

FALKIRK COUNCIL

Subject: ERECTION OF TWO 30 METRE HIGH 'KELPIE' SCULPTURES; FORMATION OF BOAT TURNING POOL; FORMATION OF LANDSCAPED CANAL 'HUB' AREA, INCLUDING VISITOR FACILITIES, PARKING AND ANCILLARY DEVELOPMENT; EXTENSION TO THE FORTH AND CLYDE CANAL TO FORM A NEW 'SEA LOCK' ON THE RIVER CARRON, NORTHEAST OF GLENSBURGH, BY MEANS OF A NEW TUNNEL UNDER THE M9 AND FORMATION OF A NEW 'LIFT' BRIDGE ON GLENSBURGH ROAD AT LAND TO THE NORTH OF WEST MAINS INDUSTRIAL ESTATE, THE HELIX, FALKIRK FOR THE HELIX TRUST - P/11/0154/FUL

Meeting: PLANNING COMMITTEE

Date: 21 September 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North
Provost Pat Reid
Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn

Ward – Grangemouth
Depute Provost Allyson Black
Councillor Angus MacDonald
Councillor Alistair McNeill
Councillor Robert Spears

Community Council: Grangemouth
Bainsford, Langlees and New Carron Community Council

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application under assessment is a major application for detailed planning permission for erection of two 30 metre high 'kelpie' sculptures; formation of boat turning pool; formation of landscaped canal 'hub' area (including visitor facilities), parking and ancillary development; extension to the Forth and Clyde Canal to form a new 'sea lock' on the River Carron, northeast of Glensburgh, by means of a new tunnel under the M9 and formation of a new 'lift' bridge on Glensburgh Road.

1.2 The application is supported by the submission of:

- An Environmental Statement;
- A Transport Assessment;
- Geotechnical Reports;
- Contaminated Land Assessment;
- Flood Risk Assessment;
- Design and Access Statement;
- Pre-application Consultation Report;
- Planning Supporting Statement;

1.3 The Helix is an urban fringe environmental improvement project funded, in part, by Big Lottery Living Landmarks. Fundamental to the Helix project is the aim to improve connections between existing settlements and facilities and allow for improved access to future Helix initiatives and the countryside.

1.4 The proposed development is located between the Etna Road roundabout on the A9 northern distributor road and West Mains industrial area, continuing to the north of the residential area of Devon Street, Glensburgh, on the existing riparian land of the River Carron.

1.5 The proposed development seeks to improve navigation of the Forth and Clyde Canal by removing current infrastructure constraints and developing a focal point for the wider aspirations of the Helix project by the implementation of visitor facilities and significant environmental improvement.

2. REASON FOR COMMITTEE CONSIDERATION

2.1 The proposed development involves land under the ownership of Falkirk Council and Falkirk Council is a partner of the Helix Trust who is the applicant.

3. SITE HISTORY

3.1 Planning permission ref: P/10/0293/FUL was granted on 18 June 2010 for the formation of an access road for Helix related Forth and Clyde Canal improvements.

3.2 There are no relevant planning applications in the immediately surrounding area. Previous approvals have been granted for the Falkirk Stadium and associated developments. In addition, an outstanding PPP (formerly outline) application exists for mixed use development at the Falkirk Gateway proposed development. Agreement has yet to be reached in relation to the required Section 75 Agreement.

- 3.3 Proposal of Applications Notice (PAN) ref: P/10/0414/PAN was submitted by the applicant in fulfillment of obligations to notify Falkirk Council in advance of this Major Application. This process required community consultation by the applicant prior to the submission of the application under consideration.

4. CONSULTATIONS

- 4.1 The Transport Planning Unit requests financial contributions of £276,000 towards upgrading of the M9 Junction 6 on the basis of pro-rata development traffic generation. In addition an unspecified contribution towards public transport links to the site is sought. The appropriateness of these requests is assessed in paragraphs 7b.10 – 7b.15. In addition additional information is required to ensure:

- An acceptable signing strategy for the site and surrounding road network;
- Automated traffic counting system implementation;
- A Road Safety Audit for the site, in particular addressing pedestrian crossing of Glensburgh Road, A9 & A904 and the proposed lifting bridge;
- Glensburgh Road bridge lifting and traffic handling arrangements including the implementation of a 'real time' bus information system and bridge closure arrangements in the event of flooding;
- Travel Plan adoption to ensure sustainable transport to the site;
- Amended pedestrian / cycle arrangements to allow level access across the proposed Glensburgh Road lifting bridge;
- Clarification of internal car park vehicle circulation arrangements;
- Proposed linkage from the Helix Central Park to the Mid Thorn railway bridge (A904 Falkirk).

The above requirements can be achieved by the use of appropriate planning conditions or legal agreement.

- 4.2 The Roads Development Unit requests the provision of more detailed road construction drawings to be assessed in a required future application to Falkirk Council for Road Construction Consent. With respect to the planning application however, conditions will be required to ensure:

- Segregation of bus drop off / turning from associated car parking arrangements;
- Provision of drainage calculations for surface water run off;
- Re-design of access road construction details to ensure compliance with Falkirk Council Roads Design Guidance and Construction Standards;

- Consistency of proposed drainage arrangements with the Helix wide Flood Risk Assessment and SUD's proposals;
- Ability of proposed flood defenses to accommodate future extension.

- 4.3 The Environmental Protection Unit has advised that a Contaminated Land Assessment is required. This information has been provided and assessed as satisfactory subject to the provision of additional detailed survey information. This information can be required by planning condition.
- 4.4 The Health and Safety Executive, through the use of PADHI+ consultation, 'Advises Against' the proposal. This assessment is based on the considered view that more than 1000 visitors to the site may occur at any one time. It should be noted that the advise against consultation response from a statutory consultee requires that the application must be referred to Scottish Ministers for consideration prior to the issue of any grant of planning permission.
- 4.5 Shell UK has not commented on the application but is aware of the proposed development.
- 4.6 Ineos has confirmed that the proposal affects protected pipelines. The applicant has been made aware of the requirement to ensure acceptable working arrangements in the vicinity of this apparatus.
- 4.7 Scottish Natural Heritage has no objections to the proposed development subject to conditions relating to further consideration of potential disturbance to birds and sediment release during construction. This consideration can be required by planning condition.
- 4.8 Historic Scotland has no objections and has confirmed that the proposed development would not impact upon the Forth and Clyde Canal and its status as a Scheduled Ancient Monument.
- 4.9 Scottish Water has no objections.
- 4.10 SEPA has no objections subject to conditions in respect of flood risk management and environmental management obligations. These have been forwarded to the applicant's agent for consideration.
- 4.11 Transport Scotland, at the time of writing this report, has not responded to consultation. Reminders have been issued and any necessary update shall be given to Committee.
- 4.12 The Scottish Rights of Way Society has no objections to the proposed development.

5. COMMUNITY COUNCIL

- 5.1 Grangemouth Community Council is aware of the proposed development but has no comment to make.
- 5.2 Bainsford, Langlees and New Carron Community Council has not commented on the proposed development.

6. PUBLIC REPRESENTATION

- 6.1 Three letters of objection have been received. In addition a petition of objection with 15 signatories has been submitted. The grounds of objection are detailed and assessed in paragraphs 7b.18 – 7b.30 of this report.

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 ECON.7 ‘Tourism’ states:

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

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

- 7a.2 Policy ENV.2 ‘Green Belt’ states:

“There will be a system of Green Belts in the areas generally described in Schedule ENV.1 and indicated on the Key Diagram. Within these there will be a long term presumption against development in order to prevent the coalescence of settlements, protect their landscape setting, and avoid prejudicing future proposals for landscape enhancement and countryside recreation.

The detailed boundaries will be defined in Local Plans, having regard, where appropriate, to the Strategic Development Opportunities set out in Policy Econ.1 and Schedule Econ.1 and other structure plan policies.”

7a.3 Policy ENV.5 ‘Built Environment and Heritage’ states:

“Important Archaeological Sites, Scheduled Ancient Monuments, Listed Buildings, Conservation Areas, sites included in the Inventory of Historic Gardens and Designed Landscapes and trees will be protected and enhanced. Local Plans will identify these assets and incorporate policies appropriate to the significance of the area or individual feature, including the following range of measures:

- (1) Measures to ensure that assets are maintained in a good state of repair.*
- (2) Promotion of appropriate new uses for buildings.*
- (3) Promoting sensitive interpretation of heritage assets.*
- (4) Protection of the assets and their setting from inappropriate development.*
- (5) Where development would damage, or result in the loss of the asset, that provision is made for adequate recording of the current status of the asset.”*
- (6) Reviewing the boundaries of areas to ensure their continuing relevance.”*

7a.4 Policy ENV.7 ‘Quality of Development’ states:

- “(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been addressed and how quality objectives will be achieved.*
- (2) Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements.”*

7a.5 Policy TRANS.1 ‘Core Path Networks’ states:

“The Council through consultation will identify a network of strategic paths and core path networks based on the main communities of the area. In particular the Council will make provision for the identification, safeguarding and development of the following:

- (1) National Cycle Network route between Edinburgh and Stirling through the Falkirk Council area;*
- (2) Strategic walking and cycling routes utilising the Union and Forth and Clyde Canal towpaths; and*
- (3) Local Core Path networks in line with the Council’s Countryside Access Strategy.*

The Council in its Local Plans will contain policies that protect identified paths from development and ensure that wherever possible new development proposals create linkages and strategic routes to the identified core path network.”

7a.6 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.7 The proposed development seeks to promote use of the site for tourism, outdoor recreation, improved use of the Forth and Clyde Canal by re-developing existing infrastructure to provide a focus for development of the Helix. A high design standard is exhibited, core paths are respected and a Transport Assessment has been provided. The fixed site location given the Forth and Clyde Canal position and the proposed uses justify and accord with Green Belt policy. The proposal is therefore considered to comply with relevant Structure Plan policies.

Falkirk Council Local Plan

7a.8 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."*

7a.9 The applicant has endeavoured to emphasise the sensitive approach in designing drainage infrastructure, implementing landscape planting and maintenance, along with a focus on providing pedestrian and vehicular access in a sustainable approach to the scheme.

7a.10 Policy EQ21 - 'Falkirk Greenspace' states:

"Through the Falkirk Greenspace Initiative, the Council will work with its partners to improve the landscape, habitat quality and recreational potential of the network of urban fringe and urban open space around and within settlements. Priority will be given to:

- (1) Appropriate woodland creation and management, where landscape quality, access, biodiversity, and connectivity across the Greenspace can be promoted;*
- (2) The creation of an interlinked network of paths within the Greenspace, with particular emphasis on a principal circular route, as a key part of the core path network, complemented by secondary routes where appropriate; and*

- (3) *Requiring developers in urban fringe locations to contribute to landscape and/or access improvements in association with new development.”*

7a.11 The application is considered to accord with this policy, reflecting on the proposal's landscape quality, access, biodiversity and connection to adjoining areas of land.

7a.12 Policy EQ29 ‘Outdoor Access’ states:

- “(1) The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network once it is defined.*
- (2) In promoting new routes particular emphasis will be placed on*
- opportunities specified on the Proposals Map*
 - other opportunities which support and provide linkages in respect of the Falkirk Greenspace Initiative, the recreational use of the major river corridors, including the Forth Estuary, and sustainable travel within and between settlements;*
 - other areas of proven demand as identified through community consultation; and*
 - the need to safeguard protected habitats and species in accordance with Policies EQ24 and EQ25.*
- (3) When considering planning applications, the Council will*
- Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed.*
 - Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development, particularly where they relate to the priority areas identified in sub-section (2) above.*
 - Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.”*

7a.13 The proposal is considered to actively promote outdoor access and provide paths, walkways and facilities which should encourage visitor participation with the site and wider Helix project.

7a.14 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.”*

7a.15 The application site sits within the consultation area of hazardous installations at the Grangemouth petrochemical area. The Health and Safety Executive through use of PADHI+ consultation has "Advised Against" the proposal. This is on the basis of identifiable risk to visitors to the site. The application will, on this basis, require to be referred to Scottish Ministers, if the Committee is minded to grant permission. It is however considered that in view of information submitted by the applicant demonstrating that it is unlikely that more than 1000 visitors would be attracted to the site at anyone time that the proposal accords with this policy.

7a.16 Policy ST10 - 'Parking' states:

"The Council will manage parking provision as an integral part of wider transport planning policy to ensure that road traffic reduction, public transport, walking, cycling and safety objectives are met.

- (1) There will be a presumption against significant additional public parking in Falkirk Town Centre.*
- (2) There will be a presumption against the removal of existing parking provision in Falkirk Town Centre where this would adversely affect the vitality and viability of the centre.*
- (3) Park and ride facilities will be promoted at Westfield, Falkirk. The feasibility of providing facilities on the B902 Stenhousemuir-Falkirk corridor will be investigated.*
- (4) Parking in District and Local Centres will be managed to promote sustainable travel and the role of the centres.*
- (5) The maximum parking standards set out in SPP 17 will be applied where relevant, in tandem with the Council's minimum standards. Where the minimum standards cannot be met, then enhanced travel plan resources may be required in compensation."*

7a.17 The parking provision envisaged is considered adequate to reflect the potential visitor numbers subject to the identified overspill areas being brought into use when the initial parking provision has been exceeded. Further detail relating to design and vehicle circulation will be required by planning condition.

7a.18 Policy ST11 - 'Sustainable Urban Drainage' states:

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

7a.19 The Sustainable Urban Drainage System to be employed for the wide Helix site has previously been considered acceptable. Further details are required by planning condition to ensure the proposal accords with the approved system.

7a.20 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."*

7a.21 The proposed development would, through transport impacts identified in the submitted Transport Assessment, result in increased pressure on Junction 5 and 6 of the adjacent M9 motorway. The upgrading of Junction 6 is the first junction upgrade to be programmed. A pro-rata contribution of £276,000 has been calculated by the Transport Planning Unit of Falkirk Council based on traffic generation identified in the Transport Assessment. The appropriateness of this request is assessed in paragraphs 7b.10 – 7b.15.

7a.22 Policy ST3 - 'Bus Travel And New Development' states:

"New development will be required to provide appropriate levels of bus infrastructure or suitable links to existing bus stops, services or stations, as identified within travel plans. This provision will be delivered through direct funding of infrastructure and / or the provision of sums to support the delivery of bus services serving the development.

- (1) Bus infrastructure should be provided at locations and to phasing agreed with Falkirk Council, and designed in accordance with the standards set out in Falkirk Council's Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.*
- (2) Bus facilities within new developments should offer appropriate links to existing pedestrian or cycle networks in surrounding areas. Alternatively, new development should be linked to existing bus infrastructure via pedestrian or cycle links as described in Policy ST2.*
- (3) New development should incorporate routes suitable for the provision of bus services. Where bus services already exist, new developments should not be designed or constructed in ways that impede the routing of these services.*
- (4) New developments may require bus links to rail stations or other public transport infrastructure."*

7a.23 Public access to the site is considered by the Transport Planning Unit to require upgrading through the implementation of a bus service to the site. The serving of the site for an initial period of 3 years is requested at an estimated cost of approximately £100,000 per annum. Thereafter it is hoped that the implemented service would be operated on a commercial basis. The request for a contribution in this regard is consistent with the aims of Policy ST3 and Policy SC11, above. The appropriateness of this request, in the circumstances of this application, is assessed in paragraphs 7b.10 – 7b.15.

7a.24 Policy EQ9 - 'Public Art' states:

"The Council will encourage the incorporation of public art in the design of buildings and the public realm. Developers will be required to adopt 'Percent for Art' schemes in respect of major commercial development schemes."

7a.25 The proposed erection of 'kelpie' sculptures accord with the aims of Policy EQ9 to promote public realm improvements. The required Percent for Art scheme is not applicable given the Big Lottery funding for the project.

7a.26 Policy EQ16 'Sites of Archaeological Interest' states:

- "(1) Scheduled ancient monuments and other identified nationally important archaeological resources shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances;*
- (2) all Other archaeological resources shall be preserved in situ wherever feasible. The Council will weigh the significance of any impacts on archaeological resources and their settings against other merits of the development proposals in the determination of planning applications; and*
- (3) Developers may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development."*

7a.27 The proposed development does not directly affect the Forth and Clyde Canal's status as a Scheduled Ancient Monument. The extension would link to the previous 'Carron cut' link from the Scheduled Canal to the River Carron constructed in more recent history. The now proposed extension will link with the 'Carron Cut'. No adverse impact on the Forth and Clyde Canal, as a Scheduled Ancient Monument, is considered to occur. This has been confirmed through consultation with Historic Scotland which has no objections to the proposed development.

7a.28 Policy EQ27 - 'Watercourses' states:

"The Council recognises the importance of watercourses within the Council area in terms of their landscape, ecological, recreational and land drainage functions. Accordingly:

- (1) There will be a general presumption against development which would have a detrimental effect on the landscape integrity, water quality, aquatic and riparian ecosystems, or recreational amenity of watercourses. Development proposals adjacent to a watercourse should provide for a substantial undeveloped and suitably landscaped riparian corridor to avoid such impacts;*
- (2) Watercourses will be promoted as recreational corridors, with existing riparian access safeguarded and additional opportunities for ecological enhancement, access and recreation encouraged where compatible with nature conservation objectives; and*
- (3) There will be a general presumption against the culverting of watercourses."*

7a.29 The proposed development as stated above has been shown not to adversely impact on the Forth and Clyde Canal. The positive opportunities for tourism and outdoor access that the proposal provides have previously been noted in this report.

7a.30 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."

7a.31 Falkirk Council's Transport Planning Unit has liaised with Transport Scotland, albeit no consultation reply has been received from Transport Scotland in relation to this planning application, in preparing a consultation response to this planning application. Requests for developer contribution in relation to M9 Junction 6 and public transport are sought following detailed assessment of the applicant's Transport Assessment. The appropriateness of these requests is assessed in paragraphs 7b.10 – 7b.15.

7a.32 Policy ST7 - 'Transport Assessments' states:

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

7a.33 The submitted Transport Assessment has been assessed by the Transport Planning Unit of Falkirk Council. The Transport Assessment has been accepted in principle although additional information will be required by planning conditions and legal agreement. The Transport Assessment has defined network impacts and these could be mitigated by developer contributions detailed earlier in this report. The appropriateness of these requests is assessed in paragraphs 7b.10 – 7b.15.

7a.34 Policy ST11 - 'Sustainable Urban Drainage' states:

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

7a.35 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.”

7a.36 The Helix project is supported by an overarching Flood Risk Assessment for all project land. The proposed development has been appropriately designed in the context of this study. The site has been assessed as capable of accommodating the proposed development although details of exact SUDs measures will be required by planning condition.

7a.37 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be addressed are the points raised through consultation and in the submission of representations made with respect to the application.

Consultation Responses

7b.2 In terms of the Health and Safety Executive, the applicant has provided opinion that, at no time, will more than 1000 visitors be in attendance. However, the ability to control the number of visitors is not within the control of the Council as planning authority. The proposal is therefore considered to have the potential to attract in excess of 1000 visitors to the site at any one point in time. PADHI+ assessment has therefore attracted an ‘advise against’ consultation response from a statutory consultee and referral to Scottish Ministers would therefore be required, if the Committee were minded to grant permission.

7b.3 The comments of the Transport Planning and Roads Development Units of Falkirk Council express concerns mainly in relation to operational aspects of the proposed development and can be addressed and controlled by suitably worded planning conditions. Financial contributions to the upgrading of the M9 Junction 6 and public transport to the site would require the negotiation of a S75 Legal Agreement to ensure acceptable financial provision and implementation.

7b.4 The applicant has provided a breakdown of implemented and planned financial expenditure for improvements to public access and sustainable transport to the site and the wider Helix project area. The extent of this expenditure, implemented and planned, amounts to £4.6 million. All of this expenditure is claimed to provide sustainable, non-motorised, transport to the site or within the wider vicinity. The applicant has confirmed that Big Lottery funding does not provide for contributions over and above identified necessary Helix infrastructure.

7b.5 The applicant has therefore made a case, on the basis of the public funding arrangements for the Helix, the uniqueness of the project as a major environmental regeneration initiative and the level of public access improvements provided or intended, that no contribution to the M9 Junction 6 upgrading should be required.

7b.6 In response to the request for financial contribution to provide public transport to the site, the applicant has provided an assessment of public transport accessibility and options. The site is dictated by the location of the Forth and Clyde Canal. Proximity to existing public transport services is therefore constrained. Direct public transport links exist to the south of the site to the proposed Helix Central Park which, in turn, will be linked to the site under consideration.

An addendum to the Transport Assessment has confirmed the position of a bus stop on Glensburgh Road, within 200 metres of the eastern edge of the site. Bus services in proximity to the site are also identified.

- 7b.7 On the basis of identified public transport opportunities and the constraints to Big Lottery funding expressed previously, the applicant has indicated that the request for public transport contributions is not considered necessary or financially achievable.
- 7b.8 The proposed development aims, implementation of and integration with sustainable transport opportunities to the site and wider project area are an integral part of the ethos of the Helix. These aims in themselves accord with transport policies of the Development Plan.
- 7b.9 The application site is fixed given the location of the Forth and Clyde Canal, and the funding restrictions of the Helix and subsequent transport improvements are noted. In these respects the applicant has cogently demonstrated that financial contributions cannot be provided.
- 7b.10 The applicant has, following consultation response from the Transport Planning Unit and Roads Development Unit, provided further details for consideration with respect to the exact cost of Helix sustainable transport initiatives, existing public transport opportunities and proposed Helix links to these.
- 7b.11 A total of £4.5 million will be expended on walking and cycling initiatives to improve sustainable access to the site and wider Helix area. A specific example of these initiatives is the recently completed 3 metre wide high quality footpath/cycle link between Polmont and Grangemouth, via Primrose Avenue. This link replaces a desire line severed by construction of the M9 in the 1960's. Since M9 construction, there has been continued use of this desire line, involving unauthorised pedestrian crossing of the M9, and this has resulted in two fatalities and a serious casualty. The societal cost of these accidents has been calculated at £3.3 million.
- 7b.12 With respect to the requested financial contribution to M9 improvements by the Transport Planning Unit of Falkirk Council, it is considered that the total cost of Helix sustainable transport initiatives and potential future societal savings by providing these safe community links provide unique circumstances that justify not seeking contributions related to this application.
- 7b.13 Financial contribution to public transport improvements have also been requested by the Transport Planning Unit of Falkirk Council. The applicant has, as previously advised, provided further details of accessibility to public transport, through a Transport Assessment Addendum, adjacent to the site and the wider Helix area.
- 7b.14 It is considered that, in cognisance of the Helix sustainable transport initiatives, lack of funding opportunities to meet requested contributions and more detailed public transport opportunity assessment, a financial contribution to bus service provision to the site is not achievable. It should also be noted that a commercially viable bus service operates to the Falkirk Wheel, and that this adds further weight to not insisting on subsidised bus servicing of the site.
- 7b.15 On balance, it is considered that the unique circumstances of the funding of the Helix, programmed sustainable transport improvements for the site and wider Helix area and the societal benefits of these improvements do not justify the seeking of financial contributions towards M9 Junction improvements or bus service provision.

- 7b.16 The requirement of Falkirk Council's Environmental Protection Unit and SEPA with regard to further environmental investigation and implementation can be required by planning condition.
- 7b.17 The need for further investigation and mitigation of potential impacts expressed by SNH can be required by planning condition.

Public Representations

- 7b.18 Three online objections have been received from residents of Devon Street and Bank Street, Grangemouth. The grounds of objection relate to concerns of :
- Flood risk at times of high tide and heavy rain;
 - Impact on wildlife during construction;
 - Construction impacts such as noise and vibration;
 - Proposed path over looking existing gardens;
 - Loss of existing pedestrian access to rear gardens;
 - Traffic delays when the proposed Glensburgh Road bridge is lifted.
- 7b.19 A petition with 15 signatories, individually acknowledged in writing, has also been submitted from residents in the surrounding area. The petition raises objection relating to:
- Inefficient use of tax payer's money for the Helix;
 - HSE implications in respect of hazardous installations;
 - Financial claims in respect of potential damage of property;
 - Inability of residents to obtain building insurance after development;
 - Potential flood risk;
 - Risk to public safety of water proximity to housing;
 - Clay ground conditions.
- 7b. 20 A response to the submitted objections is now provided.
- 7b.21 A Flood Risk Assessment has been prepared for the wider Helix proposal and includes detailed assessment of the proposed Canal extension. The Canal extension has not been assessed as contributing to an increased flood risk. The Canal extension will introduce a controlled water course with engineered flood defenses between the River Carron and existing houses.
- 7b.22 Potential impacts on wildlife during construction have been identified by SNH in consultation. The applicant, following further research and the submission of additional information has satisfied the requirements of SNH subject to appropriately worded planning conditions.

- 7b.23 An existing footpath runs along the north boundaries of houses in Devon Street, Grangemouth at an elevated level. This footpath would be re-positioned closer to housing at the same level as existing. Screen planting is proposed to limit potential impacts on residential amenity. Existing pedestrian gates in rear garden fencings, albeit an informal arrangement, would be unaffected by the relocated footpath.
- 7b.24 Potential traffic disruption and vehicle queuing following construction of the proposed. Glensburgh Road lifting bridge has been assessed in the submitted Transport Assessment. A Road Safety Assessment is required and some operational arrangements of the bridge require to be clarified by planning condition. The Transport Assessment states that operational impacts of the bridge on existing and future traffic circulation are acceptable in the off peak periods (the bridge would not operate in peak periods). The Transport Planning Unit considers that this cannot be guaranteed, but suggest that any future problems could be addressed by a bridge operation protocol and travel plan, both covered by a section 75 obligation.
- 7b.25 Judgment of the financial efficiencies of the Helix proposal are not a material planning consideration.
- 7b.26 Potential impacts on visitors to the site arising from nearby hazardous installations have been appropriately considered through consultation with HSE. This consultation has resulted in an "Advise Against" response and is therefore subject to referral to Scottish Ministers.
- 7b.27 Financial claims against the applicant for potential damage to the structure of existing buildings is a civil matter. The applicant has exhibited due diligence by conducting a survey of existing building condition to allow future structural assessment.
- 7b.28 The ability of residents to obtain building insurance is not a material planning condition. It is considered however that the implementation of proposed flood defences and a controlled water course will not exacerbate current considerations by insurers of the River Carron with no flood defences.
- 7b.29 The proposed Canal extension is not considered to represent a risk to public safety. The Forth and Clyde Canal is a culturally recognised feature in the Falkirk Council Area and the associated risks of water historically accepted. In addition the River Carron exists in proximity to surrounding housing. The introduction of an extension to the Canal is not considered to be a significantly greater risk to the public over and above existing water courses.
- 7b.30 Clay ground conditions have been assessed by the applicant in ground investigation reports submitted with the application. This investigation has demonstrated acceptable ground conditions to enable construction of the proposed development.

7c Conclusion

- 7c.1 The proposed development has demonstrated compliance with all relevant Development Plan policies.
- 7c.2 With the exception of HSE and potentially Transport Scotland requirements, the views of consultees have either been accommodated during assessment of the application or can be

achieved by appropriately worded planning conditions. The seeking of financial contribution to M9 junction improvement and bus service provision has not been demonstrated to be justifiable for this particular development.

- 7c.3 The "Advise Against" consultation response using HSE PADHI+ would require referral to Scottish Ministers, if the Committee is minded to grant permission
- 7c.4 The views of objectors understandably stem from the development of a major water infrastructure proposal in proximity to housing. The applicant has however demonstrated, through the provision and appraisal of technical study, that the proposal would not adversely impact on safety and residential amenity.
- 7c.5 There are no material considerations which would justify setting aside policies of the Development Plan and refusing planning permission.

8. RECOMMENDATION

- 8.1 **It is therefore recommended that Members indicate that they are minded to grant Planning Permission subject to referral to Scottish Ministers in view of the "Advise Against" consultation response from HSE and absence of comments or agreement from Transport Scotland, unless resolved in subsequent agreement to the satisfaction of the Director of Development Services.**
- 8.2 **On conclusion of any referral of the application to Scottish Ministers, referred to in section 8.1 above, to the satisfaction of the Director of Development Services, Members remit to the Director of Development Services to grant planning permission subject to:**
 - (a) **the satisfactory completion of an obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, relating to a Travel Plan, installation of Toucan crossings and any other associated off site works, and a bridge operation protocol and maintenance procedure; and**
 - (b) **the following conditions:**
 - (1) **The development to which this permission relates must be begun within three years of the date of this permission.**
 - (2) **Prior to the commencement of development, the following shall be submitted for the prior written approval of the Planning Authority:**
 - (i) **Information addressing the comments of Falkirk Council's Transport Planning Unit in its consultation response dated 3 August 2011 and Falkirk Council Roads Development Unit in its consultation response dated 22 August 2011 in respect of: a signing strategy for the site, Toucan pedestrian crossing implementation on the A9, A904 and on Glensburgh Road, independent Road Safety Audits for the Glensburgh Road lift bridge and Toucan crossings, lift bridge operation protocol and maintenance procedure.**

(ii) Sustainable Urban Drainage (SUDs) proposals in the context of the wider Helix arrangements, including design calculations for 1:200 year storm events.

(iii) Amended access and parking drawings to ensure compliance with Falkirk Council's design Guidelines and Construction Standards for Roads in the Falkirk Council Area in respect of bus turning, access road gradient and alignment, DDA compliant access on lifting bridge and flood defences capable of future extension.

(3) Prior to the commencement of development:

(i) A site specific Detailed Quantitative Risk Assessment shall be undertaken in respect of the contamination identified on site through the Site Investigation and Generic Risk Assessment. This shall address both long term risk to human health and the water environment. This shall be submitted for the written approval of Falkirk Council prior to works beginning on site.

(ii) Any soils to be re-used on site shall be shown to be suitable for their proposed use. This shall be submitted and approved in writing by Falkirk Council prior to works beginning on site.

(iii) Any future works to be undertaken on site such as piling and excavation work shall be suitably protective of the water environment, human receptors to ensure no preferential pathways are created during these works.

Reason(s):-

(1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.

(2) To ensure the provision of adequate detailed information to ensure acceptable road safety.

(3) To ensure that the ground is made suitable for the proposed use.

Informative(s):-

(1) This application was submitted online, and the decision notice is issued without plans. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

(2) Due to the proximity of dwellinghouses to the proposed development, the applicant should have regard to controlling any noise produced by future use of the development to ensure that no noise nuisance is caused if noise complaints were received about the development. The Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.

Pp

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Director of Development Services

Date: 14 September 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan.
3. Letter of Objection from Mr William Paisley, 1 Rosevale, 1 Glensburgh Road, Grangemouth, FK3 8XL received on 21 April 2011.
4. Letter of Objection from Mrs Jessie Ross, 52 Bank Street, Grangemouth, FK3 8EY received on 6 April 2011.
5. Letter of Objection from Mrs Kathleen Johnstone, 37 Devon Street, Grangemouth, FK3 8HG received on 29 March 2011.
6. Petition received on 27 April 2011 and individually acknowledged to the following signatories.
Mr Robert Campbell, 59 Tweed Street, Grangemouth, FK3 8HA
M Beattie, 10 Don Street, Grangemouth, FK3 8HD
G Paton, 35 Don Street, Grangemouth, FK3 8HD
A McKie, 34 Bank Street, Grangemouth, FK3 8EY
Ross Campbell, 40 Don Street, Grangemouth, FK3 8HD
Irine Hannah, 59 Tweed Street, Grangemouth, FK3 8HA
Y Harkin, 2 Rosevale, Glensburgh Road, Grangemouth, FK3 8XL
J Thomson, 55 Devon Street, Grangemouth, FK3 8HG
D Holland, 5 Devon Street, Grangemouth, FK3 8HG
F Langhorn, 31 Devon Street, Grangemouth, FK3 8HG
G Chester, 46 Bank Street, Grangemouth, FK3 8EY
B Graham, 43 Devon Street, Grangemouth, FK3 8HG
N McLean, 27 Devon Street, Grangemouth, FK3 8HG
J Skinner, 1 Devon Street, Grangemouth, FK3 8HG
S Corbett, 38 Bank Street, Grangemouth, FK3 8EY

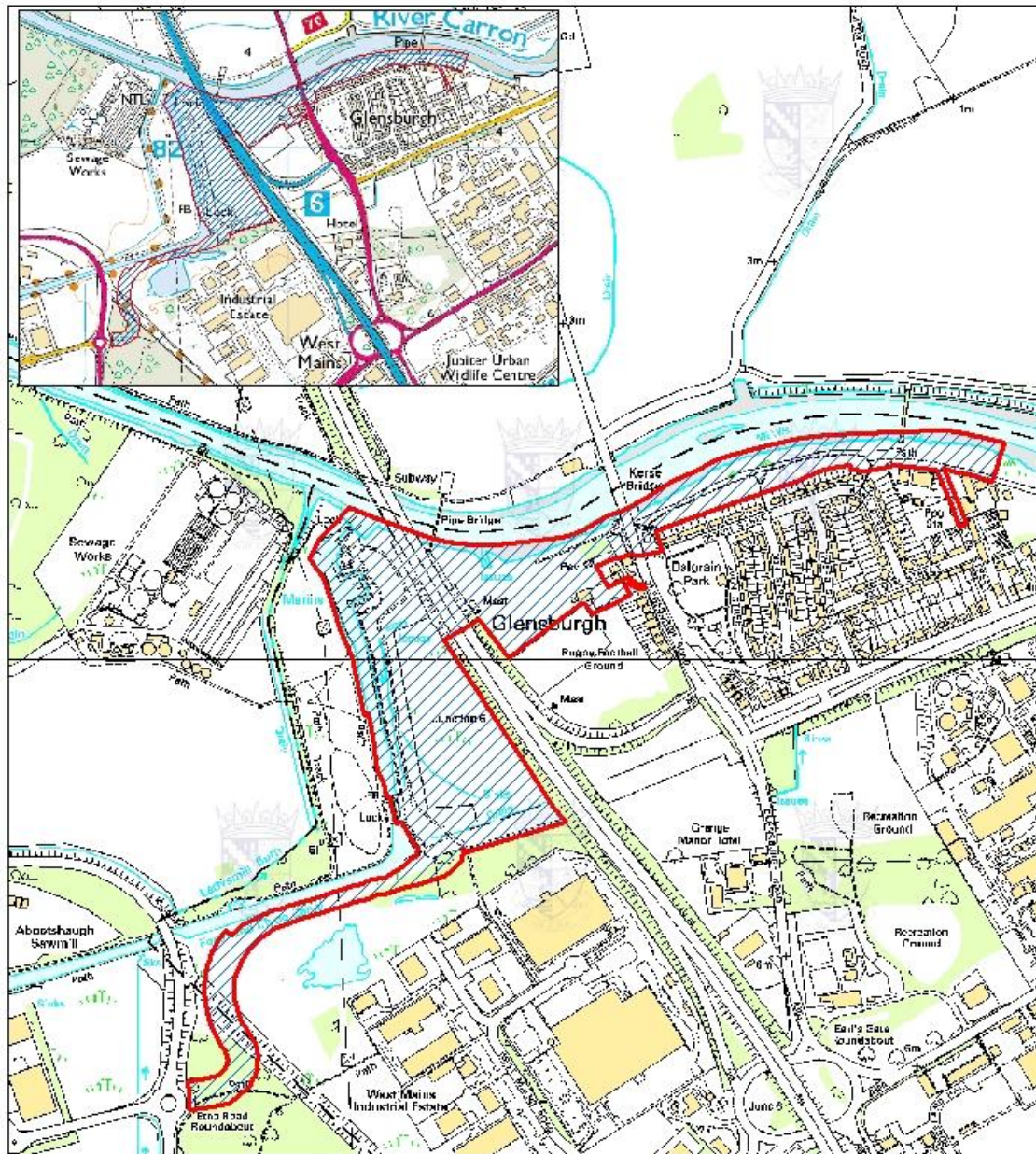
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0154/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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