equipment. This permission (Reference No P/09/0670/FUL) is for a temporary period until 31 January 2012.
9. The applicant then walked the site indicating intentions for future development proposals both within the site and on surrounding land in his ownership. Proposed tree planting, the formation of additional access points and meadow grass seeding were outlined. Members noted disruption of ground resulting from the keeping of pigs and tree felling.
10. Councillor Gordon Hughes, as Local Member, noted the content of the report to Committee but raised the potential, if Committee were minded to grant planning permission, for operation of the site in phases to be agreed with Falkirk Council and monitored to ensure appropriate implementation. It should be noted that the intentions of the applicant for future development phases may require planning permission and that it is not considered appropriate to influence or control these in the application currently under assessment.

11. No matters were raised that would amend the original recommendation to refuse planning permission.

12. RECOMMENDATION

12.1 It is therefore recommended that Committee refuse planning permission for the reasons prescribed in the original report namely:

- (1) The development is contrary to Policy SC3 Housing Development in the Countryside of the Falkirk Local Plan in that the proposed residential accommodation is not essential for the pursuance of agriculture, horticulture, forestry or the management of a business for which a countryside location is essential. The applicant has failed to demonstrate that there is an operational need for residential accommodation at the site.
- (2) The development is contrary to Policy EQ4 Landscape Design and Policy EQ19 Countryside of the Falkirk Local Plan in that the animal structures and proposed residential accommodation would visually disrupt the existing landscape setting of the site when viewed from California Road to the north of the site and the Public Right of Way to the east. The development would result in a loss of existing vegetation and consequently the amenity and biodiversity of a designated wildlife site.
- (3) The development is contrary to Policy EQ24 Ecological Sites and Features and Policy EQ25 Biodiversity of the Falkirk Local Plan in that the integrity of existing wildlife biodiversity would be adversely affected and there is no overriding public interest to justify allowing this to occur. The development would inhibit the sites use as an established wildlife corridor that being the principle reason for designation by Falkirk Council.
- (4) The proposal is contrary to Policy EQ26 Trees, Woodland and Hedgerows of the Falkirk Local Plan in that felling within a designated wildlife site has already taken place and the grant of planning permission would result in further felling following on from intensified use of the site.
- (5) The development would result in the intensified use of an unsatisfactory junction on the de-restricted C66 California Road at a location with poor junction visibility and would not therefore be in the best interests of road safety.

Informative(s):-

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

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Pp Director of Development Services

Date: 12 April 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Support from Mr Scott Jaffray, 4 MacArthur Crescent, Maddiston, Falkirk, FK2 0NL received on 22 February 2011.
4. Letter of Support from Robin and Elizabeth Todd, Hilton Farm Cottage, Cowie, Stirling, FK7 7DN received on 23 February 2011.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

FALKIRK COUNCIL

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Meeting: PLANNING COMMITTEE

Date: 23 March 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

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Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Maddiston

Case Officer: Allan Finlayson (Senior Planning Officer), Ext. 4706

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is located to the west of Greenwells Farm, Rumford, accessed from the C66 California Road into a loose surface access and parking area. The site falls from California Road to the south and is characterized by a number of animal shelter buildings irregularly arranged under the canopy of trees spread throughout the site.
- 1.2 The proposal seeks part retrospective permission for these buildings and the change of use of land to form a sanctuary for animals and birds with the potential to sell animal produces such as eggs. In addition, permission is sought for the erection of temporary residential accommodation in order to care for the animals kept at the site.
- 1.3 The applicant submits that there is a need for residential accommodation at the site for reasons of site security and animal husbandry.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The applicant has been called to Planning Committee by Councillor Gordon Hughes.

3. SITE HISTORY

- 3.1 Outline planning permission for the erection of a dwellinghouse on the site was refused in 2001 (ref: F/2000/0835).
- 3.2 Planning permission for the erection of a stable building on the application site was approved in 2009 (ref: P/09/0276/FUL).
- 3.3 Planning permission for the erection of livestock structures was approved on adjacent land in 2010 (ref: P/09/0620/FUL).

4. CONSULTATIONS

- 4.1 The Roads Development Unit has identified poor visibility to the east when exiting the site onto the C66 California Road. High vehicle speeds are considered typical on what is a 60mph de-restricted rural road.
- 4.2 The proximity of the site access to a blind summit to the east presents a further road safety concern. It is considered that any development at the site, and particularly residential development, would increase vehicular movements accessing and egressing from the site resulting in increased road safety concerns over and above those that exist at present.
- 4.3 The Environmental Protection Unit has advised of conditions to be imposed requiring the assessment for potential contamination on the site given historic uses.
- 4.4 SNH has confirmed that the assessment of impact on a designated wildlife site is a matter for Falkirk Council to consider in its position as planning authority. SNH has questioned whether the applicant proposes to fell trees.
- 4.5 Scottish Wildlife Trust has not responded to consultation,

5. COMMUNITY COUNCIL

- 5.1 The Local Community Council did not comment on the application.

6. PUBLIC REPRESENTATION

- 6.1 During consideration of the application two letters of support has been received. Both letters express the view that development of the site brings interest to the area and has tidied up the site from its previous condition.

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

7a.1 The proposed development was assessed against the undernoted Plans:

Falkirk Council Structure Plan

7a.2 The application is not of a strategic nature and therefore there are no relevant policies within the Falkirk Council Structure Plan.

Falkirk Council Local Plan

7a.3 The proposed development was assessed against the following policies:

7a.4 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.”*

7a.5 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.”*

7a.6 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.”*

7a.7 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.”*

7a.8 Policy SC3 - ‘Housing Development In The Countryside’ states:

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

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

7a.9 Policy EQ19 - 'Countryside' states:

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

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

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

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

7a.10 The proposal is contrary to Policy EQ4 Landscape Design in that the fragmented character of the structures on site and the proposed temporary residential accommodation would result in detrimental visual impact when viewed from California Road and from the Public Right of Way which runs along the eastern site boundary. The number and arrangement of structures proposed would have an adverse effect on existing woodland integrity and may lead to further tree felling and unnecessary tree root compression.

7a.11 The proposed residential accommodation requires to be assessed against Policy SC3 Housing Development in the Countryside and Policy EQ19 Countryside. The proposed house is not required for the purposes of agriculture, horticulture, forestry or for the management of a business for which a countryside location is essential. The applicant has sought to justify residential need in the interests of animal husbandry. No significant evidence of the need for permanent residential occupation has been provided however.

7a.12 In assessment against Policy EQ19 Countryside, it is considered that a countryside location is required for the proposed animal sanctuary but not the proposed residential accommodation. The proposed siting of structures (residential and animal related) is obtrusive and contrary to the maintenance and use of land as a designated wildlife site, and would have an adverse impact on the character of the countryside.

7a.13 The proposed development is considered to be contrary to Policy EQ24 Ecological Sites and Features, Policy EQ25 Biodiveristy and Policy EQ26 Trees Woodland and Hedgerows. The application site is designated as part of a local wildlife site and provides an important wildlife habitat link from the former railway to the south to another wild life area to the north. Retention of tree cover, ground cover vegetation and minimal disruption are therefore important. The existence of structures for housing animals and residential occupation would significantly impede use by wildlife and therefore links with surrounding wildlife areas. The applicant has already felled some trees and is likely re require to fell more if the development were to be supported. The proposal has not therefore demonstrated that the wildlife biodiversity on the site would not be compromised by the development.

7b Material Considerations

7b.1 The material considerations to be assessed are the site history, responses to consultation, supporting information submitted by the applicant and the representations received.

7b.2 The refusal of a dwellinghouse in 2000 (ref F/2000/0835) was on the grounds of non-compliance with Development Plan policy presuming against residential development not essential for countryside uses.

7b.3 The views of the Environmental Protection Unit could be addressed by the submission of a Contaminated Land Assessment. This has not been requested in view of the recommendation to refuse planning permission.

7b.4 The concerns of the Roads Development Unit with respect to road safety are noted. Some of the structures contained in the application already exist on the site and the applicant visits the site regularly. Whilst no road safety issues have arisen to date, the proposed site intensification and introduction of a residential use are not considered to be in the best interests of road safety.

7b.5 The comments of SNH are noted. The applicant has carried out tree felling on the site and may require a felling licence from the Forestry Commission for any future felling. The felling that has taken place has been undertaken to clear ground for the intensification of the animal sanctuary use. Tree felling is considered to compromise the integrity of the site as a designated wildlife area.

7b.6 The applicant has provided supporting information to explain the intentions of site usage to demonstrate the necessity to have residential occupation of the site in the best interests of animal husbandry and site security. The animals kept at the site include 20 - 30 fowl, 2 goats, a pony and 6 adult pigs. The animals kept at the site have been voluntarily accepted from external sources and the intentions of the applicant with regard to their care is not questioned. The applicant lives approximately 2 miles from the site, however, and visits the site regularly. His presence during the birth of pigs has been cited as a reason for the need for residential occupation at the site. The average gestation period for a sow is approximately 4 months and breeding can take place twice a year. The birth process is not therefore a regular occurrence and is not considered to require residential occupation on either a temporary or permanent basis. Alternative measures such as short periods of touring caravan use or the use of webcam technology could successfully ensure animal welfare during the birth period. Ovine species at the site can be considered similarly. Fowl species clearly require less intensive assistance.

7b.7 The need for residential occupation at the site is not therefore considered to be essential on the basis of site usage and the animal husbandry obligations identified by the applicant.

Representations Received

7b.8 Two letters of support have been received. Both representations express the view that the development adds visual interest to the area and has improved the site from its formerly untidy condition.

7b.9 The site historically was an unauthorised tip but was restored to countryside use following the cessation of that use. Prior to the initiation of unauthorised development the site was self regenerated open countryside under a canopy of mature trees. Photographic records of the site prior to use by the applicant confirm this site condition. No evidence of fly tipping has been recorded at the site prior to the initiation of unauthorised works.

7c Conclusion

7c.1 The development is therefore considered to be contrary to Policies EQ4 Landscape Design, EQ24 Ecological Sites and Features, E26 Trees, Woodland and Hedgerows and SC3 Housing Development in the Countryside. In addition, the development is considered to represent an intensification of an unsatisfactory access as a re-restricted rural road that would compromise road safety at a location of poor visibility.

8. RECOMMENDATION

8.1 It is recommended that Committee refuse planning permission for the following reason(s):-

- (1) The development is contrary to Policy SC3 Housing Development in the Countryside of the Falkirk Local Plan in that the proposed residential accommodation is not essential for the pursuance of agriculture, horticulture, forestry or the management of a business for which a countryside location is essential. The applicant has failed to demonstrate that there is an operational need for residential accommodation at the site.
- (2) The development is contrary to Policy EQ4 Landscape Design and Policy EQ19 Countryside of the Falkirk Local Plan in that the animal structures and proposed residential accommodation would visually disrupt the existing landscape setting of the site when viewed from California Road to the north of the site and the Public Right of Way to the east. The development would result in a loss of existing vegetation and consequently the amenity and biodiversity of a designated wildlife site.
- (3) The development is contrary to Policy EQ24 Ecological Sites and Features and Policy EQ25 Biodiversity of the Falkirk Local Plan in that the integrity of existing wildlife biodiversity would be adversely affected and there is no overriding public interest to justify allowing this to occur. The development would inhibit the sites use as an established wildlife corridor that being the principle reason for designation by Falkirk Council.

- (4) The proposal is contrary to Policy EQ26 Trees, Woodland and Hedgerows of the Falkirk Local Plan in that felling within a designated wildlife site has already taken place and the grant of planning permission would result in further felling following on from intensified use of the site.
- (5) The development would result in the intensified use of an unsatisfactory junction on the de-restricted C66 California Road at a location with poor junction visibility and would not therefore be in the best interests of road safety.

Informative(s):-

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

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Pp Director of Development Services

Date: 15 March 2011

LIST OF BACKGROUND PAPERS

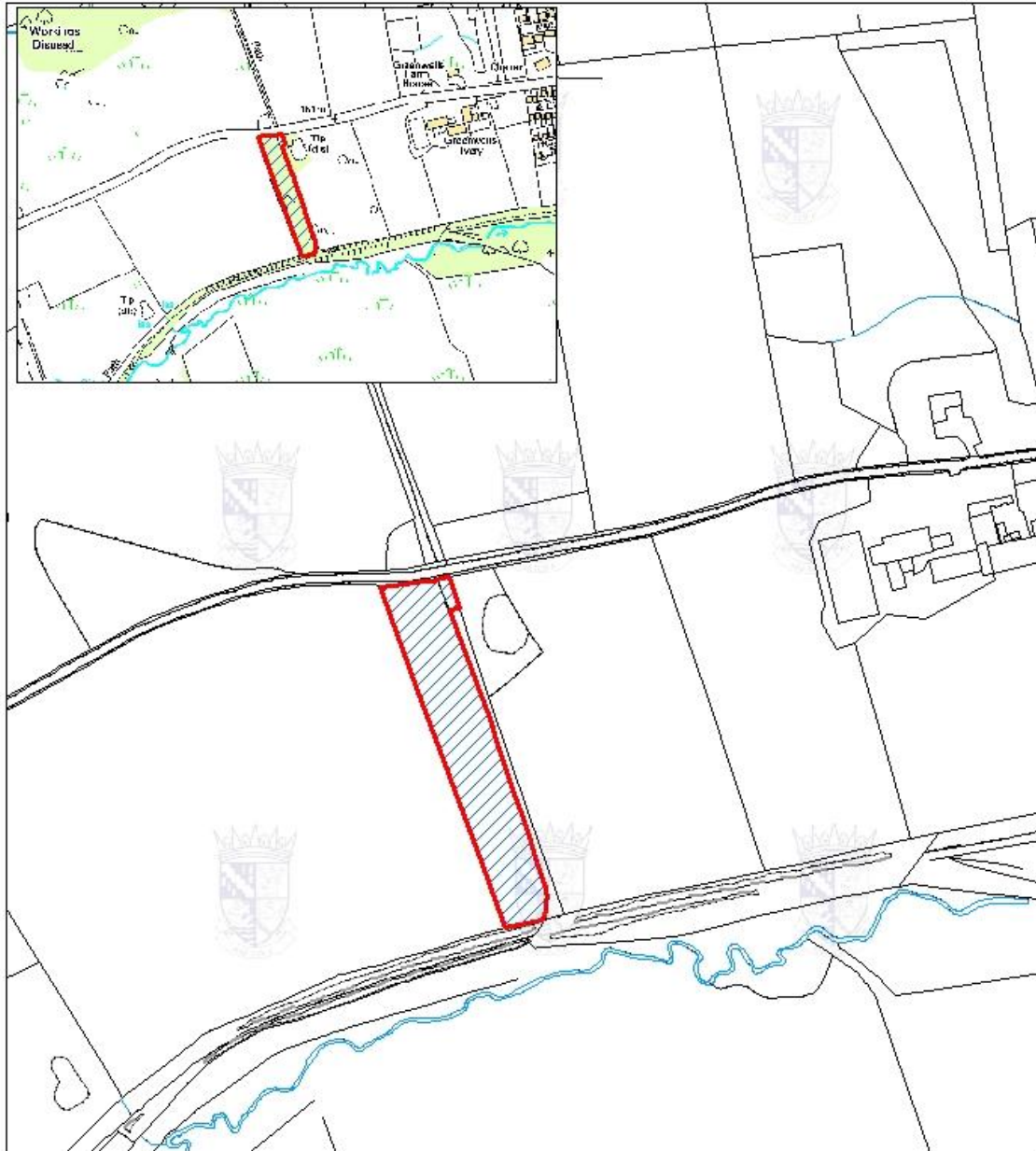
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Support from Mr Scott Jaffray, 4 MacArthur Crescent, Maddiston, Falkirk, FK2 0NL received on 22 February 2011.
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Planning Committee

Planning Application Location Plan P/10/0197/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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