

FALKIRK COUNCIL

Subject: DEVELOPMENT OF LAND FOR RESIDENTIAL USE AT LAND TO THE SOUTH OF 24 MUIREND COURT, DRUM ROAD, BO'NESS FOR MR ROBERT POW - P/12/0414/PPP

Meeting: PLANNING COMMITTEE

Date: 28 November 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bo'ness and Blackness
Councillor Adrian Mahoney
Councillor Ann Ritchie
Councillor Sandy Turner

Community Council: Bo'ness

Case Officer: David Paterson (Planning Officer), Ext. 4757

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the Planning Committee on 31 October 2012 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 12 November 2012.
2. The planning officer presented a summary of the proposed development, representations received and the issues which have been addressed in making the recommendation to the Planning Committee.
3. The applicant's agent made a presentation to Members specifically highlighting the specification of the proposed upgraded access road to adoptable standard and that it is likely that the application can accommodate between 21 and 27 dwellings.
4. Members of the community raised the following concerns:-
 - Not all members of the community were notified of the submission of the application.
 - Proposals in respect of the site have risen from a previous 7 dwelling unit proposal to the current 21-27 units.
 - The existing road infrastructure is not maintained to a satisfactory standard and the current proposal would exacerbate the problem.
 - There is currently an on-street parking problem in the area of the application site and the proposed development would add to the congestion to the detriment of road safety.

5. The planning co-ordinator and roads co-ordinator addressed the issues of neighbour notification, roads maintenance and access suitability. The planning case officer noted a previous planning permission in principle for 7 dwellinghouses, P/10/0482/PPP, but also noted that the proposed access in respect of the current proposal includes additional land to accommodate a better standard of access road. Comments regarding on-street parking were noted.
6. Members noted that the principal issues causing community concern were the suitability of the proposed access and the integration of the proposed development into existing road network and officers were requested to clarify in respect of how the proposed development would connect to the other developments planned in the area, particularly the potential business park use at land to the east of the application site.
7. In respect of connectivity to land beyond the application site, Members should note that:-
 - A condition is recommended requiring the planning authority's written approval of the means to connect the proposed development to the existing footpath network and that approval should be sought as an application for approval of matters specified in conditions.
 - There is a current planning application, P/12/0231/MSD in respect of a business park development at the land to the east of the application site. It is proposed to form two footpath connections to the core path network which in turn would provide pedestrian access to the application site. There is no proposal to form a vehicular access link from the proposed business park to the application site. In any event, it is considered that such a vehicular connection could result in the proposed upgraded access to the application site being used as a shortcut to the business park. It is considered that this could be detrimental to road safety.
8. It is considered that the proposed access road to the site would provide a satisfactory standard of access to the proposed development.
9. No matters were raised which would amend the original recommendation to grant planning permission in principle.

10. RECOMMENDATION

10.1 It is recommended that the Committee indicate that it is minded to grant planning permission in principle subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure:-

- A developer contribution towards education provision at St. Mungo's High School to be set at a rate of £900 per dwelling. The contribution would be phased to secure payment of 50% of the total contribution following completion of 50% of the proposed residential units and payment of the remainder of the total contribution on completion of 75% of the proposed residential units;
- Development of affordable housing, the tenure/type to be agreed in writing by the Planning Authority, at a minimum rate of 15% of the total number of residential units to be constructed on the site.

10.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission in principle subject to the following conditions:-

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

- (3) An application for the approval of matters specified in conditions shall be submitted in respect of a Flood Risk Assessment, carried out with regard to a 1 in 200 year flood risk event. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.
- (4) An application for the approval of matters specified in conditions shall be submitted in respect of a detailed drainage scheme, including micro drainage calculations, details of surface water runoff in accordance with sustainable drainage principles and detailing surface water flow rates. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.

- (5)
 - i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority;
 - ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority;
 - iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority;
 - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (6) Open space within the site shall be provided at a rate of 49sqm per dwelling passive open space and 21sqm per dwelling active open space as defined in Supplementary Planning Guidance Note “Public Open Space, Falkirk Greenspace and New Development”
- (7) All roads, access and parking shall be constructed in accordance with the Council’s Design Guidelines and Construction Standards for Roads in the Falkirk Area.
- (8) There shall be no work on site until such time as a coal mining conditions report has been submitted to, and approved in writing by, the Planning Authority.
- (9) An application for approval of matters specified in conditions shall include an assessment of existing footpath connections through the site and from the site to the surrounding area. The assessment shall include a statement demonstrating the means by which the footpath connections will be safeguarded/enhanced. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.

(10) An application for approval of matters specified in conditions shall be submitted in respect of a landscaping scheme. The Landscaping scheme shall include:-

- A record of existing trees at the site, the position, crown spread and identity of which is accurately depicted to scale on a drawing. The plan should indicate which trees it is proposed to retain;
- A planting schedule in respect of new landscaping/tree planting;
- A management and maintenance schedule;
- A planting timeframe;
- A tree protection plan.

There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (3) To ensure that the proposed development shall not be subject to the risk of flooding or constitute a risk of flooding at areas outwith the application site.
- (4) To ensure adequate drainage.
- (5,8) To ensure that the application site is suitable for development.
- (6) To ensure that there is adequate open space, both active and passive.
- (7) To safeguard users of the highway and ensure that there is adequate parking provision.
- (9) To safeguard countryside access.
- (10) To ensure that there is adequate landscaping provided.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.
- (2) For the avoidance of doubt Active Open Space includes the following sub categories:
 - Informal play/recreation space - including multi use games areas, kick about pitches, skate parks, climbing areas;
 - Children's equipped play areas - generally equipped for children of primary school age and toddlers;
 - Sports Areas - Large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports i.e. playing fields, golf courses, tennis courts, bowling greens; areas which are generally bookable.

Passive Open Space includes the following sub categories:

- Amenity greenspace - Landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons e.g. road verges or greenspace in business parks, and used for a variety of informal social activities such as sunbathing, picnics or kickabouts;
- Other functional greenspaces - allotments, churchyards and cemeteries;
- Parks - Areas of land normally enclosed, designed, constructed, managed and maintained as a public park or garden;
- Green corridors - Routes including canals, river corridors and old railway lines, linking different areas within a town or city as part of a designated and managed network and used for walking, cycling or horse riding, or linking towns and cities to their surrounding countryside or country parks. These may link green spaces together;
- Natural/semi natural space - Areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland or wetland areas; and
- Civic space - Squares, streets and waterfronts promenades, predominantly of hard landscaping that provide a focus for pedestrian activity and make connections for people and wildlife, where trees and planting are included.

There may be instances where certain types of open space display both active and passive qualities e.g. parks and accessible woodlands. Where there is doubt over whether a certain element of open space is to be considered as active or passive open space, this should be discussed and agreed with Council Officers.

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Pp Director of Development Services

Date: 20 November 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Plan
2. Supplementary Planning Guidance Note (SPG) "Public Open Space, Falkirk Greenspace and New Development".
3. SPG "Flooding and Sustainable Drainage"
4. SPG "Affordable Housing"
5. Letter of Objection from Mr John Martin Longacre, Drumacre Road, Bo'ness EH51 9SZ on 5 August 2012.
6. Letter of Objection from Mrs Catherine Robertson 17 Muirend Court, Bo'ness EH51 9QT on 27 July 2012.
7. Letter of Objection from Mrs Fisher 16 Muirend Court, Bo'ness EH51 9QT on 31 July 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site comprises 1.1 hectares of land to the south of Muirend Court, Bo'ness. The site is currently grassed. There is an existing access track to the site which runs from the east end of Drumacre Road.
- 1.2 This application for planning permission in principle proposes to develop the land for residential purposes. The residential development would include affordable housing. It is proposed to upgrade the existing access track to adoptable standard, which would retain the pinch point where the road narrows at the dwellinghouse at Longacre.
- 1.3 The applicant has submitted a layout drawing, for indication purposes only, which suggests the site could be developed for approximately 25-30 dwellinghouses.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposed development requires Committee consideration because a decision to grant planning permission in principle would be contrary to the Development Plan.

3. SITE HISTORY

- 3.1 The site originally formed part of the original land release at the wider Kinglass area in the early 1990's. The planning brief for the wider development identified the application site to be reserved for affordable/special needs housing.

- 3.2 When the Falkirk Council Local Plan was at consultation, there was a challenge to the reservation of the site for affordable/special needs housing. When considering representations in respect of the pending Local Plan the Reporter concluded that there had been a considerable period of time in the interim, and, on the basis that the site had not attracted development of special needs/affordable housing, recommended that the site should be opened up to mainstream housing. Subsequently, however, the Falkirk Council Local Plan was adopted in December 2010 retaining the reservation for affordable/special needs housing, (Proposal / Opportunity H.BNS07).
- 3.3 Previous planning application P/10/0482/PPP is relevant. This application for planning permission in principle proposed solely mainstream housing at the site with no affordable housing proposed. Planning permission was refused on grounds that the proposed development did not accord with the Development Plan allocation of the site for affordable / special needs housing. A subsequent appeal was upheld on the basis that the Reporter considered, due to the time lapse between the original planning brief for the site and the adoption of the Falkirk Council Local Plan in December 2010, that the reservation of the site for affordable and special needs housing was no longer sustainable.
- 3.4 The following planning applications are also relevant to the application site.
- F/90/0861 – development of land for housing purposes (12.77 hectares) (outline) at Kinglass Farm – granted 18 August 1993.
 - P/11/0701/PPP – mixed use development including 50 bed nursing home, associated special care unit, new housing including affordable housing and associated open space, landscaping and access – pending consideration.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has advised that the existing track providing access to the application site from the east end of Drumacre Road can be satisfactorily brought up to adoptable standard to provide access to the residential development, including the pinch point at the dwellinghouse at Longacre. All roads, access and parking should be formed in accordance with Council standards. Flooding and drainage can be addressed by condition.
- 4.2 The Environmental Protection Unit has confirmed that contamination can be addressed by condition.
- 4.3 Education Services has confirmed that the application falls within the catchment for Grange Primary School, St Mary's RC Primary, Bo'ness Academy and St Mungo's RC High School. Having assessed the proposal with regard to the Supplementary Planning Guidance Note, 'Education and New Housing Developments', Education Services advise that the proposed development would have an impact on education provision at St. Mungo's High School. A developer contribution would be appropriate at a rate of £900 per dwellinghouse. The applicant has agreed to this rate of contribution. Furthermore, Education Services has advised that the contribution could be phased to secure 50% of the total contribution on completion of 50% of the residential units, and the remaining 50% of the total contribution on completion of 75% of the residential units.
- 4.4 Scottish Natural Heritage has not objected to the proposed development.

- 4.5 The Coal Authority has not objected on the basis that an investigation in respect of coal mining conditions is submitted to, and approved by, the planning authority.
- 4.6 The Transport Planning Unit has advised in terms of any future layout design.
- 4.7 Scottish Water has raised no objections.

5. COMMUNITY COUNCIL

- 5.1 No comments have been received from Bo'ness Community Council.

6. PUBLIC REPRESENTATION

- 6.1 Three letters of objection have been received. Concerns raised are:
- The proposed access to the site from the east end of Drumacre Road is not suitable for the proposed development.
 - The road infrastructure in the area cannot accommodate the additional traffic which would be generated and, consequently, the safety of pedestrians would be compromised.
 - The proposed development would compromise access to the dwellinghouse at Longacre.

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 The proposed development does not raise any strategic issues.

Falkirk Council Local Plan

- 7a.2 It is noted that the site is identified as housing Proposal/Opportunity H.BNS07 in the Falkirk Council Local Plan, reserving the site for affordable and special needs housing. It is noted that this application proposes principally mainstream housing. The proposed development does not fully accord with Proposal / Opportunity H.BNS07.

7a.3 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.4 It is considered that the development can be implemented in a manner which responds positively and sympathetically to the site's surroundings. This can be addressed by conditions and by the determination of subsequent applications for the approval of matters specified in conditions. The proposed development accords with Policy EQ1.

7a.5 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.*
- (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;*
 - the need to safeguard protected buildings and archaeological sites in accordance with Policies EQ16 and EQ17.*
- (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.6 It is noted that the application site lies adjacent to local footpaths leading to the woodland to the south east of the site and land to the south. It is considered that safeguarding access to these footpaths can be addressed by condition. The proposed development accords with Policy EQ29.

7a.7 Policy SC2 - ‘Windfall Housing Development Within The Urban / Village Limit’ states:

“Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:

- (1) *The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) *The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- (3) *The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) *Existing physical infrastructure, such as roads and drainage, and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) *In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) *There is no conflict with any other Local Plan policy or proposal.”*

7a.8 The proposed development is considered to be compatible with neighbouring uses and a satisfactory level of amenity could be achieved. The site enjoys good access to transport and community facilities. It is not considered that the proposed development would have a detrimental impact on physical or community infrastructure. However, the application site is not brownfield, and there could be a loss of open space, albeit minimal, to form the new access road from the west end of Drumacre Road. The proposed development does not fully accord with Policy SC2.

7a.9 Policy SC4 ‘Special Needs and Affordable Housing’ states:

For housing developments of 20 or more units, the Council will require a diversity of house types and tenures in order to create integrated communities. In particular there will be a requirement across the Council area for new housing sites to provide 15% or 25% of the total number of units as affordable housing. In the light of the findings of the Housing Need and Demand Assessment the percentage contribution will be applied across the settlement areas accordingly:

<i>Percentage requirements</i>	<i>25%</i>	<i>15%</i>
<i>Housing settlement areas</i>	<i>Larbert / Stenhousemuir Polmont & District Rural North Rural South</i>	<i>Bo'ness Bonnybridge / Banknock Denny and District Falkirk Grangemouth</i>

Acceptable approaches could include:

- (1) *Provision of general needs social rented houses;*

- (2) *Provision of social housing with care, for people with particular needs (specifically the elderly and physically disabled);*
- (3) *Provision of shared equity or shared ownership housing;*
- (4) *Provision of low cost homes for sale; or*
- (5) *Provision of homes for mid-market or intermediate rent.*

The Council will apply a sequential approach to the delivery of affordable house

- *On site provision*
- *Off site provision*
- *Commuted sum payment*

Developers will be expected to work in partnership with the Council, National Housing Trust and / or Registered Social Landlords in the delivery of this policy. Further guidance is provided in the SPG Affordable Housing.

In applying the policy to secure affordable housing to development applications, consideration of the overall viability of the development will be taken into account.

7a.10 The terms of Policy SC4 require that the developer commits 15% of the number of dwellings to be developed at the site to affordable housing. The applicant has agreed to this commitment. Consequently, the proposed development accords with Policy SC4.

7a.11 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.”*

7a.12 The applicant proposes to provide open space on site. Open space would be required to be provided at the following rates:-

- Passive open space at a rate of 49sqm per dwelling;
- Active open space at a rate of 21sqm per dwelling.

Provision of open space at appropriate rates of active and passive open space can be addressed by condition.

The proposed development would accord with the Supplementary Planning Guidance Note “Public Open Space, Falkirk Greenspace and New Development” referred to in Section 7b.7 of this report. The proposed development accords with Policy SC13.

7a.13 Policy ST1 - ‘Core Path Network’ states:

“The Council will safeguard and promote the development of the core path network as and when this is defined. Where appropriate, developer contributions to the implementation of the network will be sought.”

7a.14 It is noted that the application site includes part of the existing core footpath network at the east boundary of the site from Drumacre Road to land to the south. It is considered access can be secured by design and that this can be addressed by condition. The proposed development accords with Policy ST1.

7a.15 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.16 The application is supported by a drainage assessment. It is noted that the Roads Development Unit has advised that the submission of a full drainage scheme for formal written approval can be addressed by condition. The proposed development accords with Policy ST11.

7a.17 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.18 It is noted that the Roads Development Unit has confirmed that flooding can be addressed by condition. The proposed development accords with Policy ST12.

7a.19 The proposed development does not fully accord with the Falkirk Council Local Plan, and, consequently, does not fully accord with the Development Plan. It is not considered, however, that the proposed development constitutes a significant departure from the Development Plan.

7a.20 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material consideration to be assessed are Proposal/Opportunity H.BNS07 of the Falkirk Council Local Plan detailed in section 7a.2 of this report, consultation responses, Supplementary Planning Guidance Note (SPG) "Public Open Space, Falkirk Greenspace and New Development", SPG "Affordable Housing", SPG "Flooding and Sustainable Drainage Systems", letters of representation and the planning history.

Proposal/Opportunity H.BNS07

7b.2 Sections 3.1-3.4 of this report are noted. It is considered that in the light of Scottish Ministers decision in respect of planning application reference P/10/0482/PPP the reservation of the site for affordable/special needs housing cannot now be sustained and that the site could now be developed for mainstream housing. It is noted, however, that the proposed development would achieve partial development of affordable and special needs housing. It is considered that the proposed development constitutes an acceptable departure from Proposal / Opportunity H.BNS07.

Consultation Responses

7b.3 Issues raised by the Roads Development Unit can be addressed by condition.

7b.4 The submission of a Contamination Report can be addressed by condition.

- 7b.5 It is noted that Education Services has advised that a developer contribution is appropriate towards Education provision at St. Mungo's High School. The other schools within the catchment area for the site have sufficient capacity to accommodate the number of pupils that would be expected to come from this development. The contribution can be secured by means of a Planning Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. It is noted that the applicant has agreed to make the appropriate developer contribution. However, the applicant has requested that the payment of the contribution be triggered on completion of the last dwelling. It is not considered that such an agreement would be conducive to satisfactory planning of Education Services. It is considered that the advice of Education Services in respect of the phasing of the contribution, detailed in section 4.3 of this report is appropriate.
- 7b.6 The comments of the Coal Authority are noted. The submission of a Mining Conditions Report can be addressed by condition.

Supplementary Planning Guidance Note (SPG) "Public Open Space, Falkirk Greenspace and New Development"

- 7b.7 Sections 7a.11-7a.12 of this report are noted. The proposed development accords with the SPG.

SPG "Flooding and Sustainable Drainage"

- 7b.8 The application is supported by a drainage assessment which provides sufficient drainage information to assess the development in respect of an application for planning permission in principle. It is noted that the Roads Development Unit consider that further details in respect of flooding and drainage can be considered as subsequent applications for approval of matters specified in conditions. The proposed development accords with the SPG.

SPG "Affordable Housing"

- 7b.9 The SPG, supported by Policy SC4 "Special Needs and Affordable Housing", detailed in sections 7a.9-7a.10 of this report details the need for affordable housing and the different types of affordable housing which is appropriate. It is considered that 15% of the proposed residential development as affordable housing can be achieved at a suitable tenure, secured by means of an obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The proposed development accords with the SPG.

Letters of Representation

- 7b.10 There has been no objections received from the Roads Development Unit in terms of the impact of the proposed development on capacity of the road infrastructure in the area.
- 7b.11 There is no evidence to support the view that child safety would be compromised as a result of the traffic generated by the proposed development.
- 7b.12 The comments by the Roads Development Unit would not support the view that the proposal would compromise access to the dwellinghouse at Longacre.

Planning History

7b.13 The planning history detailed in section 3 of this report is material to the consideration of the proposed development. It is considered that the reservation of the site for affordable and special needs housing only is not sustainable.

7c Conclusion

7c.1 The proposed development does not fully accord with the terms of the Development Plan, but is not considered to constitute a significant departure. However, sections 3.1-3.4 and 7a.9-7a.10 of this report in respect of planning history and affordable housing are relevant to the consideration of the proposed development. On balance, it is considered that the proposed development constitutes an acceptable departure from the Development Plan.

7c.2 It is considered that the development can be implemented in a manner which responds sympathetically and positively to the site's surroundings. It is considered that the amenity and privacy of adjacent residents would be safeguarded.

7c.3 It is considered that a contribution towards education provision at St. Mungo's High School and the development of a satisfactory level of affordable housing, of a suitable tenure, can be achieved by means of an obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.

8. RECOMMENDATION

8.1 It is recommended that the Committee indicate that it is minded to grant planning permission in principle subject to the satisfactory conclusion of an Obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. The Obligation is to secure:-

- A developer contribution towards education provision at St. Mungo's High School to be set at a rate of £900 per dwelling. The contribution would be phased to secure payment of 50% of the total contribution following completion of 50% of the proposed residential units and payment of the remainder of the total contribution on completion of 75% of the proposed residential units;
- Development of affordable housing, the tenure/type to be agreed in writing by the Planning Authority, at a minimum rate of 15% of the total number of residential units to be constructed on the site.

8.2 Thereafter, on conclusion of the foregoing matters, revert to the Director of Development Services to grant planning permission in principle subject to the following conditions:-

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:

- (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
- (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

- (3) An application for the approval of matters specified in conditions shall be submitted in respect of a Flood Risk Assessment, carried out with regard to a 1 in 200 year flood risk event. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.
- (4) An application for the approval of matters specified in conditions shall be submitted in respect of a detailed drainage scheme, including micro drainage calculations, details of surface water runoff in accordance with sustainable drainage principles and detailing surface water flow rates. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.
- (5) i. No development shall commence on site unless otherwise agreed with the planning authority until a contaminated land assessment has been submitted and approved. The assessment must determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere. Any potential risks to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the Planning Authority;
- ii. Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the Planning Authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the Planning Authority;

- iii. Prior to the commencement of development of the site, the remediation works must be carried out in accordance with the terms and conditions of the remediation scheme, and as agreed by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate endorsed by the relevant parties have been submitted to and agreed in writing by the Planning Authority;
 - iv. If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Planning Authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.
- (6) Open space within the site shall be provided at a rate of 49sqm per dwelling passive open space and 21sqm per dwelling active open space as defined in Supplementary Planning Guidance Note “Public Open Space, Falkirk Greenspace and New Development”
- (7) All roads, access and parking shall be constructed in accordance with the Council’s Design Guidelines and Construction Standards for Roads in the Falkirk Area.
- (8) There shall be no work on site until such time as a coal mining conditions report has been submitted to, and approved in writing by, the Planning Authority.
- (9) An application for approval of matters specified in conditions shall include an assessment of existing footpath connections through the site and from the site to the surrounding area. The assessment shall include a statement demonstrating the means by which the footpath connections will be safeguarded/enhanced. There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.
- (10) An application for approval of matters specified in conditions shall be submitted in respect of a landscaping scheme. The Landscaping scheme shall include:-
- A record of existing trees at the site, the position, crown spread and identity of which is accurately depicted to scale on a drawing. The plan should indicate which trees it is proposed to retain;
 - A planting schedule in respect of new landscaping/tree planting;
 - A management and maintenance schedule;
 - A planting timeframe;
 - A tree protection plan.

There shall be no work on site until such time as the approval of matters specified in conditions has been approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (3) To ensure that the proposed development shall not be subject to the risk of flooding or constitute a risk of flooding at areas outwith the application site.
- (4) To ensure adequate drainage.
- (5,8) To ensure that the application site is suitable for development.
- (6) To ensure that there is adequate open space, both active and passive.
- (7) To safeguard users of the highway and ensure that there is adequate parking provision.
- (9) To safeguard countryside access.
- (10) To ensure that there is adequate landscaping provided.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.
- (2) For the avoidance of doubt Active Open Space includes the following sub categories:
 - Informal play/recreation space - including multi use games areas, kick about pitches, skate parks, climbing areas;
 - Children's equipped play areas - generally equipped for children of primary school age and toddlers;
 - Sports Areas - Large and generally flat areas of grassland or specially designed surfaces, used primarily for designated sports i.e. playing fields, golf courses, tennis courts, bowling greens; areas which are generally bookable.

Passive Open Space includes the following sub categories:

- Amenity greenspace - Landscaped areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons e.g. road verges or greenspace in business parks, and used for a variety of informal social activities such as sunbathing, picnics or kickabouts;

- Other functional greenspaces - allotments, churchyards and cemeteries;
- Parks - Areas of land normally enclosed, designed, constructed, managed and maintained as a public park or garden;
- Green corridors - Routes including canals, river corridors and old railway lines, linking different areas within a town or city as part of a designated and managed network and used for walking, cycling or horse riding, or linking towns and cities to their surrounding countryside or country parks. These may link green spaces together;
- Natural/semi natural space - Areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland or wetland areas; and
- Civic space - Squares, streets and waterfronts promenades, predominantly of hard landscaping that provide a focus for pedestrian activity and make connections for people and wildlife, where trees and planting are included.

There may be instances where certain types of open space display both active and passive qualities e.g. parks and accessible woodlands. Where there is doubt over whether a certain element of open space is to be considered as active or passive open space, this should be discussed and agreed with Council Officers.



Pp

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 Director of Development Services

Date: 23 October 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Plan
2. Supplementary Planning Guidance Note (SPG) "Public Open Space, Falkirk Greenspace and New Development".
3. SPG "Flooding and Sustainable Drainage"
4. SPG "Affordable Housing"
5. Letter of Objection from Mr John Martin Longacre, Drumacre Road, Bo'ness EH51 9SZ on 5 August 2012.
6. Letter of Objection from Mrs Catherine Robertson 17 Muirend Court, Bo'ness EH51 9QT on 27 July 2012.
7. Letter of Objection from Mrs Fisher 16 Muirend Court, Bo'ness EH51 9QT on 31 July 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

Planning Committee

Planning Application Location Plan P/12/0414/PPP

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



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