

### List of Enclosures – Agenda Item 4

	<u>Page(s)</u>
1. Notice of Review dated 15 March 2013 and associated documents.	1 - 109
2. Application for Planning Permission dated 2 November 2012 and associated plans and documents.	110 - 177
3. Report of Handling dated 11 February 2013.	178 - 185
4. Refusal of Planning Permission dated 15 February 2013.	186 - 187
5. Consultation Response from Scottish Water dated 28 November 2012.	188 - 189
6. Consultation Response from Roads Development Unit dated 6 December 2012.	190 - 191
7. Additional Consultation Response from Roads Development Unit dated 24 January 2013.	192 - 193
8. Consultation Response from Scottish National Heritage dated 28 January 2013.	194 - 195
9. Consultation Response from Planning and Environment dated 4 February 2013.	196 - 204
10. Consultation Response from Environmental Health dated 8 February 2013.	205
11. Consultation Response from Education Services dated 8 February 2013.	206
12. Online representation from Mr Danny Callaghan – undated.	207
13. Online representation from Mr Trevor Colebrook – undated.	208
14. Online representation from Mrs Sharanne Findlay – undated.	209
15. Online representation from Mr Iain Paxton – undated.	210
16. E-mail representation from Ms Isabel Green dated 17 December 2012.	211
17. E-mail representation from Ms Deborah Lynch dated 24 December 2012.	212 - 213
18. Online representation from Mr David Cumming – undated.	214

19. Letter of representation from Mr George Donoghue dated 3 December 2012.	215
20. Online representation from Mrs Mhairi Graham – undated.	216
21. Online representation from Mr & Mrs Johnstone – undated.	217
22. Online representation from Mr Michael Lavender – undated.	218 - 219
23. Online representation from Mrs Rebecca Lavender – undated.	220 - 222
24. Online representation from Mr Colin Oulton – undated.	223 - 225
25. Letter of representation from Mr Sandy Simpson dated 8 December 2012.	226 - 229
26. E-mail representation from Mr & Mrs Balfour dated 11 December 2012.	230
27. E-mail representation from Mr George Smart dated 4 January 2013.	231
28. Letter of representation from Mr Robert Downie dated 5 December 2012.	232
29. Letter of representation from Ms Fiona Downie dated 5 December 2012.	233
30. Letter of representation from Ms Marion Kerr – undated.	234
31. Letter of representation from address in Taymouth Road – undated.	235
32. Letter of representation from address in Taymouth Road – undated.	236
33. Extract from Falkirk Council Structure Plan – Com.6 Open Space and Recreational Facilities.	237
34. Extract from Falkirk Council Structure Plan – Env.3 Nature Conversation.	238 - 239
35. Extract from Falkirk Council Local Plan – Policy SC13 and SC14.	240
36. Extract from Falkirk Council Local Plan – Policy EQ24.	241
37. Extract from Falkirk Council Local Plan – Policy EQ26.	242
38. Extract from Falkirk Council Local Plan – Policy SC6.	243
39. Extract from Falkirk Council Local Plan – Policy ST1.	244
40. Extract from Falkirk Council Local Plan – Policy EQ22.	245

41. Extract from Falkirk Council Local Plan – Policy EQ03.	246
42. Extract from Falkirk Council Local Plan – Policy SC02.	247
43. Extract from Falkirk Council Local Plan – Policy SC11.	248
44. Extract from Falkirk Council Local Plan – Policy SC12.	249
45. Extract from Falkirk Council Local Plan – Policy ST11.	250
46. Extracts from Falkirk Council Open Space Strategy (adopted 2010).	251 - 259
47. Planning Appeal decision letter dated 14 June 2007.	260 - 264
48. Supplementary Planning Guidance Note – Housing Layout and Design.	265 - 292
49. Supplementary Planning Guidance Note – Education and New Housing Development.	293 - 307
50. Supplementary Planning Guidance Note – Public Open Space, Falkirk Greenspace and New Development.	308 - 339

**ANDREW BENNIE**  
PLANNING LIMITED

Development Manager  
Development Services  
Falkirk Council  
Abbotsford House  
David's Loan  
FALKIRK  
FK2 7YZ



15 March 2013

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
REQUEST FOR REVIEW UNDER SECTION 43A  
IN RESPECT OF THE REFUSAL OF PLANNING PERMISSION  
APPLICATION REF: P/12/0718/FUL  
LAND TO THE EAST OF 44 RODEL DRIVE, POLMONT**

I refer to the above and on behalf of my client, Mr. S Anderson, I submit for your attention and action, a formal request to Review the decision of the Council's appointed person to refuse planning permission pursuant to my clients planning application, as referenced above.

In this regard, I attach hereto, a completed copy of the Notice of Review Form and a list of those documents to which reference will be made during the course of this Review.

I also attach a copy of my Statement in Support of this Review, included with which are copies of all of those documents listed.

I trust that this is sufficient to enable you to progress this Review and I look forward to hearing from you further on this matter in due course.

Should you require to discuss matters further at this stage, please do not hesitate to contact me.

Yours Faithfully

**ANDREW BENNIE**

**Director**



## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)  
ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS



THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

Falkirk Council

**IMPORTANT:** Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review. Please note that the guidance notes are issued by the Scottish Government. They apply to planning authorities generally and not specifically to Falkirk Council

In terms of the Act and regulations referred to above, Falkirk Council's Planning Review Committee sits as the "local review body".

Please use **BLOCK CAPITALS** if completing by hand.

### Applicant(s)

Name	Stuart Anderson
Address	60 Union Street
	Bo'ness
	Postcode: EH51 9AQ
Tel	
Mobile	
Fax	
e-mail *	

### Agent

Name	Andrew Bennie Planning Limited
Address	3 Abbots Court
	Dullatur
	Postcode: G68 0AP
Tel	
Mobile	
Fax	
e-mail *	

Mark this box to confirm all contact should be through your agent or representative:



\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒

No ☐

Planning authority's application reference number

P/12/0718/FUL

Site address

Description of proposed development

Land lying to the east of 44 Rodel Drive, Polmont

Erection of 6 dwellinghouses and associated roads and landscaping

Date planning application declared  
valid by Planning Authority

27/11/12

Date of Decision (Leave blank if  
appeal against non-determination

15/2/13

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

### Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

### Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

## Review procedure

The Planning Review Committee will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you consider that the review should be conducted by a combination of procedures. Please note, however, that the final decision as to procedure will rest with the Planning Review Committee.

1. Further written submissions
2. One or more hearing sessions
3. Site inspection
4. Assessment of review documents only, with no further procedure

☒  
☒  
☒  
☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Further procedures in both written form and by way of a hearing session are considered to be necessary in order to fully and properly explore the issues regarding the suggested value of the site in terms of wildlife and open space considerations, with an accompanied site inspection also being considered to be appropriate in relation to these issues.

Full details of our position on these matters is set out within the accompanying Statement in Support of Review.

## Site Inspection

In the event that the Planning Review Committee decides to inspect the review site, in your opinion:

1. Can the site be viewed entirely from public land?
2. Is it possible for the site to be accessed safely, and without barriers to entry?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If there are reasons why you think the Planning Review Committee would be unable to undertake an unaccompanied site inspection, please explain here:

In order to fully and properly set out the case in support of this view in relation to the suggested wildlife and open space value of the application site, an accompanied site inspection is considered to be appropriate.

## Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Planning Review Committee to consider as part of your review.

If the Planning Review Committee issues a notice requesting further information from any other person or body, copies of any such information received will be sent to you and you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State in the space provided the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with

this form.

Are you submitting a statement of reasons for review in a separate document?

Yes

☒

No

☐

### Reasons for Notice of Review

Please refer to attached Statement in Support of Review

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes

☐

No

☒

Are you submitting additional documentation?

☐
☒

If you answer yes to either or both of the above questions, you should explain in the box below, why you are raising new material and/or introducing additional documentation, why it was not raised with or made available to the appointed officer before your application was determined and why you think it should now be considered in your review. Please note that it will be for the Planning Review Committee to decide whether or not all or any of the new material/additional documentation will be considered in the review.

### List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1.	Please refer to attached Schedule of Documents
2.	
3.	
4.	
5.	

6.	
7.	
8.	
9.	
10.	

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

#### Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form	<input checked="" type="checkbox"/>
Statement of your reasons for requiring a review	<input checked="" type="checkbox"/>
All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.	<input checked="" type="checkbox"/>

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

#### Declaration

I the ~~applicant~~/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

15/8/13

This form and other documents should be returned to:

The Development Manager,



STATEMENT IN SUPPORT OF  
LOCAL REVIEW  
RELATIVE TO THE REFUSAL  
OF PLANNING APPLICATION  
P/12/0718/FUL

PREPARED BY  
ANDREW BENNIE PLANNING LTD

ON BEHALF OF

MR. S ANDERSON

MARCH 2013

7  
STATEMENT IN SUPPORT OF  
LOCAL REVIEW  
RELATIVE TO THE REFUSAL  
OF PLANNING APPLICATION  
P/12/0718/FUL

PREPARED ON BEHALF OF  
MR. S ANDERSON

3 Abbotts Court  
Dullatur  
G68 0AP

Tel: [REDACTED]

E-mail: [REDACTED]

March 2013

COPYRIGHT

The contents of this report must not be reproduced in whole or in part without the formal written approval of Andrew Bennie Planning Limited.

## **CONTENTS**

- 1.0 Introduction
- 2.0 Proposals Subject to Review
- 3.0 Reasons for Requesting Review
- 4.0 Review Procedure
- 5.0 Grounds of Review
- 6.0 Summary

Appendix 1: Notice of Review Form

Appendix 2: Copy of Decision Notice

## 1.0 INTRODUCTION

This Statement has been prepared by Andrew Bennie Planning Limited on behalf of Mr. S Anderson in support of his request that the Planning Authority, under the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997, review the decision to refuse planning permission pursuant to planning application reference number P/12/0718/FUL.

This Statement should be read in conjunction with the matters set out within the completed Notice of Review Form, a copy of which is included at Appendix 1 of this Statement.

## 2.0 PROPOSALS SUBJECT TO REVIEW

Under the terms of planning application reference P/12/0718/FUL, permission was sought for the erection of six detached dwellinghouses and associated access road and landscaping on that land which comprises the Application Site.

The Application Site, which extends to some 1.69Ha in area, comprises a roughly rectangular area of land lying generally to the south of Main Street, Polmont.

The Application Site is located on the eastern flank of Polmont Hill and lies between Rodel Drive to the west and Portree Crescent to the east. The existing residential properties on the south side of Lawers Crescent lie a short distance to the north of the Application Site, with further residential properties, situated on Culdule Circle and Ardmore Drive, lying to the south.

In physical terms, the southern, eastern and western boundaries of the Application Site are well defined by the rear boundary fences of existing residential properties. The northern boundary of the Application Site is less well defined and is marked generally by a downward break in the slope of the land, which falls away to the north, towards the housing on Lawers Crescent.

The Application Site comprises a mix of rough, poor quality grassland and a number of areas of relatively dense, self-seeded scrub growth, including hawthorn, broom and bramble.

A number of footpaths run through the Application Site, with the main paths being located along the southern and northern boundaries of the site.

The Application Site slopes gently down from a high point of some 105.5 AOD in its north western corner, to a slightly more level plateau at some 99.5 AOD in its south eastern corner. On its western boundary, the site falls some 3.0m from north to south, whereas on its eastern boundary, the difference in levels from north to south, are negligible.

As is noted above under the application submission to which this Review relates, full detailed planning permission is sought for the erection of six detached dwellinghouses and associated roads and amenity open space on that land which comprises the Application Site.

The proposed dwellinghouses would be accessed by way of an eastwards extension of the existing carriageway of Rodel Drive, which would be extended a short distance into the site to create a formal turning head. This turning head would provide the access to plot no.1, with the

remaining plots being accessed via a new private roadway which would run eastwards through the site.

Whilst an alternative layout has been submitted during the course of the Council's assessment of the proposed development, which demonstrates how the access arrangements could be altered to provide for a public road, it is considered that the access arrangements as originally proposed are acceptable and accordingly, this Review seeks planning permission for the access provisions as originally submitted.

All of the proposed dwellinghouses would lie to the north side of the site access road.

The existing informal footpaths which run along the northern and southern boundaries of the Application Site would be retained and upgraded, with the exact details of the upgrade works being reserved for further discussion with the Council during their consideration of the application.

The existing points of access into the Application Site from Portree Crescent and Culduie Circle will also be retained and upgraded where necessary.

Areas of amenity open space, which will be designed also to provide for a significant degree to enhancement to the existing level of habitat interest on the site, will be provided along the eastern, southern and northern sides of the site, wrapping around the proposed dwellinghouses. The application submission made clear that the details of the proposed treatment of these amenity areas were to be determined in consultation with the Council during their consideration of the application.

The house type which is proposed for plot no.1, which lies at the western side of the site, has been designed for the applicant and has been conceived as a large villa of a contemporary design, the details of which allow it to take advantage of the open views to the north whilst at the same time maximizing the level of solar gain on its southern side.

The house is orientated around a central axis, which divides those "public" and "private" spaces within the house. This axis is defined by a 'spine' wall which is expressed both internally and externally, thus drawing the user through the building to the landscape beyond.

The internal layout of the house is predominantly open plan, which creates a light, free flowing space, which is contrasted by a series of more intimate private spaces.

Externally, the form of the dwellinghouse is informed and dictated by the internal spaces within the building. The modular glazing panels are generally grouped, defining the "main" spaces, or placed singly, defining the secondary rooms. A plain smooth white render is proposed for the majority of the external wall, with sections of feature timber cladding defining the lounge and office spaces.

Above these rooms, a terrace will be formed to maximize available sun, with a similar terrace on the north side of the building being created to take advantage of the open outlook. This terrace is, balanced by the cantilevered form of the master bedroom suite, the overhang of which creates a sheltered area off the living room and entertainment area.

The flat roofed form of the dwellinghouse and the detached garage, have been chosen specifically to minimise the potential impact of the building upon those properties, which lie at the eastern end of Skye Drive.

A single house type is proposed for plots 2-6, which is of a slightly more traditional design, albeit echoing and acknowledging the design intent in respect of plot 1. The ground floor of this house type is organized around a main open plan living area, with two further public rooms and ancillary spaces leading off it. The "L" shaped form of the building combines with a detached garage to form a south facing external courtyard space, which allows the living area and the master bedroom to have a dual aspect.

Externally, plots 2-6 would feature a similar palette of colours and materials to plot 1, with the more traditional style being reflected by the use of a pitched roof. As with plot 1, modular glazing panels have been incorporated in to the design, the grouping of which defines the hierarchy of the internal spaces, with a timber finish being used to define the main entrance and garage.

Prior to submitting the application, and as a means of identifying any issues of concern, which local residents may have in relation to the proposed development, a public site meeting was held on Saturday 29<sup>th</sup> September. This meeting was publicised by way of individual letters sent to all of those parties whose properties bound directly on to the Application Site.

A total of 25 individuals attended the site meeting, with said parties voicing a range of issues including potential overlooking, impact upon the skyline, increased levels of traffic, impact upon property values and impact upon local wildlife.

As a consequence of these concerns, the details of the proposed development have been adjusted and amended by the project architect in order, where practicably possible, to directly address the matters raised by those who attended the site meeting.

The nature of these changes, are set out in more detail within the Design Statement, which formed part of the application submission.

A meeting was also held on 26<sup>th</sup> October with Keith Brown of the Council's planning department, this meeting being called as a formal pre-application request. The matters discussed at this meeting and the additional information which was suggested be provided have been included as part of the application submission.



### 3.0 REASONS FOR REQUESTING THE REVIEW

On the basis of the Grounds of Review which are set out within Section 5.0 of this Statement, it is submitted that Falkirk Council have failed to reasonably demonstrate that the proposed development of the Application Site would give rise to any demonstrable and adverse impact upon the established amenity of the surrounding area or that the proposals cannot be fully and reasonably justified when considered against those policies of the adopted Falkirk Council Local Plan which relate to the Application Site.

Consequently, this Review is put forward on the basis of the unreasonable and unjustifiable nature of the refusal of the planning application.

#### 4.0 REVIEW PROCEDURE

In addition to consideration of those matters which are set out within the Notice of Review Form and this Statement, It is requested that the Review also be the subject of a Hearing Session before the Local Review Body, and further, that the Local Review Body also carry out an accompanied inspection of the application site.

Given the nature of the application proposals and the stated reasons for the refusal of the planning application, It is considered that the presentation of oral evidence as part of a Hearing Session and the carrying out of an accompanied site inspection represent the best means of allowing the Local Review Body to gain a full and proper understanding of the potential impact of the application proposals upon the surrounding area and in turn the extent to which the proposals can be reasonably justified against the relevant provisions of the adopted Local Plan.

## 5.0 GROUNDS OF REVIEW

The application which forms the basis of this Review, was refused planning permission on the basis of the reasons set out below:

1. **The development would result in the loss of valuable open space to the detriment of the visual and recreational amenity and the ecological value of the surrounding area. The proposal is contrary to the terms of Policy Com.6 – Open Space and Recreational Facilities of the Falkirk Council Structure Plan and Policy SC12 – Urban Open Space of the Falkirk Council Local Plan.**
2. **The development proposal would have a negative impact on the size, functioning, ecological value and integrity of the South Polmont Site of Importance for nature Conservation (SINC). The proposal is contrary to the terms of Policy ENV3 – Nature Conservation of the Falkirk Council Structure Plan and Policy EQ24 – Ecological Sites and Features of the Falkirk Council Local Plan.**
3. **The proposed development is out of keeping with the scale, plot and street pattern of the surrounding residential area and fails to protect the important skyline and views to the detriment of the visual amenity of the area. The proposal is contrary to Policy EQ3 – Townscape Design of the Falkirk Council Local Plan.**
4. **The development represents the removal of a recognised area of Public Open Space the loss of which cannot be justified and would have an adverse impact on the character and appearance of the area to the detriment of visual, residential and amenity levels. The proposal is contrary to the terms of Policy SC2 – Windfall Housing Development Within the Urban/Village Limit and Policy SC12 – Urban Open Space of the Falkirk Council Local Plan.**
5. **The setting of the proposed development is not capable of absorbing the scale and character of the development proposed and the best environmental fit is not achieved in terms of landscape character. The proposal would have an adverse impact upon visual amenity and is contrary to the terms of Policy EQ22 – Landscape and Visual Assessment of the Falkirk Council Local Plan.**

6. The proposed development would remove a large portion of mature trees and scrubland from an established area of open space in a prominent hilltop location without the ability of the site to accommodate suitable mitigation measures. The proposal would have significant impacts on landscape, visual amenity, nature conservation and recreational value of the site and surrounding area and is contrary to Policy EQ26 – Trees, Woodland and Hedgerows of the Falkirk Council Local Plan.
7. The application has failed to demonstrate that surface water drainage from the site will be adequately dealt with and as such the proposal is contrary to the terms of Policy ST11 – Sustainable Urban Drainage of the Falkirk Council Local Plan.

A full copy of the Decision Notice on this application is provided at Appendix 2 of this Statement.

Our response to each of these stated reasons for the refusal of planning application reference P/12/0718/FUL are set out below.

#### **Reason 1**

With regards to the potential impact of the application proposals upon the ecological value of the area which surrounds the Application Site, we would defer to the comments set out below in relation to **Reason 2** for the refusal of this planning application.

On the matter of the significance of the loss of the current use of the Application Site as an area of open space, we would dispute in the strongest terms the "value" that has been placed upon this land by the Council.

The Application Site does not comprise an area of planned open space, rather it consists of an area of land that has thus far remained undeveloped, as all of the land surrounding the same has, over time, been brought forward for development, which includes the land to the immediate south of the site which was sold by the Council in the relatively recent past for development and which, with personal knowledge of the area, resulted in the loss of an area of flat open land that was well used by local residents.

The proposed development will not therefore result in the loss of any area of open space that has been planned or provided to meet the specific needs of those residents within the surrounding area.

The principle use of the site is for dog walking purposes and as a through route for walkers with it being submitted that the nature and condition of the site is such that it does not lend itself to any for intensive or formal recreational use.

The nature of the proposed development is such that the established dog walking/walking routes through the site, including the identified core paths, will be both maintained and enhanced as an integral part of the development. To this end, it is important to note that these improvements to the surfacing of the footpath routes will allow for the same to be used in all weather conditions unlike at present when the paths in question become largely unusable during and following periods of heavy rain. It is also important to note that the Council have not sought to justify the refusal of the application based upon the impact thereof upon the core paths which run through the site and as such, it is assumed that the Council accept that the proposals will not have any adverse impact upon the same.

It is therefore submitted that the application proposals will not have an adverse impact upon the present "recreational" use of the site rather, they will enable greater use to be made of the site by both walkers and responsible dog owners.

It is further submitted that the development of the Application Site as proposed will not result in the overall level of open space within the Polmont Hill area falling below an acceptable level of provision.

When assessed against the requirements which are set out within the Council's SPG on "Public Open Space, Falkirk Greenspace and New Development", the open space element of the proposed development, exceeds the overall requirement which would relate to a development of 6 dwellinghouses by some 1,281%, with 5,800 sqm of open space being provided against a stated requirement of 420 sqm.

The nature and condition of the site has changed markedly over the recent past due to the progressive and ongoing scrub colonisation. The expansion of this scrub has had the effect of significantly diminishing the extent of the open areas within the site and has made to site, especially the western part thereof far less usable. If the Application Site remains undeveloped, this scrub colonisation will continue and will, in a relatively short period of time reach a point at which there will be no open areas of land within the site.

If this were to occur, as it inevitably will if the site is not developed, the safety of those footpaths which run through the site will be significantly impacted upon given that as opposed to the paths

running through an area of semi-open land, they will be passing through an area of dense scrub woodland which benefits from little if any passive surveillance or overlooking.

The increase in the scrub cover on the Application Site is also considered to have had an adverse impact upon the visual amenity of the site with it being submitted that the proposed development will enable the previous open character of the site to be reinstated, with the over all appearance of the site being improved by the implementation of the scheme of landscaping which forms an integral part of the proposed development.

Whilst it is accepted that the proposed development will bring about a change to the visual character of the Application Site, it is not accepted that the proposed development of a small number of which quality houses of a bespoke design will in any way be detrimental to the visual amenity of the surrounding area.

## **Reason 2**

Whilst it is accepted that the application proposals will result in the loss of part of the wider South Polmont SINC, it is submitted that this loss will not have an adverse on the continued functionality or ecological value of the remaining part of the designation.

In the past, Scottish Natural Heritage have advised, in relation to previous development proposals for the site, that the Application Site would not merit any ecological designation in its own right and that the development of the site would not adversely impact upon the continued integrity of the wider South Polmont SINC designation.

In relation to the proposals which form the basis of this Review, Scottish Natural Heritage have advised that they offer no objection to proposed development of the Application Site. As the Government's independent advisors on matters relating to, amongst other things, ecological matters it is submitted that the decision not to object to the application is of significant materiality to the determination of this Review and is fully reflective of their long standing view that the application site is of negligible value and that its development would not adversely impact upon the remainder of the SINC designation.

The Protected Species Walkover Assessment & Phase 1 Habitat Survey that has been submitted in support of this application, see **Document 5**, makes clear that the application proposals are not considered to be damaging to the key habitats that the SINC has designated for, with it being further noted that the key grassland habitats were of low value at the point that they were

designated and that their value is now negligible both in terms of their species diversity and extent and that as such, their intrinsic value has already been lost.

This report also indicates that there is a strong case to support the position that the decision to designate that SINC was made in error as, it was advised against by the Council's own habitat surveyor in 1997 and given that part of the wider field of which the Application Site forms part has already been developed.

Finally, the report highlights the fact that in light of the implementation of the mitigation measures set out therein, control over which can be exercised via conditions attached to any planning permission arising from this Review, that the application proposals can bring with them real long term positive ecological gains by way of sensitive biodiversity enhancement.

Despite having asked for sight of any relevant consultation responses addressing the matter of the suggested impact of the application proposals upon the SINC designation, no such information has been made available to the applicant during the course of the Council's consideration of the application proposals.

Accordingly, the only up to date information on this matter is that which has been submitted on behalf of the applicant in support of this application, the terms of which, as noted above, make clear that the application proposals will not have any adverse impact upon the wider South Polmont SINC.

It is also worth noting that the "ecological" report which has been submitted in support of the application proposals is the third such report which has been prepared in relation to the proposed development of this site in the recent past, with all of those reports, each of which was prepared by a different party, coming to the same conclusion as regards the ecological value of the site. The only party, which departs from this collective view as to the value of the site is the Council and they have done so without the benefit of any recent survey work.

This being the case, it is wholly unreasonable of the Council to seek to assert that the application proposals will give rise to adverse impacts upon the SINC without having the evidence base to support their position in this regard.

### **Reason 3**

The proposed development of the Application Site represents, in very simple terms, a continuation of the existing housing on Rodel Drive, this being achieved by extending the existing

carriageway of Rodel Drive, which presently ends in a hammerhead turning area at its eastern end, into the Application Site.

Consequently, with regards to the matter of the form of street pattern proposed, the application proposals are wholly reflective of the existing street pattern in the area.

The housing at the existing eastern end of Rodel Drive is single sided, as would be the proposed housing within the Application Site and again therefore, the proposed development raises no issues of conflict with the established pattern of housing within the surrounding area.

Whilst it is accepted that the building footprints are large when compared with other existing houses within the area, they are broadly similar in size to the overall footprints of the semi-detached units, which dominate the surrounding area. Again therefore, the proposed residential units are not out of keeping with the scale of other buildings in the surrounding area, this being illustrated quite clearly with reference to the site layout drawing which is provided at **Document 7**.

Given the matters set out above, the proposed development is considered to vary from the established pattern of development within the surrounding area only to the extent that the density of development, which is proposed, is lower than that which is to be found within the surrounding area. This lower level of development density is however fully justified on the basis that it assists in restoring the general open character of the Application Site and allows for the retention of those existing footpaths, which pass through the site. It also assists in ensuring that sufficient land is available to ensure that the ecological mitigation measures, which are suggested within **Document 5** can be fully implemented.

Views of the Application Site are not affected in any way by the proposed development, albeit that the nature of what is being viewed will change, with it being submitted that the high quality development which is proposed, coupled with its proposed landscaping scheme, will be far more pleasing to viewers than the current view.

It is also relevant to note that from no point can any views be gained of the Application Site without it being framed within the context of existing housing and that from most viewpoints, the site is barely discernable due to the screening effect which is produced by this existing housing.

Views out of the site will be unaffected by the proposed development given that the proposals make full provision for the retention of the two footpaths which run along the sites northern and



southern boundaries, with open views out of the site also being retained to the east and west of the site.

Finally, on the matter of the Impact of the proposed development upon what is claimed by the Council to be an important skyline, it has to be recognised that the wider Polmont Hill area is characterised by housing which rises upwards and over the ridgeline that runs through the area, with the result being that with the sole exception of the land which forms the Application Site, the Polmont Hill skyline has already been breached along its entire length.

This being the case, it is submitted that any argument put forward to suggest that housing within the Application Site being potentially visible above the skyline would give rise to significant adverse visual impacts is wholly without foundation.

In short, the value of the Polmont Hill skyline line has already been irreversibly and irreparably damaged and in the additional impact that would arise from the development of the Application Site would be inconsequential.

#### **Reason 4**

The terms of this reason for the refusal of the planning application mirror closely those of the first stated reason and in the interests of avoiding any unnecessary repetition, I would defer to the comments set out above under **Reason 1**.

This having been said, I would wish to emphasise the fact that the overall Polmont area, and more specifically the Polmont Hill area, benefits from an available supply of open space which is far in excess of the Council's required standard and that the retention of the open space within the Application Site is not required in order to ensure that this required level of open space can be maintained.

It is also of note that the open space value of the Application Site is strictly limited in the respect of the range of uses/activities which could reasonably take place thereon and that as such, the site plays little part in terms of the provision of functional and usable open space within the local area.

#### **Reason 5**

Given the overall size of the Application Site and the strictly limited scale of the proposed development I simply cannot accept the contention that the Application Site is incapable of

absorbing the scale of the proposed development. In density terms, the proposed development represents a density of 3.5 dwellings per hectare, which compares with a standard developer density of between 25-30 dwellings per hectare.

The proposed development has been specifically designed at this low density to ensure that it can assimilate itself successfully into both the wider townscape and the localised landform within the site itself.

The form and distribution of the proposed buildings across the site has also been specifically designed to both aid this process of assimilation and to ensure that the proposed development has the least possible impact upon any existing houses within the surrounding area.

On the matter of the character of the proposed development, I would submit that whilst the proposed dwellinghouses may well differ in their appearance from those existing houses which surround the site, exactly the same comment can be made of the housing on Culdule Circle and Ardmore Place, which is markedly different from the existing housing which predated its development yet which was nevertheless deemed to be wholly acceptable by the Council.

As time passes and as building technologies and standards advance, it is only reasonable to expect that the design and appearance of domestic properties will change and unless site specific justifications indicate otherwise, which is not the case in relation to the application proposals; it would be unjustifiable to seek to prevent a residential development from taking place simply because it did not look like the housing which lies adjacent to it.

Given the matters set out above, and in light of those comments raised in relation to **Reason 1** and **Reason 2**, it is submitted that the application proposals will not give rise to any adverse impacts upon the visual amenity of either the Application Site itself or of the surrounding area.

#### **Reason 6**

Many of the terms of this reason for the refusal of the application repeat matters that are dealt with within **Reasons 1-5**, and again in the interests of avoiding unnecessary repetition, I would not propose to revisit these matters and as such, in response to **Reason 6**, I would propose to address only those matters that have not already been dealt with above.

In considering the loss of the existing tree cover on the Application Site, it must be recognised that none of these trees enjoy any form of statutory protection and as such could be removed at any time without the need for any form of statutory approval. Further more, in ecological terms,

the colonisation of the Application Site by these scrub trees is has and continues to greatly reduce the whatever limited value the site may once have had. On this basis, there is a clear argument to be made that it is actually in the best interests of the site, in ecological terms, to remove all of these trees.

On the matter of the ability of the Application Site to accommodate suitable mitigation measures to militate the loss of the existing tree cover, I would wish to draw attention to the conclusions section of the report provided within **Document 5**, the terms of which make clear that the site is capable of accommodating fully a range of mitigating measures which will bring about long term and positive ecological benefits for the site.

### **Reason 7**

In response to a letter issued by the Council, dated 8<sup>th</sup> January 2013, which covered various matters relating to the application proposals, information, see **Document 4**, was submitted to the Council under cover of our letter of 21<sup>st</sup> January 2013.

Amongst other things, this information addressed the Council's request that details be provided to set out the proposed surface water drainage and SUDs arrangements. The specific detail of the information, which was provided to the Council in this regard, is set out within **Document 17**.

Following the submission of this information, no further response was received from the Council indicating that the drainage information, which had been provided, did not meet with their requirements. Had the Council indicated that this information was, for whatever reason, insufficient for their purposes, the necessary further information would have been prepared and submitted timeously to the Council.

Consequently, it is considered to be both unreasonable and unjustifiable to seek to support the refusal of this application on the basis of the applicants failure to demonstrate that surface water discharges for the site can be suitably dealt with given that at no time were we made aware that the information on this matter that had been submitted to the Council did not meet with their requirements.

## 6.0 SUMMARY

It is my respectful submission that the Council have failed to provide sufficient information to support and justify their stated reasons for the refusal of this planning application.

On matters relating to the impact of the proposed development upon the wider SINC designation of which the Application Site forms only a small, the only relevant field survey information which is before this Review is that which has been prepared in support of the application proposals, the terms of which clearly demonstrate that the proposed development will have no adverse impact upon this wider designation, with the only identifiable impacts being positive rather than negative.

In the absence of up to date field based survey information which demonstrates the extent of any identifiable and adverse impacts arising from the development, it is wholly unreasonable for the Council to seek to rely solely upon the wording of the development plan policy to justify the refusal of this application.

It is also of material relevance to note that Scottish Natural Heritage have not objected to the proposed development.

With regards to the open space value of the Application Site, it is my position that far from reducing the value of the site, the proposed development will lead to an overall improvement in the general usability of the site in respect of those activities which presently take place thereon and that as such, the impact of the proposed development should be regarded as being positive rather than negative, with the proposed development providing for a level of open space which far exceeds the level that would be required for a development of this scale.

With regards to the nature of the character of the proposed development, it is considered unreasonable to criticise the proposed development on the basis that it is of a different scale and design to that which is reflected within the surrounding area as to do so would lead to the conclusion that the only form of acceptable development for this or indeed any other site would be one that simply copies that of the surrounding area. Such an approach to new development would be to the detriment of advancing technologies and building methods and would stifle new and innovative designs.

**Taking into account all of those matters set out above, I would respectfully request that the Local Review Body uphold this Review and in so doing, grant planning permission pursuant to planning application reference P/12/0718/FUL.**

## APPENDIX 1

## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)  
ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS



**Falkirk Council**

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

**IMPORTANT:** Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review. Please note that the guidance notes are issued by the Scottish Government. They apply to planning authorities generally and not specifically to Falkirk Council

In terms of the Act and regulations referred to above, Falkirk Council's Planning Review Committee sits as the "local review body".

Please use BLOCK CAPITALS if completing by hand.

### Applicant(s)

Name	Stuart Anderson
Address	60 Union Street Bo'ness
	Postcode: EH51 9AQ
Tel	
Mobile	
Fax	
e-mail *	

### Agent

Name	Andrew Bennie Planning Limited
Address	3 Abbots Court Dullatur
	Postcode: G68 0AP
Tel	
Mobile	
Fax	
e-mail *	

Mark this box to confirm all contact should be through your agent or representative: ☒

\* Do you agree to correspondence regarding your review being sent by e-mail? Yes ☒ No ☐

Planning authority's application reference number

P/12/0718/FUL

Site address

Description of proposed development

Land lying to the east of 44 Rodel Drive, Polmont

Erection of 6 dwellinghouses and associated roads and landscaping

Date planning application declared  
valid by Planning Authority

27/11/12

Date of Decision (Leave blank if  
appeal against non-determination

15/2/13

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

### Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

### Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

## Review procedure

The Planning Review Committee will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you consider that the review should be conducted by a combination of procedures. Please note, however, that the final decision as to procedure will rest with the Planning Review Committee.

1. Further written submissions
2. One or more hearing sessions
3. Site inspection
4. Assessment of review documents only, with no further procedure

☒  
☒  
☒  
☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Further procedures in both written form and by way of a hearing session are considered to be necessary in order to fully and properly explore the issues regarding the suggested value of the site in terms of wildlife and open space considerations, with an accompanied site inspection also being considered to be appropriate in relation to these issues.

Full details of our position on these matters is set out within the accompanying Statement in Support of Review.

## Site Inspection

In the event that the Planning Review Committee decides to inspect the review site, in your opinion:

1. Can the site be viewed entirely from public land?
2. Is it possible for the site to be accessed safely, and without barriers to entry?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If there are reasons why you think the Planning Review Committee would be unable to undertake an unaccompanied site inspection, please explain here:

In order to fully and properly set out the case in support of this view in relation to the suggested wildlife and open space value of the application site, an accompanied site inspection is considered to be appropriate.

## Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Planning Review Committee to consider as part of your review.

If the Planning Review Committee issues a notice requesting further information from any other person or body, copies of any such information received will be sent to you and you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State in the space provided the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with

this form.

Are you submitting a statement of reasons for review in a separate document?

Yes



No



#### Reasons for Notice of Review

Please refer to attached Statement in Support of Review

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes



No



Are you submitting additional documentation?



If you answer yes to either or both of the above questions, you should explain in the box below, why you are raising new material and/or introducing additional documentation, why it was not raised with or made available to the appointed officer before your application was determined and why you think it should now be considered in your review. Please note that it will be for the Planning Review Committee to decide whether or not all or any of the new material/additional documentation will be considered in the review.

#### List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1.	Please refer to attached Schedule of Documents
2.	
3.	
4.	
5.	