

FALKIRK COUNCIL

MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on THURSDAY 22 AUGUST 2013 at 9.30 A.M.

COUNCILLORS:

David Alexander
Baillie William Buchanan (Convener)
Steven Carleschi
Colin Chalmers
Adrian Mahoney
Craig Martin
Cecil Meiklejohn
John McLuckie (Depute Convener)
Malcolm Nicol
Alan Nimmo
Baillie Joan Paterson
Sandy Turner

OFFICERS:

John Angell, Head of Planning and Transportation
Kevin Collins, Transport Planning Co-ordinator
Ian Dryden, Development Manager
Rhona Geisler, Director of Development Services
Rose Mary Glackin, Chief Governance Officer
Iain Henderson, Legal Services Manager
Stuart Henderson, Environmental Health Officer
Roddy MacKenzie, Roads Development Officer
Antonia Sobieraj, Committee Officer
Russell Steedman, Network Co-ordinator

P54. APOLOGIES

No apologies were intimated.

P55. DECLARATIONS OF INTEREST

Baillie Buchanan declared a non financial interest in Item 7 (minute P63) by virtue of his relationship to the applicant through marriage in consequence of which he recused himself from consideration of the item, having regard to the objective test in the Code of Conduct.

Prior to consideration of business, the Member below made the following statement:-

- Councillor Mahoney informed the Committee that as he had not attended the site visit he would not take part in consideration of planning application P/10/0762/FUL (minute P65).

P56. REQUEST FOR SITE VISIT

Having heard a request by a Member for a site visit, the Committee agreed to the continuation of planning application P/13/0317/FUL.

P57. MINUTES

Decision

- (a) **The minute of the meeting of the Planning Committee held on 25 June 2013 was approved; and**
- (b) **The minute of the meeting of the Planning Committee held On Site on 5 August 2013 was approved.**

P58. ORDER OF BUSINESS

In terms of Standing Order 14.2(i), Baillie Buchanan advised of a variation to the order of business from that detailed on the agenda for the meeting. The following items have been recorded in the order that they were taken.

Councillor C Martin entered the meeting during consideration of the following item of business.

P59. DEMOLITION OF EXISTING BUILDINGS AND DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT CASTINGS COMMUNITY SPORTS AND SOCIAL CLUB, ETNA ROAD, FALKIRK FK2 9EG FOR MR MARK AGNEW - P/12/0543/PPP (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 June 2013 (Paragraph P46 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for planning permission in principle for the demolition of existing buildings and the development of land for residential purposes at Castings Community Sports and Social Club, Etna Road, Falkirk.

In accordance with Standing Order 38.1(x), the Convener gave consent to Provost Reid to speak in relation to this item of business, the said Member having duly given at least 24 hours notice.

Councillor Alexander, seconded by Councillor Meiklejohn, moved that the application be refused on the grounds that the proposal was contrary to Falkirk Council Local Plan Policies SC2 'Windfall Housing Development within the Urban/Village Limit', SC10 'Existing Community Facilities', SC11 'Developer Contributions to Community Infrastructure', and COM.6 'Open Space and Recreational Facilities' and the Culture and Leisure Strategy.

By way of an amendment, Councillor McLuckie, seconded by Councillor Mahoney, moved (a) that the application be continued (i) for further information on the method of calculation by Sportscotland in relation to the £40,000 developer contribution and what it is intended to achieve; (ii) for discussions on alternatives to provision at Dollar Park,

and (iii) to allow officers to have further discussions with the applicant on the opportunity for a mixed development, and (b) that any discussions on alternative provision to that proposed at Dollar Park should involve consultation with the local community.

On a division, 5 Members voted for the motion and 7 for the amendment.

Decision

The Committee agreed (a) to continue consideration for (i) further information on the method of calculation by Sportscotland in relation to the £40,000 developer contribution and what it is intended to achieve; (ii) for discussions on alternatives to provision at Dollar Park, and (iii) to allow officers to have further discussions with the applicant on the opportunity for a mixed development, and (b) that any discussions on alternative provision to that proposed at Dollar Park should involve consultation with the local community.

P60. THE FALKIRK COUNCIL (ON-STREET PARKING SPACE FOR DISABLED PERSONS) (No TRO/DB/13/027) ORDER 2013 - BORROWSTOUN PLACE, BO'NESS

The Committee considered a report by the Director of Development Services seeking a decision on the Falkirk Council (On-Street Parking Space for Disabled Persons) (No TRO/DB/13/027) Order 2013 to reserve a parking space for disabled persons at Borrowstoun Place, Bo'ness.

Decision

The Committee agreed to make the Traffic Regulation Order referred to in the Report noting that officers were asked to monitor use of the parking space and report back to Committee.

P61. THE FALKIRK COUNCIL (WAGGON ROAD, BRIGHTONS) (PROHIBITION OF WAITING) ORDER 2013

The Committee considered a report by the Director of Development Services seeking a decision on the Falkirk Council (Waggon Road, Brightons) (Prohibition of Waiting) Order 2013 to improve road safety in Waggon Road, Brightons, Falkirk.

Decision

The Committee agreed to make the Traffic Regulation Order referred to in the Report.

P62. FORMATION OF A MULTI USE GAMES AREA COURT (MUGA COURT) ON LAND TO EAST OF ARCHIBALD RUSSELL CENTRE, HAYPARK ROAD, HEAD OF MUIR FOR FALKIRK COUNCIL - P/12/0303/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 June 2013 (Paragraph P41 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said

Director on an application for full planning permission for the formation of a multi use games area court (MUGA Court) on land to the east of the Archibald Russell Centre, Haypark Road, Head of Muir.

With the consent of the meeting, a representative from the applicant, who was present as an observer at the meeting responded to Members questions.

Decision

The Committee agreed grant to planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of the permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2) Before the development is brought into use, the existing post and wire fence along Denny Road shall be repaired and re-tensioned and extended to the north, in accordance with the precise details submitted to and approved in writing by the Planning Authority.**
- (3) Before the development commences, the proposed arrangements for surface water drainage shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.**

Reason(s):-

- (1) As these drawings and details constitute the approved development.**
- (2) To help prevent stray balls from leaving the area.**
- (3) To ensure that adequate drainage is provided.**

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which the permission relates is begun before that expiration.**
- (2) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01, 02, 03, 04, 05, 06, 07, 08, 09 and 10.**

In accordance with his declaration of interest, Baillie Buchanan left the Chair and the meeting and took no part in consideration of the following item of business. Councillor McLuckie assumed the role of Convener.

Councillor Meiklejohn left the meeting prior to consideration of the following item of business.

P63. DEMOLITION OF DWELLINGHOUSE AND GARAGE AND ERECTION OF 2 DWELLINGHOUSES, DOMESTIC GARAGE AND GUEST HOUSE (CLASS 7) AT INCHES HOUSE, BELLSDYKE ROAD, LARBERT FK5 4EL FOR MR IAIN POLLOCK - P/13/0164/FUL

With reference to Minute of Meeting of the Planning Committee held on 25 June 2013 (Paragraph P47 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the demolition of a single storey dwellinghouse and a detached garage and the erection of two dwellinghouses, a domestic garage and a guest house (Class 7) at Inches House, Bellsdyke Road, Larbert.

Councillor McLuckie, seconded by Councillor Mahoney, moved that that the application be approved in accordance with the recommendations in the report and the inclusion of an additional condition relating to the provision of low level lighting along the access track.

By way of an amendment, Councillor Carleschi, seconded by Councillor Alexander, moved that the application be refused on the grounds of the adverse impact on road safety and on local primary schools.

On a division, 7 Members voted for the motion and 3 for the amendment.

Decision

The Committee agreed to grant planning permission subject to a condition requiring the provision of low level lighting along the access track and the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of the permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2)
 - (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.
- (3) Before works commence on-site, a surface water drainage strategy shall be submitted and agreed in writing by the Planning Authority.
- (4) Before occupation of the dwellings and/or guest house, visibility splays measuring 2.4 metres x 70 metres require to be provided in either direction from both accesses onto Bellsdyke Road. There shall be no obstruction above carriageway level within these splays.
- (5) Before occupation of the dwellings and/or guest house, visibility splays measuring 2.4 metres x 30 metres require to be provided in either direction from both accesses within the site onto the private access road to Bellsdyke Road. There shall be no obstruction above carriageway level within these splays.
- (6) Before work commences on-site, details of the proposed road calming measures on the private access track shall be submitted to and approved in writing by the Planning Authority.
- (7) Before works commence on-site, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
- (8) Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):-
 - (i) existing and finished ground levels in relation to a fixed datum, preferably ordnance;
 - (ii) existing landscaping features and vegetation to be retained and, in the case of damage, restored;
 - (iii) location and design, including materials, of walls, fences and gates; and
 - (iv) soft and hard landscaping works.
- (9) Before works commence on-site a tree survey of the site shall be submitted, detailing all tree species, heights, crown and root spread within the site boundary. Where relevant, any areas of construction which may affect the root zones of trees to be retained, shall have a method of

working/excavation and construction detailing to show how damage to the root system would be minimised.

- (10) Before the building is occupied, the car parking shown on the approved Plan shall be completed.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2) To ensure the ground is suitable for the proposed development.
- (3) To ensure that adequate drainage is provided.
- (4-6) To safeguard the interests of the users of the highway.
- (7) To safeguard the visual amenity of the area.
- (8-9) To safeguard the environmental amenity of the area.
- (10) To ensure that adequate car parking is provided.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01, 02, 03A, 04, 05, 06, 07, 08, 09 and 10A.
- (2) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which the permission relates is begun before that expiration.
- (3) The Roads Manager within Development Services should be contacted to obtain a Minor Roadworks Consent before forming a vehicular access onto the public road or undertaking any work on, or under, the public road.

Baillie Buchanan resumed the Convenership of the meeting following consideration of the foregoing item of business.

P64. ERECTION OF DWELLINGHOUSE WITH INTEGRAL GARAGE AT AONACH-MOR, GLEN ROAD, TORWOOD, LARBERT FK 5 4SN FOR MR AND MRS COMRIE - P/13/0265/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 June 2013 (Paragraph P45 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the erection of one detached one a half storey dwellinghouse with an internal garage at Aonach-Mor, Glen Road, Torwood, Larbert.

Councillor Turner, seconded by Councillor Alexander, moved that that the application be approved on the ground that a previous application at the site which had been approved was also outwith the village boundary.

By way of an amendment, Councillor Carleschi, seconded by Councillor Mahoney moved that Committee refuse the application in accordance with the recommendations in the report.

On a division, 4 Members voted for the motion and 7 for the amendment.

Decision

The Committee agreed to refuse planning permission for the following reasons:-

- (1) The proposal is considered contrary to Falkirk Council Structure Plan Policy ENV.1 ‘Countryside and Protected Areas’ - as the site is in a rural location and no essential justification for a dwellinghouse has been demonstrated.**
- (2) The proposal is considered contrary to Falkirk Council Local Plan Policy SC3 - ‘Housing Development in The Countryside’ and Policy EQ19 - ‘Countryside’ - as the site is in a rural location and no essential justification for a dwellinghouse has been demonstrated.**
- (3) The proposal is considered contrary to Falkirk Council Local Plan Policy SC8 - ‘Infill Development and Subdivision of Plots’ - as it would result in backland development, not respecting the townscape character of the area and, if approved, the application would represent an unwarranted precedent which could not be fairly resisted in similar application sites.**

Baillie Paterson and Councillors Carleschi and Mahoney left and re-entered the meeting during consideration of the following item of business.

P65. TEMPORARY STORAGE, TREATMENT AND DISTRIBTUION OF ORGANIC WASTE INCLUDING LIME TREATMENT AT JAWCRAIG BRICKWORKS, FALKIRK FK1 3AL FOR JAMES MCCAIG FARMS - P/10/0762/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Planning Committee held on 1 February and 25 June 2013 (Paragraphs P38 and P136 refer), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for the temporary storage, treatment and distribution of organic waste including lime treatment at Jawcraig Brickworks, Falkirk.

Decision

The Committee agreed to continue consideration of the application to allow officers to liaise with SEPA and to request their attendance at a forthcoming meeting of the Committee for the purpose of answering Members' questions on the terms of the licence and the conditions attached to it and for providing other pertinent information.

In accordance with the decision taking at the start of the meeting, the Committee noted the following item had been continued to a future meeting to allow an inspection of the site by Committee:-

P66. CHANGE OF USE OF OFFICE (CLASS 2) TO FORM HOT FOOD TAKE-AWAY (SUI GENERIS) AND EXTERIOR ALTERATIONS AT 11 MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR MR JATESH SANDHU - P/13/0317/FUL

Councillor Nimmo left and re-entered the meeting during consideration of the following item of business.

P67. DISPLAY OF NON-ILLUMINATED ADVERTISEMENT (RETROSPECTIVE) AT WM MORRISON SUPERMARKET PETROL FILLING STATION, HOPE STREET, FALKIRK FK1 5AT FOR WM MORRISON SUPERMARKETS PLC – P/13/0409/ADV

The Committee considered a report by the Director of Development Services on an application for the display of a non-illuminated advertisement (in retrospect) at the WM Morrison Supermarket Petrol Filling Station, Hope Street, Falkirk.

Councillor Turner, seconded by Councillor Alexander moved that Committee approve the application on a temporary basis until the re-opening of the bridge following the completion of the current building works on it and subject to appropriate conditions as determined by the Director of Development Services.

By way of an amendment, Councillor Mahoney, seconded by Councillor C Martin, moved that that the application be refused in accordance with the recommendations in the report.

On a division, 8 Members voted for the motion and 3 for the amendment.

Decision

The Committee agreed to grant advertisement consent on a temporary basis until the re-opening of the bridge following the completion of the current building works on it and subject to appropriate conditions as determined by the Director of Development Services.

Councillor Nicol left the meeting following consideration of the foregoing item of business.

P68. CONSTRUCTION OF A TRAINING AND MANAGEMENT CENTRE AND CARE HOME WITH ASSOCIATED INFRASTRUCTURE (RENEWAL OF PLANNING PERMISSION P/10/0215/PPP) ON LAND SOUTH OF TRYST HOUSE, GLENBERVIE BUSINESS PARK, LARBERT FOR BLUE WATER SCOTLAND LLP - P/13/0418/PPP

The Committee considered a report by the Director of Development Services on an application for planning permission in principle for the construction of a training and management centre and care home with associated infrastructure (renewal of planning permission P/10/215/PPP) on land south of Tryst House, Glenbervie Business Park, Larbert.

Decision

The Committee agreed to grant planning permission in principle subject to the following conditions:-

- (1) Plans and particulars of the matters specified below shall be submitted for consideration by the Planning Authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval. The specified matters are:-
 - (i) the siting of the building(s);
 - (ii) the design of the building(s);
 - (iii) the external appearance of the building(s);
 - (iv) details of the access arrangements;
 - (v) details of landscaping of the site; and
 - (vi) details of proposed boundary treatments.
- (2) As part of any application for Matters Specified in Conditions, details of the following shall be submitted to the Planning Authority and only the approved details shall be implemented:-
 - (i) siting, size, height, design and external appearance, including all external finishing materials, of the proposed development;
 - (ii) details of access arrangements;
 - (iii) details of all boundary fences;
 - (iv) details of surface water and foul drainage arrangements;
 - (v) details of landscaping of the site and future maintenance of landscaping; and
 - (vi) a scheme for protecting the new dwellinghouses from noise from transportation.
- (3) In the event that unexpected contamination is encountered following commencement of development, all work on the affected part of the site shall cease. The developer shall notify Falkirk Council immediately, carry out a contaminated land assessment and undertake necessary remediation works. Development shall not recommence without the prior written approval of Falkirk Council as Planning Authority.
- (4) No development shall commence on site until a Flood Risk Assessment including surface water drainage proposals with design calculations for

the range including 100 and 1000 year storm event period, has been submitted for the assessment of the Planning Authority.

- (5) Site access specification including visibility and parking provision shall be designed in accordance with the requirements of Falkirk Council Design Guidelines and Construction Standards for Roads in the Falkirk Council Area October 1998 as amended January 2000.

Reason(s):-

- (1) To ensure that the matters specified are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) act 2006.
- (2) To ensure that an appropriate level of detail is considered prior to work commencing on site.
- (3) To ensure the ground is suitable for the proposed development.
- (4) To assess the adequacy of drainage proposals in the context of the existing drainage network and potential flooding.
- (5) To ensure that satisfactory access and parking is provided.

Informative:-

- (1) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number 01.

Councillors Alexander and C Martin left the meeting prior to consideration of the following item of business.

P69. CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND ON LAND TO THE WEST OF 2 STEVENSON AVENUE, STEVENSON AVENUE, POLMONT, FALKIRK FOR MR ANDY CONWAY - P/13/0448/FUL

The Committee considered a report by the Director of Development Services on an application for full planning permission for the change of use from public open space to private garden ground on land to the west of 2 Stevenson Avenue, Polmont, Falkirk.

Decision

The Committee agreed to grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of the permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Prior to the start of work on site, soil sampling and analysis shall be undertaken, details of which shall be submitted to and approved in writing

by the Planning Authority. Where contamination is identified, a detailed remediation strategy should be submitted to and approved in writing by the Planning Authority. Any such required remediation work shall be completed prior to the commencement of development on the site.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2) To ensure the ground is suitable for the proposed development.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number 01B.
- (2) Further to the requirements of condition (2) above, in the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.
- (3) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the permission lapses on the expiration of a period of three years beginning with the date on which the permission is granted unless the development to which the permission relates is begun before that expiration.

Councillor Nicol re-entered the meeting following consideration of the foregoing item of business.

P70. ENGINEERING WORKS TO CREATE UNDERGROUND ATTENUATION STORAGE, ASSOCIATED INFRASTRUCTURE AND ACCESS AND BUNDING AT NORTH BROOMAGE PLAYING FIELDS, BROOMAGE CRESCENT, LARBERT FOR FALKIRK COUNCIL - P/13/0405/FUL

The Committee considered a report by the Director of Development Services on an application for full planning permission for engineering works to create underground attenuation storage, associated infrastructure and access and bunding at North Broomage Playing Fields, Broomage Crescent, Larbert.

Decision

The Committee agreed to continue consideration of this item of business to allow an inspection of the site by Committee.

Councillor Alexander re-entered the meeting prior to consideration of the following item of business.

Councillor C Martin re-entered the meeting during consideration of the following item of business but took no part in the decision.

P71. MODIFICATION OF PLANNING AGREEMENT ATTACHED TO PLANNING PERMISSION P/08/0296/FUL REMOVING THE REQUIREMENT TO MAKE A TRANSPORT CONTRIBUTION OF £550,000 ON LAND TO THE WEST OF 21 OLD MILL WAY, KIRKLAND DRIVE, STONEYWOOD FOR MACTAGGART AND MICKEL - P/13/0074/75M

The Committee considered a report by the Director of Development Services on an application for the modification of the Planning Agreement attached to planning permission P/08/0296/FUL removing the requirement to make a transport contribution of £550,000 on land to the west of 21 Old Mill Way, Kirkland Drive, Stoneywood.

Baillie Buchanan, seconded by Councillor Turner, moved that that the application be continued to allow an inspection of the site by Committee.

By way of an amendment, Councillor Mahoney, seconded by Councillor Chalmers, moved that the application be refused in accordance with the recommendations in the report.

On a division, 6 Members voted for the motion and 4 for the amendment.

Decision

The Committee agreed to continue consideration of this item of business to allow an inspection of the site by Committee.

P72. MODIFICATION OF PLANNING OBLIGATION UNDER SECTION 75 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 ENTERED INTO IN RELATION TO PLANNING PERMISSION F/96/0775 AS VARIED BY A FURTHER PLANNING OBLIGATION UNDER THE SAID SECTION 75 ENTERED INTO IN RELATION TO PLANNING PERMISSION F/2000/0316 WHICH MODIFICATION IS TO ALLOW THE ERECTION OF CERTAIN BUILDINGS ASSOCIATED WITH THE DEVELOPMENT PERMITTED BY FALKIRK COUNCIL IN TERMS OF PLANNING PERMISSION P/10/0617/FUL AND TO ALLOW THE USE OF THE SITE AFFECTED BY PLANNING PERMISSION P/10/0617/FUL FOR THE PURPOSES OF ALLOTMENT GARDENS INsofar AS AFFECTING THE SUBJECTS REGISTERED UNDER TITLE STG67476 ON LAND TO THE NORTH OF BEANCROSS FARM, THE HELIX, FALKIRK FOR FALKIRK COUNCIL - P/13/0293/75M

The Committee considered a report by the Director of Development Services on an application to modify an existing planning obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 to permit the development of allotments at the Helix site, Beancross Farm, Falkirk.

Decision

The Committee agreed to modify the Section 75 Obligation restricting the site in order to permit development as approved by planning permission P/10/0617/FUL.

FALKIRK COUNCIL

MINUTE of MEETING of the PLANNING COMMITTEE held ON SITE on MONDAY 2 SEPTEMBER 2013 commencing at 9.20 a.m.

COUNCILLORS:

Steven Carleschi
Colin Chalmers
Cecil Meiklejohn
John McLuckie (Convener)
Sandy Turner

OFFICERS:

Kevin Collins, Transport Planning Co-ordinator (for application P/13/0074/75M)
Ian Dryden, Development Manager
Allan Finlayson, Senior Planning Officer (for application P/13/0405/FUL)
Stuart Henderson, Environmental Health Officer (for applications P/13/0317/FUL and P/13/0405/FUL)
Stephen McClure, Planning Officer (for application P/13/0317/FUL)
John McPeake, Trainee Planning Officer (for application P/13/0405/FUL)
Antonia Sobieraj, Committee Officer
Russell Steedman, Network Co-ordinator
Brent Vivian, Senior Planning Officer (for application P/13/0074/75M)
Karen Quin, Solicitor

P73. APOLOGIES

Apologies were intimated on behalf of Baillies Buchanan and Paterson and Councillors Alexander, Mahoney, Nicol and Nimmo.

P74. CHANGE OF USE OF OFFICE (CLASS 2) TO FORM HOT FOOD TAKE-AWAY (SUI GENERIS) AND EXTERIOR ALTERATIONS AT 11 MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR MR JATESH SANDHU - P/13/0317/FUL

With reference to Minute of Meeting of the Planning Committee held on 22 August 2013 (Paragraph P66 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for a change of use of office (Class 2) to form a hot food takeaway (sui generis) and exterior alterations at 11 Maggie Woods Loan, Falkirk.

The Convener introduced the parties present.

The Planning Officer (S McClure) outlined the nature of the application.

Mr Sandhu, the applicant, was heard in relation to the application.

Mrs Finlay, on behalf of Bantaskine Residents Association, an objector, was heard in relation to the application.

Mrs McAngus, an objector, was heard in relation to the application.

The objections included the following issues:-

- The additional traffic to the area and the site;
- The increase in litter, odour and noise at the site;
- The close proximity to Falkirk High School and Bantaskine Primary Schools thereby attracting school children to another alternative to school meals; and
- The additional food takeaway within another commercial unit at the location.

Questions were then asked by Members of the Committee.

Councillor G Goldie, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 18 September 2013.

P75. ENGINEERING WORKS TO CREATE UNDERGROUND ATTENUATION STORAGE, ASSOCIATED INFRASTRUCTURE AND ACCESS AND BUNDING AT NORTH BROOMAGE PLAYING FIELDS, BROOMAGE CRESCENT, LARBERT FOR FALKIRK COUNCIL - P/13/0405/FUL

With reference to Minute of Meeting of the Planning Committee held on 22 August 2013 (Paragraph P70 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application for full planning permission for engineering works to create underground attenuation storage, associated infrastructure and access and bunding at North Broomage Playing Fields, Broomage Crescent, Larbert.

The Convener introduced the parties present.

The Senior Planning Officer (A Finlayson) outlined the nature of the application.

Mr Beales, the applicant's representative, was heard in relation to the application.

Questions were then asked by Members of the Committee.

Councillor Coleman, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 18 September 2013.

P76. MODIFICATION OF PLANNING AGREEMENT ATTACHED TO PLANNING PERMISSION P/08/0296/FUL REMOVING THE REQUIREMENT TO MAKE A TRANSPORT CONTRIBUTION OF £550,000 AT LAND TO THE WEST OF 21 OLD MILL WAY, KIRKLAND DRIVE, STONEYWOOD FOR MACTAGGART AND MICKEL - P/13/0074/75M

With reference to Minute of Meeting of the Planning Committee held on 22 August 2013 (Paragraph P71 refers), Committee gave (a) further consideration to a report by the Director of Development Services, and (b) considered an additional report by the said Director on an application the modification of the Planning Agreement attached to planning permission P/08/0296/FUL removing the requirement to make a transport contribution of £550,000 on land to the west of 21 Old Mill Way, Kirkland Drive, Stoneywood.

The Convener introduced the parties present.

The Senior Planning Officer (B Vivian) outlined the nature of the application.

Mr Ormond, the applicant's representative, was heard in relation to the application.

Questions were then asked by Members of the Committee.

Councillor McNally, as local Member for the area, was heard in relation to the application.

Councillor McCabe, as local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Planning Committee on 18 September 2013.

FALKIRK COUNCIL

Subject: CHANGE OF USE OF OFFICE (CLASS 2) TO FORM HOT FOOD TAKE-AWAY (SUI GENERIS) AND EXTERIOR ALTERATIONS AT 11 MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR MR JATESH SANDHU - P/13/0317/FUL

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk South

Depute Provost John Patrick
Councillor Colin Chalmers
Councillor Dennis Goldie
Councillor Gerry Goldie

Community Council: No Community Council

Case Officer: Stephen McClure (Planning Officer), Ext. 4702

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 22 August 2013 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This visit took place on 2 September 2013.
2. At the site meeting the specific unit was highlighted to Members, and a description of the proposal was then given, as well as an overview of the assessment of the proposal in terms of the relevant policies and material planning considerations. It was also noted that, within the site history, there had been previous proposals for hot food takeaways, although these had been withdrawn. It was also highlighted that the unit had received permission for a change of use to a Café (P/10/0858/FUL), although this permission had never been implemented. It was also noted that no objections had been received following consultation with the Falkirk Council Roads Unit and the Falkirk Council Environmental Protection Unit.

3. The applicant was in attendance and spoke in support of the proposal. It was stated by the applicant that the proposal was for a fish and chip shop. However, it was intended to offer a different product in that it would use healthy cooking methods and also sell pastas, salads etc. The applicant also stated that the proposal would create up to six jobs, and that it was an initial start up business directly owned by him. It was also confirmed that the intended opening hours would be from 12 midday to 10pm although the premises may close for a few hours between 2pm and 4/5pm if there was considered to be insufficient demand. The applicant also noted that he proposed to recycle as much of the unit's waste as possible, and would enquire about gaining all the relevant equipment and bins to do so.
4. Objectors to the proposal were heard in relation to the following points:
 - There was not another hot food shop required within the area;
 - There would be an unacceptable increase in traffic;
 - There would be an increase in litter;
 - There would be an increase in noise;
 - Would like to see a Chemists open within the units.
5. These issues raised in paragraph 4 above have been considered and assessed within the report, and were not found to warrant refusal of the application. The Road Units Officer present explained that the previous use as a DVLA office was considered in capacity terms to generate as much vehicular movement as the proposed hot food takeaway, and that there were 21 spaces available at the site. The Environmental Protection Unit Officer present also highlighted that they could consider the issue of litter now and in the future. It was also noted that the Environmental Protection Unit had not received any complaints about litter at the site.
6. Members enquired as to whether the hot food takeaway use could be altered between different types of hot food uses, and it was confirmed that this was the case. The issues of parking, littering and opening hours were again highlighted, although it was noted that these issues had already been considered by the relevant officers in relation to the objections. The issue of the nearby school was also highlighted by Members, although this had been assessed within the report and it was not seen as a material planning consideration that would warrant refusal of the proposal in this case. It should also be noted that in relation to the items above, Licensing legislation would also be involved in regards to any extended opening hours and proposals for litter collection.
7. Councillor Gerry Goldie as a Local Member in attendance intimated that there did not appear to be a problem with parking or access in the evening at the site, and that in relation to a proposal for a chemist, this had been turned down in the past by the relevant NHS body. However, it was also stated that this was not a material consideration in regards to the current proposal. It was also highlighted that the unit along with two other units at the site have been empty for an extended period of time.
8. Councillor Goldie also enquired as to the further details in respect of the proposed extraction system to be used. It was explained by the Environmental Health officer that the proposed extraction system was suitable for this type of unit, and would ensure that both the noise of the actual extraction system and odours produced would be kept under control and not cause a nuisance to neighbours.

9. No matters were therefore considered to have been raised at the site visit that would amend the original recommendation to grant planning permission.

10. RECOMMENDATION

- 10.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-**

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- (2) Anti-vibration fixings shall be utilised where appropriate with the cooking odour extraction system equipment. A plan of the final layout of the cooking odour extraction system, including the details of the fixings, shall be submitted to and approved in writing by the Planning Authority prior to work commencing on-site.**

Reason(s):-

- (1) As these drawings and details constitute the approved development.**
- (2) To safeguard the environmental amenity of the area.**

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.**
- (2) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.**
- (3) Any plant or equipment associated with the completed development should be sited and operated in such a manner as to prevent any noise/odour nuisance occurring at nearby dwellings. If complaints are received about noise/odour from the development, the Environmental Health Unit would be obliged to investigate and take action as necessary if the complaints were found to be justified under Statutory Nuisance legislation contained in the Environmental Protection Act 1990.**

- (4) Separate formal Advertisement Consent may be required for any signs associated with the proposed development. It is the applicant's responsibility to obtain this before any signs are displayed on site. For advice please contact Falkirk Council Development Management, Abbotsford House, David's Loan, Falkirk, FK2 7YZ (tel: 01324 504748).

Pp

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan April 2013).
4. Letter of Objection received from Depute Provost John K Patrick, john.patrick@falkirk.gov.uk on 27 May 2013.
5. Letter of Objection received from Bantaskine Tenants Residents Association, 21 Shannon Drive, Falkirk, FK1 5HU on 30 May 2013.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

FALKIRK COUNCIL

Subject: CHANGE OF USE OF OFFICE (CLASS 2) TO FORM HOT FOOD TAKE-AWAY (SUI GENERIS) AND EXTERIOR ALTERATIONS AT 11 MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR MR JATESH SANDHU - P/13/0317/FUL

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk South

Depute Provost John Patrick
Councillor Colin Chalmers
Councillor Dennis Goldie
Councillor Gerry Goldie

Community Council: No Community Council

Case Officer: Stephen McClure (Planning Officer), Ext. 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of a small commercial unit located within a row of commercial/retail units with flatted dwellings above, in a mainly residential area of Falkirk. The unit was previously used by the DVLA for office use (Class 2), but is currently vacant. It is now being proposed to change the use of the property to a hot food takeaway.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Colin Chalmers and Depute Provost John Patrick.

3. CONSULTATIONS

- 3.1 The Roads Development Unit has no objection to the proposal.
- 3.2 The Environmental Protection Unit has no objection to the proposal. However, it has been requested that the applicant ensures that anti-vibration fixings are utilised where appropriate with the cooking odour extraction equipment. This can be conditioned where necessary.

4. SITE HISTORY

- 4.1 P/10/0172/FUL - change of use from class 2 retail (office) to hot food takeaway - application withdrawn.
- 4.2 P/10/0858/FUL - change of use from office (class 2) to cafe (class 3) - granted permission
- 4.3 P/12/0520/FUL - change of use of office (class 2) to hot food take-away (sui generis) - application withdrawn.
- 4.4 P/13/0032/FUL - change of use of office (class 2) to form hot food take-away (sui generis) - application withdrawn.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council active in this area.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, two contributors submitted letters to the Council. The salient issues are summarised below:
 - Will add additional traffic to the area.
 - Will add additional litter and create unwelcome odours.
 - Close proximity to Falkirk High School and Bantaskine Primary School will attract school children to another alternative to school meals.
 - Not required as there is already a hot food takeaway in one of the other commercial units.
 - Would cause an increase in cars to the site.
 - Would increase the rubbish at the site.
 - Would create noise at the site.

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 There are no relevant policies within the Falkirk Council Structure Plan.

Falkirk Council Local Plan

7a.2 Policy EQ11 'Shopfronts' states:

- “(1) The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part. The retention and restoration of existing traditional shopfront features such as stallrisers, pilasters, cornices, friezes and mouldings will be required; and*
- (2) External security measures should not detract from the character of the building or the area in general. Where such measures are necessary, there will be a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.”*

7a.3 There are only minor alterations proposed to the shop front, and these are well-proportioned and sympathetic to the character of the existing building. No new security measures are being proposed for the unit, and the extract duct to the rear of the unit has been positioned to ensure it is not visually intrusive. It is therefore considered that the proposal accords with Policy EQ11.

7a.4 Policy EP9 - 'Food And Drink' states:

“Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in other locations where they are capable of serving a tourism function. It must also be demonstrated that:

- (1) There will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (2) In the case of proposals within a centre, the proposal is consistent with the specific policies covering the relevant centre, particularly with regard to safeguarding the centre's retail function; and*
- (3) Parking, access and traffic generation requirements are satisfied.”*

7a.5 The proposed hot food takeaway would be located within a grouping of neighbourhood shops. It is not considered that the proposal would have an adverse effect on the amenity of adjacent residential properties, or the surrounding area in terms of noise, disturbance, litter or odours. The Environmental Protection Unit have not objected to the proposal, and are satisfied that the proposed extraction equipment would be sufficient in controlling odour. If any of these matters, including odours became an issue, the Environmental Protection Unit would investigate and, where necessary, could take the relevant action. During the assessment of the application, no issues were highlighted in relation to the current operating shop units and hot food takeaway unit, and it is not considered the proposed unit would operate any differently, or raise any additional matters. Parking, access and traffic generation are considered to be satisfied, as the units have dedicated parking and access. It is therefore considered that the proposal accords with Policy EP9.

7a.6 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

- 7b.1 The material consideration to be assessed are public representations and the Falkirk Local Development Plan (Proposed Plan).

Assessment of Public Representations

- 7b.2 It is considered that the proposal would not create an unacceptable level of additional traffic to the area. The Roads Development Unit raise no concerns and the property shares the dedicated parking and access for the grouping of neighbourhood shops.
- 7b.3 There is no evidence to show that the proposal would increase litter in the area, and the Environmental Protection Unit have assessed the proposed extraction system, to ensure odours are properly controlled. If either became an issue, the Environmental Protection Unit could investigate and take action if appropriate.
- 7b.4 The location in relation to schools was not considered to be unacceptable, and would not in this case be seen to be a material consideration which would warrant refusal of the proposal.
- 7b.5 The presence of another hot food business at this particular location is not a material planning consideration, and therefore cannot be taken into account in the assessment of the proposal.
- 7b.6 It is not considered that the proposal would create an unacceptable increase in cars to the site. The Roads Development Unit have not objected to the proposal, and the site has the benefits of a dedicated car park and access.
- 7b.7 There is no evidence to show that the proposal would cause unacceptable noise issues at the site or to the surrounding area. If noise did become an issue for any reason, the Environmental Protection Unit could investigate and take action if necessary.

Falkirk Local Development Plan - Proposed Plan

- 7b.8 The Proposed Falkirk Local Development Plan was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.9 Policy TC04 - 'Food and Drink' states:
1. *Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in locations where they are capable of fulfilling a tourism function.*
 2. *Proposals must demonstrate that there will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours, and that parking and access requirements are satisfied.*
 3. *Temporary consent for mobile snack bar vans may be granted where a specific need is demonstrated, and there is no adverse impact on local amenity or the visual quality of the locality*

7b.10 Policy D06 - 'Shopfronts' states:

"The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part, as specified within Supplementary Guidance SG04 'Shopfronts'."

7b.11 Policy TC04 Food and Drink and Policy D06 Shopfronts - The relevant policies contained within the Falkirk Local Development Plan (Proposed Plan April 2013) are considered to highlight the same issues as those within the current adopted plan. There are no considerations within the policies which would cause the proposal to be assessed in a different manner, or justify a refusal of planning permission. It is therefore considered that the proposal accords with Policies TC04 and D06 of the Falkirk Local Development Plan (Proposed Plan April 2013).

7c Conclusion

7c.1 It is considered that the proposal is acceptable development, is in accordance with Policies EQ11 and EP9 of the Falkirk Council Local Plan and Policies TC04 and D06 of the Falkirk Local Development Plan (Proposed Plan April 2013). There are no material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Anti-vibration fixings shall be utilised where appropriate with the cooking odour extraction system equipment. A plan of the final layout of the cooking odour extraction system, including the details of the fixings, shall be submitted to and approved in writing by the Planning Authority prior to work commencing on-site.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2) To safeguard the environmental amenity of the area.

Informative(s):-

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

- (2) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (3) Any plant or equipment associated with the completed development should be sited and operated in such a manner as to prevent any noise/odour nuisance occurring at nearby dwellings. If complaints are received about noise/odour from the development, the Environmental Health Unit would be obliged to investigate and take action as necessary if the complaints were found to be justified under Statutory Nuisance legislation contained in the Environmental Protection Act 1990.
- (4) Separate formal Advertisement Consent may be required for any signs associated with the proposed development. It is the applicant's responsibility to obtain this before any signs are displayed on site. For advice please contact Falkirk Council Development Management, Abbotsford House, David's Loan, Falkirk, FK2 7YZ (tel: 01324 504748)

Pp

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan April 2013).
4. Letter of Objection received from Depute Provost John K Patrick, john.patrick@falkirk.gov.uk on 27 May 2013.
5. Letter of Objection received from Bantaskine Tenants Residents Association, 21 Shannon Drive, Falkirk, FK1 5HU on 30 May 2013.

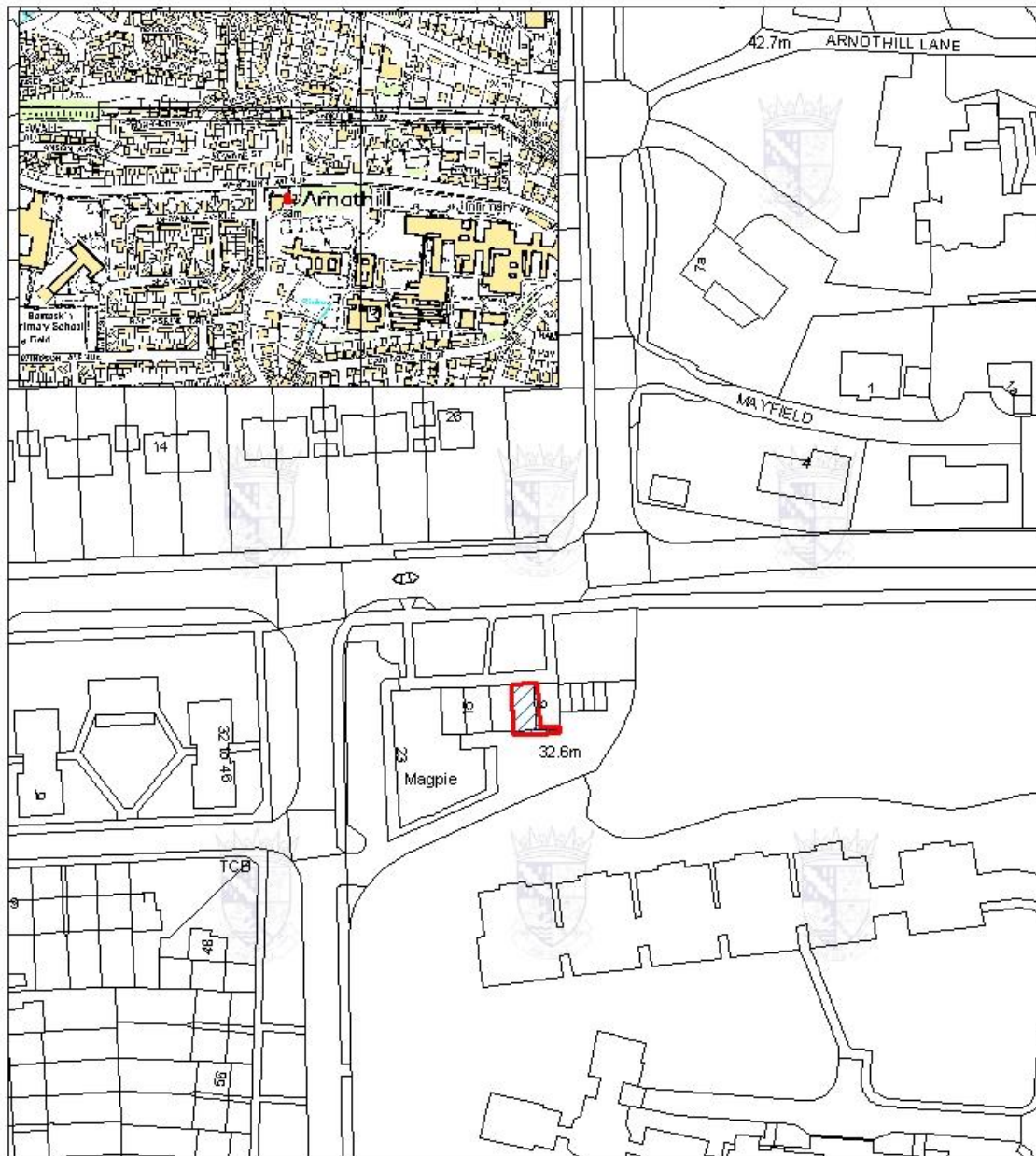
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

Planning Committee

Planning Application Location Plan

P/13/0317/FUL

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



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FALKIRK COUNCIL

Subject: ENGINEERING WORKS TO CREATE UNDERGROUND ATTENUATION STORAGE, ASSOCIATED INFRASTRUCTURE AND ACCESS AND BUNDING AT NORTH BROOMAGE PLAYING FIELDS, BROOMAGE CRESCENT, LARBERT FOR FALKIRK COUNCIL - P/13/0405/FUL

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert

Baillie Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 22 August 2013 (copy of previous report appended) where it was agreed to continue the application for a site visit. This visit took place on 2 September 2013.
2. At the site visit, the case officer summarised his report. As the applicant was Falkirk Council and no other interested parties were in attendance the meeting moved to hear questions from the Planning Committee.
3. Members of the Planning Committee raised questions relating to the need for the proposed flood water attenuation and its purpose. An engineering representative of Falkirk Council Development Services explained the history of flooding at this site and that this had previously led to the temporary relocation of householders where homes had been flooded. The proposed works were considered necessary to prevent a re-occurrence of this happening in the future. It was also explained that the area was considered susceptible to future flooding as it was at greater risk than the acceptable 1 in 200 year flood event calculations made by SEPA.
4. Further questions were raised by Councillor Coleman as a Local Member. These questions sought additional clarification of previous flood episodes, technical aspects of the proposed water attenuation infrastructure and the relationship of the site to surface water handling at the nearby Forth Valley Hospital. The Council's engineering representative has subsequently confirmed that a water level sensor will be installed in the Chapel Burn to allow early warning of rising water levels. In addition it has been confirmed that water attenuation provision at the

Forth Valley Hospital and additional technical alterations to the Chapel Burn at the Hospital site has resulted in an overall reduction in peak water flows leaving the Hospital site in the direction of the application site under consideration by Members. It is considered that these off site measures will further limit the potential for the application site to flood.

5. The previous recommendation to grant planning permission is re-iterated in paragraph 6 below as it is considered that no issues were raised at the site visit that would alter this recommendation.

6. RECOMMENDATION

- 6.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) Prior to the commencement of development a phasing and implementation programme shall be submitted for the written approval of Falkirk Council including amendments as required. The phasing programme shall confirm the anticipated commencement date, duration of works and completion date. The programme shall also provide details of measures to allow continued pedestrian circulation in the vicinity of the site.
- (2) Prior to the commencement of works details of the restoration of the site and replacement landscaping specifications, including a programme of implementation, shall be submitted for the written approval of the Planning Authority including amendment as required.

Reason(s):-

- (1) To control the approved development.
- (2) In the interests of environmental amenity.

Informative(s):-

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

.....
Pp Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.

3. Falkirk Local Development Plan (Proposed Plan) April 2013.

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

APPENDIX 1

FALKIRK COUNCIL

Subject: ENGINEERING WORKS TO CREATE UNDERGROUND ATTENUATION STORAGE, ASSOCIATED INFRASTRUCTURE AND ACCESS AND BUNDING AT NORTH BROOMAGE PLAYING FIELDS, BROOMAGE CRESCENT, LARBERT FOR FALKIRK COUNCIL - P/13/0405/FUL

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert

Baillie Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The proposed development is the formation of underground surface water attenuation storage with associated access, hardstanding and infrastructure.
- 1.2 The site of the proposed development is at North Broomage Playing fields immediately to the east of Broomage Crescent, Larbert.
- 1.3 The development is proposed by Falkirk Council, the applicant, to alleviate historic flooding of the Chapel Burn which affects the surrounding area.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Falkirk Council is the applicant and proposes to implement the development if approved.

3. SITE HISTORY

- 3.1 No relevant planning history for the site or its immediate surroundings.

4. CONSULTATIONS

- 4.1 No consultations were issued in relation to the proposed development.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council have not made comment on the application.

6. PUBLIC REPRESENTATION

- 6.1 No objections have been made in response to neighbour notification or press advertisement.
- 6.2 During assessment of the application an enquiry was received from a resident of the area. The enquiry sought clarification of the period of closure of the North Broomage Playing Fields during the period of the works, the timescale for works commencing and completion, visible above ground structures and any permanent loss of playing fields.
- 6.3 The applicant has responded directly to the enquirer clarifying the likely period of construction and the proposed structures.
- 6.4 There would be minimal changes to existing ground levels with no obvious above ground changes. No loss of the existing playing fields would result, following the completion of development.

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 There are no relevant policies within the Falkirk Council Structure Plan

Falkirk Council Local Plan

- 7a.2 Policy SC12 - 'Urban Open Space' states:

"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with

particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) In the case of recreational open space, it can be clearly demonstrated from a settlement and neighbourhood audit that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded.”*

7a.3 The development is proposed on an area of overgrown passive open space cut through by footpaths to the south of the North Broomage playing fields. The footpaths would be re-instated on completion of development and no loss of open space would result. Details of proposed replacement landscaping would be required by planning condition, if permission is granted.

7a.4 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.5 The development is proposed to alleviate historic flooding of the Chapel Burn at this location. Falkirk Council, as Flooding Authority, has a responsibility for flood management and mitigation. It is considered that implementation of the development would resolve flooding occurrences at the site.

7a.6 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the policies of the emerging Falkirk Local Development Plan.

7b.2 The Proposed Falkirk Local Development Plan was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

7b.3 The following policies of the emerging Falkirk Local Development Plan are relevant to the assessment of the application under consideration.

7b.4 Policy INF03 - 'Protection of Open Space' states:

"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value. Accordingly:

1. *Development involving the loss of urban open space will only be permitted where:*
 - *There is no adverse effect on the character or appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
 - *There will be no significant adverse effect on the overall recreational amenity of the local area, taking account of the Council's open space standards (defined within the Open Space Strategy) and its release for development will be compensated for by qualitative improvements to other parts of the green network in the local area;*
 - *The area is not of significant ecological value (this can include areas that are not specifically designated for ecological features, but which are important in supporting the qualifying features of Natura 2000 sites); and*
 - *Connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.*
2. *Where development would also involve the loss of playing fields or sports pitches, it must additionally be demonstrated that:*
 - *The proposed development is ancillary to the principal use of the site as a playing field; or*
 - *The proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training; or*
 - *The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area; or*
 - *The Council's pitch strategy has shown that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision."*

7b.5 Policy RW05 - 'The Water Environment' states:

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

1. *The Council will support the development of measures identified within the Forth Area River Basin Management Plan designed to improve the ecological status of the water environment;*
2. *Opportunities to improve the water environment by: opening out previously culverted watercourses; removing redundant water engineering installations; and restoring the natural course of watercourses should be exploited where possible;*
3. *There will be a general presumption against development which would have a detrimental effect on the integrity and water quality of aquatic and riparian ecosystems, or the recreational amenity of the water environment, or which would lead to deterioration of the ecological status of any element of the water environment. Where appropriate, development proposals adjacent to a waterbody should provide for a substantial undeveloped and suitably*

landscaped riparian corridor to avoid such impacts;

4. *There will be a general presumption against any unnecessary engineering works in the water environment including new culverts, bridges, watercourse diversions, bank modifications or dams; and*
5. *The water environment will be promoted as a recreational resource, (subject to the requirements of policy GN03 (1) for Natura 2000 Sites), with existing riparian access safeguarded and additional opportunities for ecological enhancement, access and recreation encouraged where compatible with nature conservation objectives.”*

7b.6 Policy RW06 - ‘Flooding’ states:

- “1. *Development on the functional flood plain should be avoided. In areas where there is significant risk of flooding (including flooding up to and including a 1 in 200 year flood event) development proposals will be assessed against advice and the Risk Framework in the SPP relating to flooding and drainage. There will be a presumption against new development which would:*
 - *be likely to be at risk of flooding;*
 - *increase the level of risk of flooding for existing development;*
 - *be likely to require high levels of public expenditure on flood protection works; or*
 - *result in a use more vulnerable to flooding or with a larger footprint than any previous development on site.*
2. *Development proposals on land identified as being at risk from flooding, or where other available information suggests there may be a risk, will be required to provide a flood risk assessment that demonstrates that:*
 - *any flood risks can be adequately managed both within and outwith the site;*
 - *an adequate allowance for climate change and freeboard has been built into the flood risk assessment;*
 - *access and egress can be provided to the site which is free of flood risk; and*
 - *water resistant materials and forms of construction will be utilised where appropriate.*
3. *Where suitably robust evidence suggests that land contributes or has the potential to contribute towards sustainable flood management measures development will only be permitted where the land’s sustainable flood management function can be safeguarded.”*

7b.7 The policies of the proposed Falkirk Local Development Plan further evolve the relevant policies of the extant Falkirk Council Local Plan. The proposed development is considered to accord with all relevant policies of the proposed Falkirk Local Development Plan.

7c Conclusion

- 7c.1 The proposed development has demonstrated compliance with all relevant Development Plan policies.
- 7c.2 No objections or adverse comments have been made in relation to the proposed development.
- 7c.3 There are no material considerations which would justify setting aside policies of the Development Plan and refusing planning permission.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following conditions:-

- (1) Prior to the commencement of development a phasing and implementation programme shall be submitted for the written approval of Falkirk Council including amendments as required. The phasing programme shall confirm the anticipated commencement date, duration of works and completion date. The programme shall also provide details of measures to allow continued pedestrian circulation in the vicinity of the site.**
- (2) Prior to the commencement of works details of the restoration of the site and replacement landscaping specifications, including a programme of implementation, shall be submitted for the written approval of the Planning Authority including amendment as required.**

Reason(s):-

- (1) To control the approved development.**
- (2) In the interests of environmental amenity.**

Informative(s):-

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

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

- 1. Falkirk Council Structure Plan.**
- 2. Falkirk Council Local Plan.**
- 3. Falkirk Local Development Plan (Proposed Plan) April 2013.**

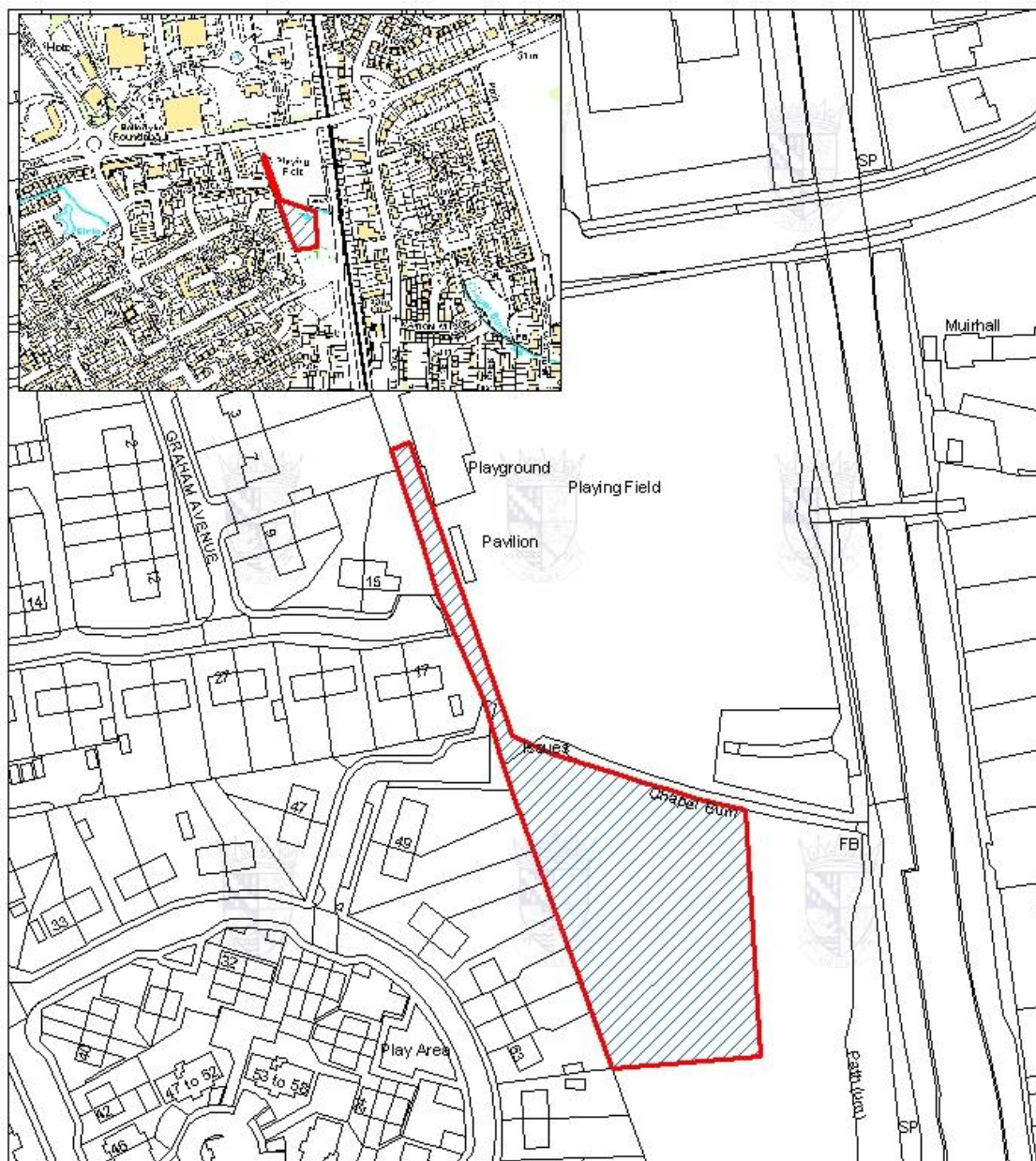
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/13/0405/FUL

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



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FALKIRK COUNCIL

Subject: MODIFICATION OF PLANNING AGREEMENT ATTACHED TO PLANNING PERMISSION P/08/0296/FUL REMOVING THE REQUIREMENT TO MAKE A TRANSPORT CONTRIBUTION OF £550,000 AT LAND TO THE WEST OF 21 OLD MILL WAY, KIRKLAND DRIVE, STONEYWOOD FOR MACTAGGART & MICKEL - P/13/0074/75M

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock

Councillor Jim Blackwood
Councillor Brian McCabe
Councillor John McNally
Councillor Martin David Oliver

Community Council: Denny and District

Case Officer: Brent Vivian (Senior Planning Officer), Ext. 4935

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 22 August 2013 (copy of previous report appended), when it was agreed to continue the application for a site visit. The site visit took place on 2 September 2013.
2. At the site visit, the case officer summarised his report, the applicant presented their case and Local Members were heard.
3. The case officer considered that this application is premature and noted that a planning application submitted by Bett Homes, which includes provision of a roundabout at the junction of Nethermaines and Glasgow Roads, has not yet been determined. He considered that the interests of the applicant are well protected by the existing terms of the Section 75 planning obligation which includes a pay back clause if the agreed transport contribution is not used towards provision of a roundabout at the Nethermaines Road/Glasgow Road junction.

4. The applicant explained that they consider there have been two changes in circumstances since the planning obligation for their site at the former Carrongrove Paper Mill was agreed. These circumstances relate to abnormal costs for foundation piling and, most notably, the planning application submitted by Bett Homes. The applicant considered that a commitment by Bett Homes to deliver the roundabout at the junction of Nethermaines and Glasgow Road obviates the need for the Section 75 Planning Obligation to include the transport contribution previously agreed.
5. Local Members Councillors McNally and McCabe stressed that delivery of the Denny Eastern Access Road (DEAR) is desperately needed in order to alleviate pressure on Denny Cross and Denny Town Centre. They suggested that even delivery of a roundabout at Nethermaines Road/Glasgow Road would be of great benefit and the mini-roundabout constructed by the applicant at the junction of Stirling Street and Nethermaines Road has helped the situation.
6. It can be confirmed that the Section 75 planning obligation specifically links the use of the agreed transport contribution to funding of a roundabout at the junction of Nethermaines Road and Glasgow Road. As detailed in the Committee report dated 22 August 2013, the planning obligation includes a provision stating:-

"The Transport Contribution shall be refunded by the Council to the party that made the payment in question to the extent that the Transport Contribution has not been disbursed by the Council towards the provision of a roundabout at the junction of Nethermaines Road and Glasgow Road, Denny within 10 years of the date of receipt of the last installation of such payment by the Council".

7. It is considered that no new issues were raised at the site visit that would alter the previous recommendation to refuse to modify the planning obligation. The previous recommendation is therefore reiterated as follows:
8. **It is therefore recommended that the Planning Committee refuse to modify the Planning Obligation attached to planning permission P/08/0296/FUL for the following reason(s):-**
 - (1) **The agreed transport contribution forming part of the Section 75 Planning Obligation is considered to meet the relevant tests as set out in Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements).**
 - (2) **Granting the application would be contrary to Policy TRANS.3 of the Falkirk Council Structure Plan and Policy ST7 of the Falkirk Council Local Plan, which require the identification of suitable measures to mitigate the impact of development proposals on the road network.**
 - (3) **Granting the application is not supported by Falkirk Council's Supplementary Planning Guidance Note for Delivery of Denny Eastern Access Road (DEAR), which sets out a cost sharing approach to the funding of DEAR based on the level of the traffic impact of each development as a percentage of the overall traffic impact from all of the proposed development sites in the area on Denny Cross and/or DEAR. The contribution of the proposed development to the overall traffic impact was identified and agreed in the assessment of planning application P/08/0296/FUL.**

- (4) It has not been demonstrated that there has been any change of circumstances to justify granting the application contrary to the terms of the Falkirk Council Development Plan.

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan.
4. Falkirk Council's Supplementary Planning Guidance Note (SPG) for Delivery of Denny Eastern Access Road (DEAR).
5. Planning Circular 3/2012 : Planning Obligations and Good Neighbour Agreements.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

FALKIRK COUNCIL

Subject: MODIFICATION OF PLANNING AGREEMENT ATTACHED TO PLANNING PERMISSION P/08/0296/FUL REMOVING THE REQUIREMENT TO MAKE A TRANSPORT CONTRIBUTION OF £550,000 AT LAND TO THE WEST OF 21 OLD MILL WAY, KIRKLAND DRIVE, STONEYWOOD FOR MACTAGGART & MICKEL - P/13/0074/75M

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock

Councillor Jim Blackwood
Councillor Brian McCabe
Councillor John McNally
Councillor Martin David Oliver

Community Council: Denny and District

Case Officer: Brent Vivian (Senior Planning Officer), Ext. 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks a modification to the Planning Obligation attached to planning permission P/08/0296/FUL for the redevelopment of the former Carrongrove Paper Mill, Stoneywood, to provide for a mixed use development including 182 residential units. Phase 1 of the new development, for 27 affordable housing units and new road infrastructure, is currently under construction.
- 1.2 The Planning Obligation binds the applicant to make phased payments in relation to education, recreational facilities and off-site cyclepath and road infrastructure. The total value of the financial contributions secured by the Planning Obligation is £1,101,750 (which is subject to increase by indexation).
- 1.3 The application seeks removal of the provisions of the Planning Obligation which relate to the transport contribution (£550,000). Clause 3 of the Planning Obligation provides for staged payments of the transport contribution and also includes a provision which states that:

"The Transport Contribution shall be refunded by the Council to the party that made the payment in question to the extent that Transport Contribution has not been disbursed by the Council towards the provision of a roundabout at the junction of Nethermain Road and Glasgow Road, Denny within 10 years of the date of receipt of the last installation of such payment by the Council".

The provision of a roundabout at the junction of Nethermain Road and Glasgow Road forms part of the infrastructure works to deliver the Denny Eastern Access Road (DEAR).

- 1.4 The staged payments of the transport contribution are tied to the occupation of Mainstream Units (as opposed to Affordable Units) and subsequent anniversary dates of the preceding payment. As Phase 1 of the development currently under construction is for affordable housing, no installments of the transport contribution have been received yet.
- 1.5 The applicant has submitted that the reasons for the application relate to:-
 - (a) Two material changes in circumstances, being an increase in abnormal development costs associated with Phase 1 piling and a planning application by Bett Homes which includes part construction of the Denny Eastern Access Road (DEAR) and specifically the delivery of a new roundabout at the Nethermain Road/Glasgow Road junction (see paragraph 3.5 below); and
 - (b) The transport contribution fails to meet the relevant tests for Planning Obligations made under Section 75 of the Town and Country Planning (Scotland) Act 1997.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as the application to which the Planning Obligation relates (Ref : P/08/0296/FUL) was considered by the Planning Committee on 24 February 2010. An update report was subsequently considered by the Planning Committee on 2 November 2011. In both cases the Committee decided they were minded to grant planning permission subject to several matters being concluded, including the satisfactory completion of a Section 75 Planning Obligation.

3. SITE HISTORY

- 3.1 Planning application ref : P/08/0296/FUL for the redevelopment of a former paper mill to provide 129 dwellinghouses and 53 flats, 750m² of commercial floorspace, road infrastructure including a new roundabout, open space, landscaping, woodland management, public path provision and conversion of a Listed Building to business use was granted in May 2012, following the satisfactory completion of a Section 75 Planning Obligation.
- 3.2 Listed building consent ref : P/08/0488/LBC for external and internal alterations to Carrongrove House was approved in April 2009.
- 3.3 Planning application ref : P/12/0364/VRC to vary condition 33 of planning permission P/08/0296/FUL, to allow occupation of the Phase 1 affordable housing units prior to construction of a mini-roundabout at the junction of Stirling Street and Nethermain Road, was refused by the Planning Committee on 31 October 2012.
- 3.4 Planning application ref : P/13/0262/FUL for alterations to Fankerton Weir for hydro-electric generation and fish passage, installation of a 600 metre long pipeline and construction of a turbine house was received in May 2013 and is pending consideration.

- 3.5 Planning application ref : P/12/0546/FUL for the provision of 307 dwellinghouses (including 46 affordable houses) at land to the south of Mydub Farm, Glasgow Road, Denny and Denny Eastern Access Road (DEAR), including provision of greenspace, sustainable urban drainage and associated infrastructure was received in September 2012 and is pending consideration.

4. CONSULTATIONS

- 4.1 The Transport Planning Unit consider that there remains ample justification to require a transportation contribution from this development site towards the DEAR, based on the relative proportional traffic impact of the proposed development on Denny Cross/DEAR. They caution that removal of the transport contribution would lead to a funding shortfall for the construction of the DEAR which may necessitate an increase in the relative payments of the other development sites contributing towards the DEAR. They advise that the transport contribution, towards a roundabout at the junction of Nethermain Road/Glasgow Road, was previously agreed with the applicant in order to address one of the key outstanding transport issues associated with the proposed development, and that much work went into agreeing the contribution trigger dates in order to phase the payments and reduce the upfront burden on the developer. They advise that the transport contribution was agreed prior to the Council having a formally adopted methodology to fund delivery of the DEAR and that this matter is now the subject of supplementary planning guidance. (The Falkirk Council Supplementary Planning Guidance Note for Delivery of the DEAR was approved by the Falkirk Council Executive on 18 June 2013). They advise that, under this new supplementary planning guidance, the contribution required by the applicant would increase from the previously agreed £550,000.

5. COMMUNITY COUNCIL

- 5.1 The Denny and District Community Council has not made any representations in relation to this application.

6. PUBLIC REPRESENTATION

- 6.1 No public representations have been received in relation to this application.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy COM.5 ‘Developer Contributions’ states:

“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”

7a.2 This policy requires the Council to ensure that proper provision is made to meet the infrastructure needs of new development and to mitigate the impact of new development on the locality. This was the basis for requiring the developer contributions secured by the Planning Obligation and it is considered that the transport contribution, towards the provision of a roundabout at the Nethermain Road/Glasgow Road junction, continues to represent a reasonable contribution in scale and kind for this development and satisfies the criteria as detailed in this policy. It is accepted that this matter would need to be reviewed if planning permission were granted to another party which secured delivery of, or funding towards delivery of, a roundabout at the Nethermain Road/Glasgow Road junction. However, no such permission has been granted and whilst planning permission ref : P/12/0546/FUL (see paragraph 3.5 of this report) includes infrastructure works towards delivery of the DEAR, this application is currently pending consideration and therefore no decision on the application has yet been taken by the Council.

7a.3 The applicant has submitted that the introduction of affordable housing into the proposed development reduces traffic generation, and that the economic downturn has had a notable effect on background traffic levels. However, if the applicant considers that the previously agreed assumptions about trip rates, trip distribution and background traffic levels are no longer relevant and therefore justify a review of the previously agreed transport contribution, then the case would have to be made in a revised transport assessment. This case has not been made, and in any event would not support the current application which seeks to entirely remove the transport contribution. A further consideration is that the Transport Planning Unit have advised, that under the Council’s new Supplementary Planning Guidance for delivery of the DEAR, the level of the contribution would increase from that previously agreed.

- 7a.4 The applicant has also referred to the availability of alternative mitigation at the Nethermain Road/Glasgow Road junction in order to address the traffic impacts of the proposed development and replace the previously agreed transport contribution. The measures referred to included extending the existing give way lines on Nethermain Road. However, the Transport Planning Unit have advised that these measures were old measures put forward for a previous scheme for the Carrongrove site which were audited at the time and rejected by the Transport Planning Unit due to inaccurate modeling of the mitigation measures. Notwithstanding this, the trigger for the DEAR transport contribution is based on the relative proportional traffic impact of the proposed development site on Denny Cross/DEAR, from which a contribution towards the provision of the roundabout was felt to represent a reasonable contribution in scale and kind for this development.
- 7a.5 In the light of the above comments, it is considered that the previously agreed transport contribution continues to be justified and therefore that the application is contrary to this policy.

Falkirk Council Local Plan

- 7a.6 The Falkirk Council Local Plan identifies opportunity TR.DEN01, being a new bypass road (DEAR) to address capacity problems at Denny Cross which will be further exacerbated by new development. It states that Phase 1 from Broad Street to the new Denny High School has been completed, funded by Falkirk Council, and the remainder of the route will require to be developer funded. The previously agreed transport contribution is in keeping with this advice that the remainder of the route will be developer funded.
- 7a.7 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:
- "Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:*
- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
 - (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
 - (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
 - (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*
- 7a.8 The considerations under this policy have been considered in relation to Policy COM.5 of the Falkirk Council Structure Plan. Accordingly, the application is also considered to be contrary to this policy.
- 7a.9 Accordingly, the application does not accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations in respect of this application are Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements), the Falkirk Local Development Plan (Proposed Plan), Falkirk Council's Supplementary Planning Guidance Note (SPG) for Delivery of Denny Eastern Access Road (DEAR), the consultation responses and the submissions by the applicant in support of the application.

Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements)

- 7b.2 This Circular replaced Planning Circular 1/2010 (Planning Agreements) which in turn replaced Planning Circular 12/1996 (Planning Agreements). The Circular sets out the circumstances in which Planning Obligations can be used and promotes strict compliance with the tests set out in the circular, as well as consideration of the economic viability of proposals and alternative solutions alongside options of phasing or staging payments. The Circular states that Planning Obligations can be used to overcome obstacles in the grant of planning permission such as negative impacts on land use, the environment and infrastructure.
- 7b.3 The Circular states that Planning Obligations made under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet the following tests:
- Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - Relate to proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
 - Fairly and reasonably relate in scale and kind to the proposed development; and
 - Be reasonable in all other respects.
- 7b.4 The transport contribution under question is attached to the Planning Obligation for planning permission P/08/0296/FUL and is considered to meet the relevant tests as set out in the circular, for the reasons detailed in this report. As such, the contribution overcame a significant obstacle to the grant of planning permission in helping fund the delivery of a major road infrastructure project (DEAR) to accommodate traffic growth exacerbated by planned new development in the area. In addition, it was agreed that the contribution payments would be phased in order to reduce the upfront burden on the applicant given the challenging financial conditions, and other issues raised by the applicant in relation to economic viability (considered in paragraphs 7b.12 to 7b.14 of this report). In light of these comments, the previous agreed transport contribution is considered to be supported by Planning Circular 3/2012.

Falkirk Local Development Plan (Proposed Plan)

- 7b.5 The Proposed Falkirk Local Development Plan was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.6 The Proposed Plan identifies the DEAR as an infrastructure project (INF14) which has been carried forward from the existing plan. It describes the DEAR as providing an eastern bypass of Denny Town Centre and access to the south-east Denny strategic growth sites at Mydub Farm. It states that the DEAR will be funded from developer contributions from impacting sites.
- 7b.7 The Proposed Plan contains Policy INF02 (Developer Contributions to Community Infrastructure) which is similar to the policies of the Structure Plan and Local Plan detailed in this report, which the application has been assessed in this report as being contrary to. A similar conclusion can therefore be reached in assessment of the application against this policy.

Falkirk Council Planning Guidance Note (SPG) for Delivery of Denny Eastern Access Road (DEAR)

- 7b.8 This SPG, which was approved by the Council's Executive on 18 June 2013, sets out the approach to the funding and phasing of DEAR and promotes the sharing of costs based on the level of traffic impact of each development as a percentage of the overall traffic impact from all of the contributing sites in the area on Denny Cross and/or DEAR. The SPG calculates the sharing of costs between the development sites and reduces the cost sharing to take account of the £550,000 contribution agreed for the Carrongrove development site. As indicated earlier in this report, the Transport Planning Unit have advised that the transport contribution for the Carrongrove site would increase under the SPG.
- 7b.9 The SPG acknowledges that the Mydub site will play a pivotal role in how the DEAR proceeds but that the Council will retain discretion to undertake Prudential Borrowing or utilise capital funding for the project cost in order to enable it to carry out the works and repay / recoup the borrowing or funding through developer contributions. However, the SPG indicates that the way forward in the short term is likely to be for the Mydub developer to construct an initial stretch of road at the Glasgow Road end of the route, sufficient in length to access their development site via a roundabout. As indicated in this report, planning application P/12/0546/FUL which includes infrastructure works towards delivery of the DEAR has been submitted but no decision on the application has yet been taken. Amongst other things, the scale and nature of the road infrastructure works proportionate to this application, and the mechanism for delivery of the works, are currently under consideration.

Consultation Responses

- 7b.10 The consultation response from the Transport Planning Unit is summarised in paragraph 4.1 of this report. The Transport Planning Unit consider that there remains ample justification to require a transport contribution from this site towards the DEAR and therefore are opposed to removing the previously agreed transport contribution from the Planning Obligation.

Submissions by the Applicant

- 7b.11 The applicant's reasons for making this application are summarised in paragraph 1.5 of this report. The reasons relating to the Bett Homes application (ref: P/12/0546/FUL) and the relevant tests under the Planning Circular not being met have already been considered in this report.
- 7b.12 The applicant has referred to an increase in abnormal development costs associated with Phase 1 piling as a further reason for making the application. Phase 1 of the development is for 27 affordable housing units and the abnormal costs associated with the Phase 1 piling is indicated at around £150,000 (excluding VAT). The applicant has previously highlighted the viability issues faced by the project whilst the Planning Obligation secured developer contributions totalling £1,101,750. Whilst an updated financial appraisal has been submitted with the current application, the original appraisal for the current scheme has not, therefore it is not possible to compare current overall abnormal development costs and overall total costs against those costs at the time the Planning Obligation was agreed. Whether there has been a change in circumstances in relation to overall costs and the viability of the scheme has therefore not been demonstrated.
- 7b.13 Whilst it is not accepted that there is a justifiable case in relation to development costs, it is noted that the Phase 1 piling quote is around £150,000 whilst the applicant seeks removal of the agreed £550,000 transport contribution in its entirety. In addition, the applicant has advised that the ground conditions across the site are similar to Phase 1, therefore it is likely that the balance of the site will also require an abnormal foundation, adding approximately £860,000 to the development costs. However, no information has been submitted to substantiate this.
- 7b.14 Notwithstanding the above mentioned deficiencies, it is questioned whether the costings for the foundations, which arguably should have been identified in the initial intrusive site investigations, could justify dispensing with a contribution towards delivering essential road infrastructure in the area.

7c Conclusion

- 7c.1 The application seeks to modify the Planning Obligation attached to planning permission P/08/0296/FUL by removing the requirement to make a transport contribution of £550,000. This report sets out the relevant considerations and concludes that the application is contrary to the Development Plan, the principle of a transport contribution towards the provision of the DEAR can be justified and the reasons put forward by the applicant to justify removal of the transport contribution cannot be supported. However, the report notes that the transport contribution was identified to help fund a roundabout at the Nethermain Road/Glasgow Road junction and that this matter may need to be reviewed if planning permission is granted to another party which secured delivery of, or funding towards delivery of, this essential infrastructure work. The application is therefore recommended for refusal for the reasons detailed below.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee refuse to modify the Planning Obligation attached to planning permission P/08/0296/FUL for the following reason(s):-

- (1) The agreed transport contribution forming part of the Section 75 Planning Obligation is considered to meet the relevant tests as set out in Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements).**
- (2) Granting the application would be contrary to Policy TRANS.3 of the Falkirk Council Structure Plan and Policy ST7 of the Falkirk Council Local Plan, which require the identification of suitable measures to mitigate the impact of development proposals on the road network.**
- (3) Granting the application is not supported by Falkirk Council's Supplementary Planning Guidance Note for Delivery of Denny Eastern Access Road (DEAR), which sets out a cost sharing approach to the funding of DEAR based on the level of the traffic impact of each development as a percentage of the overall traffic impact from all of the proposed development sites in the area on Denny Cross and/or DEAR. The contribution of the proposed development to the overall traffic impact was identified and agreed in the assessment of planning application P/08/0296/FUL.**
- (4) It has not been demonstrated that there has been any change of circumstances to justify granting the application contrary to the terms of the Falkirk Council Development Plan.**

Pp

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan.
4. Falkirk Council's Supplementary Planning Guidance Note (SPG) for Delivery of Denny Eastern Access Road (DEAR).
5. Planning Circular 3/2012 : Planning Obligations and Good Neighbour Agreements.

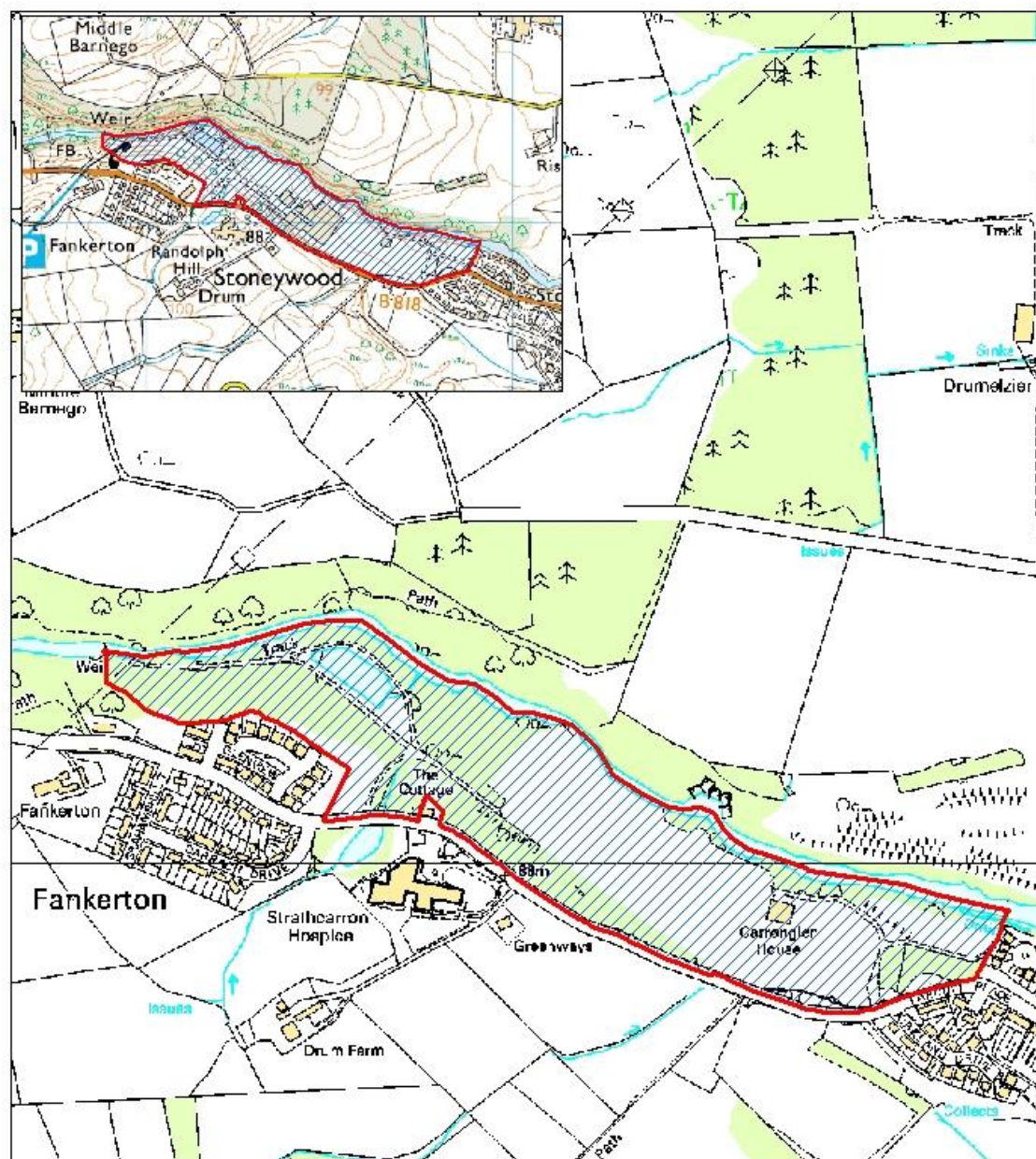
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/13/0074/75M

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FALKIRK COUNCIL

Subject: DEMOLITION OF EXISTING BUILDINGS AND
DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES
AT CASTINGS COMMUNITY SPORTS & SOCIAL CLUB, ETNA
ROAD, FALKIRK FK2 9EG FOR MR MARK AGNEW -
P/12/0543/PPP

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North

Provost Pat Reid
Councillor David Alexander
Councillor Dr C R Martin
Councillor Cecil Meiklejohn

Community Council: Grahamston, Middlefield and Westfield

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

CONTINUED REPORT FOLLOWING PLANNING COMMITTEE

1. Members will recall that this application was discussed at the Planning Committee of 22 August 2013 where it was agreed to continue the application to allow further clarification of matters relating to education provision, amendment to the proposal to incorporate tennis provision, appropriateness of the sum and direction of any commuted payment and, to allow Sport Scotland and Falkirk Community Trust representatives to attend the next meeting.
2. At the time of writing, personnel changes within Sport Scotland have precluded potential attendance at this Planning Committee and any response to the matters raised. However, it is envisaged that these matters will be addressed through an update report and attendance at the next available Planning Committee.
3. It is recommended that the Planning Committee agree to note the content of this report and continue this planning application.

.....
Pp Director of Development Services

Date: 6 September 2013

FALKIRK COUNCIL

Subject: DEMOLITION OF EXISTING BUILDINGS AND DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT CASTINGS COMMUNITY SPORTS & SOCIAL CLUB, ETNA ROAD, FALKIRK FK2 9EG FOR MR MARK AGNEW - P/12/0543/PPP

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North

Provost Pat Reid
Councillor David Alexander
Councillor Dr C R Martin
Councillor Cecil Meiklejohn

Community Council: Grahamston, Middlefield and Westfield

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will be aware that this application was referred to the Planning Committee meeting of 25 June 2013 (copy of previous report appended) where it was agreed to continue the application for a Committee site visit. This took place on Monday 5 August 2013.
2. At the site meeting, Members raised the matter of surface water flooding in the area and inherent drainage issues on a nearby flatted development.
 - (i) On the matter of surface water flooding, colleagues in Falkirk Council's Roads Development advise that a previous event at this location was the result of a sewer choke. The recently observed surface water in the carriageway is liable to have been the result of the volume of rainfall from the sudden deluge surcharging the combined sewer network. When a combined sewer surcharges it temporarily prevents water from the road draining to the sewer. When road crews attended the road had drained suggesting this was the case and water levels in the sewer had reduced.

- (ii) On the matter of drainage issues on nearby development, colleagues in Falkirk Council's Roads Development advise that such matters could originate through the sewer network, Scottish Water, road drainage or surface water run-off from hard dry surfaces. More detail would be required to determine the source of complaint. It should be noted that this planning application is seeking to establish the principle of development only. The recommendation, however, requires the provision of a drainage assessment to be undertaken (proposed condition no. 3) before any works commence on site.

3. For clarification, a variety of definitions exist as to the description of 'Brownfield Development', the most succinct of which is "any land which has been previously developed" (Scottish Government Parliamentary Offices of Science and Technology 1998). It can also refer to the re-use of redundant buildings for new uses. In this instance, the site is not allocated in the Falkirk Council Local Plan as 'open space' but was a commercial enterprise comprising bowling greens, tennis courts, social club and ancillary outbuildings. The site has been developed but the existing use has since declined and is now vacant. This matter is expanded upon within part 7a.6 of the planning report.
4. Since the preparation of the Planning Committee Report, 1 objector has withdrawn their representation.
5. Matters regarding the contribution to the application by Sport Scotland and Falkirk Community Trust are reflected in part 4.1 and 4.2 of the report.
6. A further letter of representation by the applicant has been submitted (appendix 1) seeking to address matters which were raised through comment at the site inspection, not least:-
- The facility was a private social/sports club of historically low membership.
 - The site is considered 'brownfield' through Scottish Government definition.
 - The potential refusal of the application would not bring about the re-establishment of the former use of the site.
 - It will not be possible to incorporate a mixed housing and sport provision on the site.
7. No matters were raised at the site visit that alter the recommendation to grant planning permission. The previous recommendation is therefore reiterated as follows:-

8. RECOMMENDATION

- 8.1 It is recommended that the Planning Committee indicate that it is minded to grant planning permission in principle subject to:
- (a) Approval of an appropriate legal agreement to secure financial mitigation in the sum of £40,000 from the applicant toward off site sports provision; and

- (b) Referral of any decision to approve to Scottish Ministers, due the presence of a registered hazardous installation and thereafter, on conclusion of the foregoing, to remit to the Director of Development Services to grant planning permission subject to:-
- (1) As part of any application for Matters Specified in Conditions, a Contaminated Land Assessment shall be submitted for the written approval of this Planning Authority. Before the dwellinghouse is occupied, any necessary remedial works to make the ground safe shall be completed in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
- (2) (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
- (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
- (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (3) Development shall not begin until a Drainage Assessment has been submitted to and approved in writing by the Planning Authority.
- (4) The development hereby approved shall be limited to no more than 16 units.
- (5) For the avoidance of doubt, any development proposal exceeding 16 units shall incur a requirement for commuted payment towards Education provision on a pro-rata basis of £900 per unit, details to be submitted to and approved in writing by the Planning Authority.

Reason(s):-

- (1-2) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (3) To ensure the ground is suitable for the proposed development.

- (4) To ensure that the development is adequately drained.
- (5) To allow the planning authority to control the capacity of the site in relation to Educational provision in the area.

Informative(s):-

- (1) Plans and particulars of the matters listed above shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of Falkirk Council as planning authority has been given, and the development shall be carried out in accordance with that approval.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

Pp

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter in support of planning application from Mr A Bennie dated 6 July 2013, received on 8 August 2013.
4. Letter of Objection received from Mrs Tracey Fullerton, 48 Kennard Street, Falkirk, FK2 9EJ on 8 October 2012.
5. Letter of Representation received from Mr Andrew Kidd, 52 Kennard Street, Falkirk, FK2 9EJ on 25 September 2012.
6. Letter of Representation received from Mr Andrew Kidd, 52 Kennard Street, Falkirk, FK2 9EJ on 25 September 2012.
7. Letter of Objection received from Grahamston, Middlefield and Westfield Community Council
 FAO: Ray Bruce, Secretary, 26 Alma Street, Falkirk, FK2 7HD on 2 October 2012.
8. Letter of Objection received from C Reid, 41 Dumyat Drive, Falkirk, FK1 5PA on 18 October 2012.
9. Letter of Objection received from B Dearson, 65 Woodburn Crescent, Bonnybridge, FK4 2DJ on 18 October 2012.
10. Letter of Objection received from Anne Mein, 44 Kennard Street, Falkirk, FK2 9EJ on 12 October 2012.
11. Letter of Objection received from James Mein, 44 Kennard Street, Falkirk, FK2 9EJ on 12 October 2012.
12. Letter of Objection (Petition with 38 Signatories attached) received from Margaret A Douglas, 9 College Crescent, Falkirk, FK2 9HL on 12 October 2012.
13. Letter of Objection received from V Barr, 90 Alexander Avenue, Falkirk, FK2 9EA on 29 October 2012.

14. Letter of Objection received from G Gardner, 15 Thornbridge Road, Falkirk, FK2 9AZ on 29 October 2012.
15. Letter of Objection received from Rachel Ross, 53 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
16. Letter of Objection received from W Young, 17 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
17. Letter of Objection received from Eileen Young, 17 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
18. Letter of Objection received from G King, 66 Woodburn Road, Falkirk, FK2 9BS on 29 October 2012.
19. Letter of Objection received from Wilma Cowan, 99 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
20. Letter of Objection received from J Cowan, 99 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
21. Letter of Objection received from Patricia A Main, 16 Wolfe Road, Falkirk, FK1 1SL on 12 November 2012.
22. Letter of Objection received from K Fleming, 30 Grange Avenue, Falkirk, FK2 9ER on 19 October 2012.
23. Letter of Objection received from D Stewart, 28 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
24. Letter of Objection received from Owner/Occupier, 51 Caledonian Court, Falkirk, FK2 7FL on 19 October 2012.
25. Letter of Objection received from M McKay, 48 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
26. Letter of Objection received from Owner/Occupier, 7 Grange Drive, Falkirk, FK2 9ES on 19 October 2012.
27. Letter of Objection received from Elizabeth Burden, 19 York Street, Falkirk, FK2 9EN on 19 October 2012.
28. Letter of Objection received from E Munro, 8 Grange Avenue, Falkirk, FK2 9ER on 19 October 2012.
29. Letter of Objection received from Owner/Occupier, 5 York Street, Falkirk, FK2 9EN on 19 October 2012.
30. Letter of Objection received from Owner/Occupier, 52 South Green Drive, Airth, Falkirk, FK2 8JP on 19 October 2012.
31. Letter of Objection received from S McFarlane, 33 College Crescent, Falkirk, FK2 9HL on 19 October 2012.
32. Letter of Objection received from Mr John McKinlay, 71 Braemar Drive, Falkirk, FK2 9HB on 19 October 2012.
33. Letter of Objection received from D Melville, 41 Montgomery Street, Falkirk, FK2 9BN on 19 October 2012.
34. Letter of Objection received from Mr Jim Craigie, 117 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
35. Letter of Objection received from Mrs Jacqueline Craigie, 117 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
36. Letter of Objection received from A M Young, 77 Montgomery Street, Falkirk, FK2 9BN on 29 October 2012.
37. Letter of Objection received from W Ray Russell, 107 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
38. Letter of Objection received from Catherine Stewart, 53 Cunningham Gardens, Falkirk, FK2 9BE on 29 October 2012.

39. Letter of Objection received from R Young, 77 Montgomery Street, Falkirk, FK2 9BN on 29 October 2012.
40. Letter of Objection received from Jessie Gibb, 69 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
41. Letter of Objection received from Yvonne Cook, 71 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
42. Letter of Objection received from R Garth, 14 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
43. Letter of Objection received from J Corrigan, 71 Westfield Street, Falkirk, FK2 9DX on 29 October 2012.
44. Letter of Objection received from Owner/Occupier, 85 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
45. Letter of Objection received from M Williamson, 31 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
46. Letter of Objection received from Maureen McDonald, 34 Woodburn Road, Falkirk, FK2 9BS on 29 October 2012.
47. Letter of Objection received from C Swan, 29 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
48. Letter of Objection received from Owner/Occupier, 63 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
49. Letter of Objection received from R O'Hara, 14 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
50. Letter of Objection received from Owner/Occupier, 84A Easton Drive, Shieldhill, Falkirk, FK1 2TA on 29 October 2012.
51. Letter of Objection received from Alex Fisher, 7 Dawson Place, Bo'ness, EH51 0NW on 29 October 2012.
52. Letter of Objection received from Mr Peter Docherty, 22 Woodside Road, Tullibody, Alloa on 29 October 2012.
53. Letter of Objection received from Owner/Occupier, 15 Portree Crescent, Polmont, Falkirk, FK2 0PA on 29 October 2012.
54. Letter of Objection received from Graham J Nicoll, 40 Chacefield Street, Bonnybridge, FK4 1PS on 29 October 2012.
55. Letter of Objection received from A Strachan, 14 Scotstoun Road, Cowie, Stirling, FK7 7AL on 29 October 2012.
56. Letter of Objection received from Mr Jim Maxwell, 2 Kersehill Crescent, Falkirk, FK2 9GH on 29 October 2012.
57. Letter of Objection received from Owner/Occupier, 21 Westfield Street, Falkirk, FK2 9DT on 29 October 2012.
58. Letter of Objection received from Mr James McPherson, 11 Cunningham Gardens, Falkirk, FK2 9BE on 29 October 2012.
59. Letter of Objection received from Mr Charles Fullerton, 48 Kennard Street, Falkirk, FK2 9EJ on 28 October 2012.
60. Letter of Objection received from Irene McPherson, 11 Cunningham Gardens, Falkirk, FK2 9BE on 30 October 2012.
61. Letter of Objection received from Andrew McInnes, 1A Munro Street, Stenhousemuir, Larbert, FK5 4QF on 30 October 2012.
62. Letter of Objection received from M Christie 98 Woodburn Road, Falkirk, FK2 9BS on 30 October 2012.
63. Letter of Objection received from M Walinck, 5 Thornbridge Square, Falkirk, FK2 9BA on 30 October 2012.

64. Letter of Objection received from Mary Kerr, 19 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
65. Letter of Objection received from Betty Cook, 33 Livingstone Crescent, Falkirk, FK2 9BW on 30 October 2012.
66. Letter of Objection received from C Dickinson, 34 Kerse Gardens, Falkirk, FK2 9DY on 30 October 2012.
67. Letter of Objection received from C Sutherland, 19 Woodburn Street, Falkirk, FK2 9DR on 30 October 2012.
68. Letter of Objection received from Owner/Occupier, 4 Woodburn Road, Falkirk, FK2 9BP on 30 October 2012.
69. Letter of Objection received from Elizabeth N McNeil, 35 Inchyra Place, Grangemouth, FK3 9EQ on 30 October 2012.
70. Letter of Objection received from Tracy Gorbitt, 5 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
71. Letter of Objection received from Mary MacDonald, 9 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
72. Letter of Objection received from Wilma Cumming, 11 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
73. Letter of Objection received from J Gemmell, 65 Westfield Street, Falkirk, FK2 9DX on 30 October 2012.
74. Letter of Objection received from Joanne Cumming, 11 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
75. Letter of Objection received from J Cook, 33 Livingstone Crescent, Falkirk, FK2 9BW on 30 October 2012.
76. Letter of Objection received from Owner/Occupier, 5 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
77. Letter of Objection received from Owner/Occupier, 13 Mariner Street, Falkirk, FK1 4LF on 30 October 2012.
78. Letter of Objection received from James Gardiner, 28 Montgomery Street, Falkirk, FK2 9BN on 30 October 2012.
79. Letter of Objection received from LVD Hock, 3 Thornbridge Square, Falkirk, FK2 9BA on 30 October 2012.
80. Letter of Objection received from Barbara Cruse, 31 Braemar Drive, Falkirk, FK2 9HB on 19 October 2012.
81. Letter of Objection received from D Easton, 6 Thistle Street, Falkirk, FK2 7ED on 19 October 2012.
82. Letter of Objection received from Agnes Brown, 47 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
83. Letter of Objection received from J McIntosh, 37 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
84. Letter of Objection received from E Davie, 5 York Drive, Falkirk, FK2 9EP on 19 October 2012.
85. Letter of Objection received from Owner/Occupier, 37 Thornhill Court, Falkirk, FK2 9HH on 19 October 2012.
86. Letter of Objection received from J Bodman, 53 Thornhill Court, Falkirk, FK2 9HH on 19 October 2012.
87. Letter of Objection received from Owner/Occupier, 35 Eriskay Court, Falkirk, FK1 2PZ on 19 October 2012.
88. Letter of Objection received from Owner/Occupier, 19 Eriskay Court, Falkirk, FK1 2PZ on 19 October 2012.

89. Letter of Objection received from J Dunlop, 18 Earn Court, Grangemouth, FK3 0HT on 19 October 2012.
90. Letter of Objection received from Liz McCaffer, 50 Thornbridge Square, Falkirk, FK2 9BA on 12 October 2012.
91. Letter of Objection received from Fraser Halliday, 80 Westfield Street, Falkirk, FK2 9DX on 12 October 2012.
92. Letter of Objection received from J.S. Marshall, 6 Cunningham Gardens, Falkirk, FK2 9BE on 12 October 2012.
93. Letter of Objection received from Charles McKerral, 9 Russel Street, Falkirk, FK2 7HX on 12 October 2012.
94. Letter of Objection received from Thornwood Tenants & Residents Association, F.A.O Elizabeth Godfrey (Chairperson), 14 Woodburn Road, Falkirk, FK2 9BP on 16 October 2012.
95. Letter of Objection received from Mr William M Wilson, 7 George Street, Falkirk, FK2 7EY on 19 October 2012.
96. Letter of Objection received from Owner/Occupier, 5 York Drive, Falkirk, FK2 9EP on 19 October 2012.
97. Letter of Objection received from J Copeman, 66 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
98. Letter of Objection received from Mr John Williamson, 62 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
99. Letter of Objection received from Janet Strathie, 4 Woodburn Road, Falkirk, FK2 9BP on 19 October 2012.
100. Letter of Objection received from Anne Miller, 4 Burnfield Place, Falkirk, FK2 9HW on 19 October 2012.
101. Letter of Objection received from Mr Andrew Miller, 4 Burnfield Place, Falkirk, FK2 9HW on 19 October 2012.
102. Letter of Objection received from H McGovern, 73 College Crescent, Falkirk, FK2 9HL on 19 October 2012.
103. Letter of Objection received from Mrs Simone Easton, 17 Camelon Road, Falkirk, FK1 5RU on 26 October 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

APPENDIX 1

ANDREW BENNIE
PLANNING LIMITED

Mr. J Milne
Falkirk Council
Development Services
Abbotsford House
David's Loan
FALKIRK
FK2 7YZ



6th July 2013

Dear John

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PLANNING APPLICATION REFERENCE P/12/0543/PPP
PROPOSED REDEVELOPMENT OF FORMER CASTINGS SOCIAL CLUB

I refer to the above and to our ongoing discussions concerning the same.

As discussed with you following the site visit yesterday morning, and having now had the opportunity to discuss matters with my client, I write to set out, in brief terms, my response to a number of the matters which were raised both by those members of the public and Councillors who attended the meeting.

First and foremost, I would wish to highlight that these proposals relate to the redevelopment of the site, which up until the point at which it ceased to operate, was run as a **private** social/sports club. Notwithstanding the views that were expressed by a number of the attendees at the meeting, the site did not operate as facility to which members of the public had unrestricted general access. Rather, access to the site was restricted to those members of either the bowling or tennis club.

The comments made to the effect that local children "jumped" the fence to gain access to the tennis club "for free" gives a clear indication that whilst parties were prepared to use the facility, they were not prepared to join the club in order to do so legitimately and that as such, their use of the facility was wholly unlawful.

This lack of willingness to support the tennis club manifested itself in the historically low membership levels, which in part at least, contributed to the downfall of the wider facility.

It was also of note that none of the actual members of the former tennis club were in attendance at the site meeting to speak to the impact of the closure thereof, with the only party who did address this issue having made clear that she only used the facility when "she was a wee girl".

As is noted above, this was a facility the use of which was, or at least should have been, restricted to the members of the respective clubs, which operated from the site and in this sense it does not in my view constitute a community facility in the sense that the attendees at the meeting suggested.

Had the tennis club been better managed and operated, it is almost certain that in common with other private tennis clubs in the area, unauthorised access thereto by non club members would not have been possible.

It is also telling that there was no suggestion made by those in attendance at the meeting, which included within their numbers various members of the former bowling club, that there was any history of unauthorised use of the bowling green, which simply serves to further underline the private nature of the former facility.

In short, and unless it suggested that unlawful use of the site should be condoned, the closure of the facility can only have had a direct impact upon the very limited number of people who were actually members of the bowling or tennis clubs and it cannot have had an impact upon the wider community, the vast majority of which had no actual right to use the facilities on the site.

On the issue of whether or not the site comprises brownfield land, there can be no doubt that in light of the Scottish Minister's definition of brownfield land, which is set down within the Glossary to the SPP, that the site does qualify as being brownfield.

Whilst accepting that the given its historic use, the redevelopment of the site falls to be assessed against, amongst other things, Policy SC12 of the adopted Local Plan, it is of note that the site itself is not afforded any form of protective policy designation, rather, it is simply identified as falling within the boundary of the general urban area.

It is my view that within the report which recommends the application for approval, all of the relevant policies of the development plan have been due and appropriate consideration and although it is accepted without question that it is for elected members to determine the application, it is worth highlighting that whilst through the determination of the application, it will be possible for members to influence the future of the site, they have no more ability to bring about the re-establishment of the former use of the site than they would in relation to any other failed commercial venture.

Finally, I would wish to confirm that whilst in theory, it would be possible to accommodate a mix of sports provision and housing on the site, having considered this issue in detail, taking into account the actual physical ability of the site to accommodate both housing and a tennis court, including the associated access thereto, and the significant adverse impact that the reduction in the residential capacity of the site would have upon the overall viability of the redevelopment proposals, it is simply not possible to amend the proposals to include for the provision of a tennis court.

I trust that you find the above comments to be in order and that they are of assistance to you in terms of the preparation of the follow up report which will be presented to the committee when they meet on the 22nd of the month to further consider my clients application.

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

Yours Sincerely

A handwritten signature in black ink, appearing to read 'A Bennie'.

ANDREW BENNIE

Director

FALKIRK COUNCIL

Subject: DEMOLITION OF EXISTING BUILDINGS AND DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT CASTINGS COMMUNITY SPORTS & SOCIAL CLUB, ETNA ROAD, FALKIRK FK2 9EG FOR MR MARK AGNEW - P/12/0543/PPP

Meeting: PLANNING COMMITTEE

Date: 25 June 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North

Provost Pat Reid
Councillor David Alexander
Councillor Dr C R Martin
Councillor Cecil Meiklejohn

Community Council: Grahamston, Middlefield and Westfield

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprise an area of land formerly utilised for a social club, bowling green, tennis courts and pavilion facilities.
- 1.2 The site is some 0.67 hectares in size and is located at the corner of Etna Road / Kinnard Street, Falkirk. With Etna Road to the north, the site is predominantly bounded to the west, south and east by housing.
- 1.3 The site is currently unoccupied and the bowling and tennis grounds unmaintained. The applicant contends that these sporting facilities have been permanently lost.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application is considered potentially contrary to Development Plan policy regarding the loss of Open Space and Play Provision.

3. SITE HISTORY

- 3.1 P/11/0680/PPP - Demolition of Existing Buildings and Development of Land for Residential Purposes - withdrawn 20 March 2012.

- 3.2 F/99/0022 – Display of Illuminated Advertisements – Refused 1 February 2000.
- 3.3 F/2004/0271 - Erection and Renewal of Fencing and Sitting Area - Granted 19 April 2004.
- 3.4 06/1191/FUL - Erection of Smoking Shelter - Granted 5 February 2007.
- 3.5 F/91/0500 - External Alterations (Detailed) - Granted 17 June 1991.

4. CONSULTATIONS

- 4.1 Sportscotland have advised that the applicant has been in negotiations with them and a commuted sum of £40,000 has been agreed. The monies would contribute towards the improvement of Dollar Park tennis courts as compensation for the loss of the three blaes tennis courts on the application site. Sportscotland initially objected to the proposal, unless a compensatory figure of £100 - 200,000 was made to allow the complete reinstatement of three courts in the local vicinity. Following discussions with Tennis Scotland, Falkirk Community Trust and reference to the draft Falkirk Pitches Strategy it was agreed that a contribution towards the proposed improvements to the existing tennis courts at Dollar Park would be the best solution to enhance tennis provision locally.

It is sportscotland's opinion that the courts at Castings social club have very limited changing provision, blaes surface courts, dilapidated fencing and no floodlighting. The outline proposals at Dollar Park include improved changing accommodation, surface upgrading and the addition of floodlighting. Overall, considering the scope of these improvements, it was considered that this project should be able to compensate for the loss of the three courts at Castings. The additional hours available through the provision of floodlighting would significantly increase the playing capacity of the site. Access would also be available during the winter months, which would not have been an option for the Castings courts. In terms of bowling the applicant demonstrated the bowling provision within the local vicinity is more than capable of accommodating members who were displaced by the closure of the Casting Bowling Club. There are other clubs and public greens within the vicinity of the site. The governing body did not raise concerns when contacted about the loss of this green nor suggest that the loss of the greens would be of detriment to the provision locally. There therefore appears to be ample green capacity to cope with demand in the Falkirk area.

Sportscotland advise that, based on the applicant's commitment and the extent of their statutory role in the planning process, it is willing to withdraw its objection to the planning application on the understanding that a legal mechanism is put in place to secure the payment of £40,000 to the Falkirk Community Trust for the improvements to the Dollar Park tennis courts prior to the approval of planning permission.

- 4.2 Falkirk Community Trust agree with sportscotland in relation to the commuted sum of £40,000 in mitigation for the loss of the sports provision.
- 4.3 Scottish Water does not object to the planning application, but any approval of the proposal does not guarantee a connection to Scottish Water Infrastructure.

- 4.4 Falkirk Council's Environmental Health Unit advise that, if the application were to be approved a planning conditions should be imposed requesting a contaminated land assessment. In addition a planning condition should be imposed requesting a scheme for protecting the occupiers of the proposed dwellings from transportation noise.
- 4.5 Falkirk Council's Education Service indicates that development of the site would have limited impact on Victoria Primary School, St Andrew's RC Primary School or Graeme High School. In terms of St Mungo's RC High School, only if the development threshold exceeded 16 units would a commuted payment of £900 per unit be required.
- 4.6 Falkirk Council's Road Development Unit have no objections, in principle, to the development. However, matters regarding site access, design and standard of roadways and footpaths as well as drainage assessment and discharge require to be addressed. Given that the application seeks the principle of development, it is considered appropriate to address these matters through planning conditions.

5. COMMUNITY COUNCIL

- 5.1 Grahamston, Middlefield and Westfield Community Council object to the proposals, considering that the Castings Social Club is a valuable local amenity.

6. PUBLIC REPRESENTATION

- 6.1 2 representations neither objecting nor supporting the application have been received, commenting:
- Any new housing may have an adverse amenity impact on existing neighbours and the previous facilities seemed to be paying their way. However, if the site were to sit vacant for a number of years, it may attract the wrong kind of attention.
- 6.2 98 representations objecting to the application have been received, commenting:
- This represents a loss of an established local sports and recreation facility, as well as community hub;
 - There are plenty of other 'derelict' land parcels suitable for development;
 - The proposal is contrary to Scottish Planning Policy 11 'Open Space and Physical Activity';
 - The residents of Etna Road and Middlefield are already under provided in terms of access to sports areas, play space and green areas;
 - The Falkirk Open Space Strategy survey places the area in a 'Priority Regeneration Area' and developers should be supporting the community not cut the heart from it;
 - The land is zoned for leisure, not housing;

- The application is in breach of the Falkirk Council Local Development Plan;
- The application is a breach of the Scottish Governments policies and legislation relating to the protection of sports grounds;
- The application is in breach of Falkirk Council's Leisure Strategy and Corporate Plan.

6.3 A petition containing 38 signatures has also been received objection to the application on the grounds of:

- The application results in a loss of amenity to the local community;
- The land is zoned for leisure, not housing;
- The application is in breach of the Falkirk Council Local Development Plan;
- The application is a breach of the Scottish Governments policies and legislation relating to the protection of sports grounds;
- The application is in breach of Falkirk Council's Leisure Strategy and Corporate Plan.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy COM.5 'Developer Contributions' states:

"The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:

- (1) *environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) *physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) *community and recreational facilities required to meet demand generated by the development.*

The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”

7a.2 In this instance, it is considered appropriate to seek financial mitigation should the recreation use of the site be replaced. Community and recreational facilities require to meet demand generated by development and specifically, the loss of tennis provision within the area requires to be offset.

7a.3 Policy COM.6 ‘Open Space and Recreational Facilities’ states:

“The Council will seek to ensure that a satisfactory distribution and quality of open space and recreational facilities exists across the Council area. Accordingly:

- (1) the loss of open space and recreational facilities will not normally be permitted except where, as part of a community-wide assessment of provision, it is demonstrated that the loss will have no adverse impact on visual or recreational amenity and will release resources for qualitative improvements to facilities in the community as a whole;*
- (2) Local Plans will identify and seek to address any remaining localised deficiencies in provision;*
- (3) resources will generally be concentrated on improving the quality, management and accessibility of existing provision; and*
- (4) all new housing development must contribute to the provision and maintenance of open space and recreational facilities either through on-site provision or contributions to off-site provision. Standards will be set out in Local Plans based on the provision of 2.8ha per 1000 persons.”*

7a.4 In this instance, the recreational facilities are privately owned and, currently, cease to be operated. While not of a strategic impact, the sites loss could be mitigated through a financial contribution towards improvements to off-site provision at Dollar Park.

Falkirk Local Plan

7a.5 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.6 In planning terms, Brownfield Sites are defined as sites that have previously been developed or used for some purpose which has ceased. This excludes, for example, open space and garden ground. In terms of the privately owned bowling green and tennis courts, the use would more normally be defined as being within the Town and Country Planning (Use Classes) (Scotland) Order 1997 Classes 11 - Assembly and Leisure. Subsequently, the site could be considered Brownfield and therefore justified in consideration for development.

7a.7 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

"There will be a presumption against the loss of existing community facilities unless the Council is satisfied that there is no longer a need for the facility or an acceptable alternative facility is available."

7a.8 In general terms, the priority for the Local Plan is to ensure that there is no overall diminution in the quality of community provision through development of land use change. Accordingly, this policy generally prohibits the loss of facilities without a clear justification based on need or alternative means of service delivery.

7a.9 However, in this instance, the cessation of use on the site and the advice from sportscotland that the loss can be mitigated through financial contribution influences interpretation of the policy.

7a.10 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

7a.11 It is considered appropriate to secure a sum of £40,000 subject to an appropriate legal agreement prior to initiation of development of the site. Given the current economic climate, it is considered reasonable that the landowner be afforded a timescale to secure development commitment prior to payment.

7a.12 Policy SC14 ‘Education and New Housing Development’ states:

“Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council’s education policies. The contribution will be a proportionate one, the basis of which will be set out in the SPG Note on ‘Developer Contributions; Education and New Housing Development’. In cases where the school cannot be improved in a manner consistent with the Council’s education policies, the development will not be permitted.”

7a.13 Through consultation with Falkirk Council's Education Services, no commuted payment towards education is requested unless the site capacity exceeds 16 units.

7a.14 Policy EP18 – ‘Major Hazards’ states:

“Within the Major Hazard and Pipeline Consultation Zones identified on the Proposals Map, proposals will be judged in relation to the following criteria:

- (1) The increase in the number of people exposed to risk in the area, taking into account the advice of the Health and Safety Executive, any local information pertaining to the hazard, and the existing permitted use of the site or buildings;*
- (2) The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means. and*
- (3) The potential impact that the proposals may have upon chemical and petrochemical establishments.”*

7a.15 The application site falls within the zone of influence of a major hazard, as identified within the Falkirk Council Local Plan. However, the Gasometer in question was demolished and removed from site a number of years ago. While Falkirk Council is currently pursuing a revocation order to remove this feature from the Health and Safety Executive's library of hazardous installations, the feature should be considered as relevant in assessment terms although the use of PADHI+ inappropriate. Therefore any decision to approve the application should be referred to Scottish Ministers for consideration.

7a.16 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material consideration to be assessed are Scottish Planning Policy (May 2010), the policies of the emerging Falkirk Local Development Plan, the points raised through comment and the matters raised through the applicant's submitted supporting statement.

Scottish Planning Policy

7b.2 Scottish Planning policy recognizes that playing fields are an important resource for sport and should be provided in sufficient quantity, quality and accessibility to satisfy current and likely future community demand. Playing fields and sports pitches should not be redeveloped except where specific criteria applies, of which are:

- The playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area.

7b.3 The applicant has demonstrated that the bowling demand can be absorbed within other nearby greens and that the tennis courts were of limited value in terms of construction and usage, being blaze courts without artificial lighting. Sportscotland has conceded that a financial sum be acceptable to improve quality of other tennis facilities in the area.

Falkirk Council Local Development Plan

7b.4 The proposed Falkirk Local Development Plan was approved by the Council for consultation on 6 March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the extant Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's view in relation to Development Plan Policy and constitutes a material consideration in the determination of planning applications.

7b.5 The following policies of the emerging Falkirk Local Development Plan are relevant to the assessment of the application under consideration:

Policy HSG03 - Windfall Housing;
 Policy INFO2 - Developer Contributions to Community Infrastructure
 Policy INFO3 - Protection of Open Space;
 Policy INFO4 - Open Space and New Residential Development;
 Policy INFO5 - Education and New Housing Development;
 Policy DO3 - Urban Design
 Policy DO4 - Low and Carbon Zero Development.

7b.6 The above policies reinforce and develop relevant policies in the extant Falkirk Structure Plan and Falkirk Council Local Plan.

7b.7 The proposal considered to be in accordance with these policies, as expanded upon within paras 7a.1 - 7a.15

Point Raised by Contributors

7b.8 It is noted that the site is currently not in use. As a privately owned site, this is a matter for the landowner. However, any unwanted presence on the site could well be a police matter.

7b.9 The application seeks the principle of development and, if successful, the details of building numbers, design and layout would be subject to further approach to the planning authority.

7b.10 The redundancy of the facility is a commercial decision implemented by the landowner.

7b.11 The land is not 'zoned' for leisure, but is designated urban land within a settlement envelope. The current use is considered assembly and leisure but this does not, in itself, preclude development for other purposes.

- 7b.12 Falkirk Council's Leisure Strategy and Corporate Plan may promote leisure and recreation, but where a private owner ceases such operations, this loss of provision cannot be reversed. It is in the determination of this application an assessment of whether development of the site for housing purposes would be considered acceptable, subject to appropriate mitigation measures being in place.

Applicant's Supporting Statement

- 7b.13 In summary, the applicant has submitted a statement in support of the proposal, indicating that:
- The Castings Social Club, which includes both the bowling club and the tennis club, has failed to produce a sufficient revenue to ensure that the club can meet all of its reasonable running costs and has accumulated a significant debt, the level of which the club is not in a position to service;
 - There is no ongoing activity on the site and it should be noted that the social club, bowling club and tennis club will not reopen, irrespective of the outcome of this application;
 - The applicant contends that the terms of the development plan have been met;
 - The proposal does not result in the loss of any sporting facility, given that facilities in question have already been permanently lost, and
 - The applicant is willing to offer financial mitigation to offset the previously established sports' provision.

7c Conclusion

- 7c.1 The application site comprises a former bowling and tennis club with associated clubhouse and pavilion. The applicant has submitted that financial constraints dictate that there is no prospect of the facility reopening. The applicant has reached agreement with sportscotland and Falkirk Community Trust that a financial contribution would offset the loss of the tennis courts, which were limited in their usage. No financial contribution is invited regarding the bowling club element, in light of membership levels within similar facilities nearby.
- 7c.2 In terms of the Development Plan, the site is not designated uniquely for recreational proposes and it is considered that the applicant has demonstrated that the loss of the previously recreational provision can be offset and the site adopted to housing purposes without offence to current development plan policy.
- 7c.3 The site is technically within the zone of influence of a registered major hazard (now removed) and any favourable determination of the application would require referral to Scottish Ministers.
- 7c.4 The matter of the commuted payment is intended to be dealt with by means of legal agreement.

8. RECOMMENDATION

8.1 It is recommended that the Planning Committee indicate that it is minded to grant planning permission in principle subject to:

- Approval of an appropriate legal agreement to secure financial mitigation of the sum of £40,000 from the applicant toward off site sports provision; and
- Referral of any decision to approve to Scottish Ministers, due the presence of a registered hazardous installation and thereafter, on conclusion of the foregoing, to remit to the Director of Development Services to grant planning permission subject to:-

Condition(s)-

1. As part of any application for Matters Specified in Conditions, a Contaminated Land Assessment shall be submitted for the written approval of this Planning Authority. Before the dwellinghouse is occupied, any necessary remedial works to make the ground safe shall be completed in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
2.
 - (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites .
 - (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
 - (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
3. Development shall not begin until a Drainage Assessment has been submitted to and approved in writing by the Planning Authority.
4. The development hereby approved shall be limited to no more than 16 units.

5. For the avoidance of doubt, any development proposal exceeding 16 units shall incur a requirement for commuted payment towards Education provision on a pro-rata basis of £900 per unit, details to be submitted to and approved in writing by the Planning Authority.

Reason(s):-

- 1,2. To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
3. To ensure the ground is suitable for the proposed development.
4. To ensure that the development is adequately drained.
5. To allow the planning authority to control the capacity of the site in relation to Educational provision in the area.

Informative(s):-

1. Plans and particulars of the matters listed above shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of Falkirk Council as planning authority has been given, and the development shall be carried out in accordance with that approval.
2. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

PP

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Director of Development Services

Date: 17 June 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Objection received from Mrs Tracey Fullerton, 48 Kennard Street, Falkirk, FK2 9EJ on 8 October 2012.
4. Letter of Representation received from Mr Andrew Kidd, 52 Kennard Street, Falkirk, FK2 9EJ on 25 September 2012.
5. Letter of Representation received from Mr Andrew Kidd, 52 Kennard Street, Falkirk, FK2 9EJ on 25 September 2012.
6. Letter of Objection received from Grahamston, Middlefield and Westfield Community Council FAO: Ray Bruce, Secretary, 26 Alma Street, Falkirk, FK2 7HD on 2 October 2012.
7. Letter of Objection received from C Reid, 41 Dumyat Drive, Falkirk, FK1 5PA on 18 October 2012.
8. Letter of Objection received from B Dearson, 65 Woodburn Crescent, Bonnybridge, FK4 2DJ on 18 October 2012.
9. Letter of Objection received from Anne Mein, 44 Kennard Street, Falkirk, FK2 9EJ on 12 October 2012.
10. Letter of Objection received from James Mein, 44 Kennard Street, Falkirk, FK2 9EJ on 12 October 2012.
11. Letter of Objection (Petition with 38 Signatories attached) received from Margaret A Douglas, 9 College Crescent, Falkirk, FK2 9HL on 12 October 2012.
12. Letter of Objection received from V Barr, 90 Alexander Avenue, Falkirk, FK2 9EA on 29 October 2012.
13. Letter of Objection received from G Gardner, 15 Thornbridge Road, Falkirk, FK2 9AZ on 29 October 2012.
14. Letter of Objection received from Rachel Ross, 53 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
15. Letter of Objection received from W Young, 17 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
16. Letter of Objection received from Eileen Young, 17 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
17. Letter of Objection received from G King, 66 Woodburn Road, Falkirk, FK2 9BS on 29 October 2012.
18. Letter of Objection received from Wilma Cowan, 99 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
19. Letter of Objection received from J Cowan, 99 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
20. Letter of Objection received from Patricia A Main, 16 Wolfe Road, Falkirk, FK1 1SL on 12 November 2012.
21. Letter of Objection received from K Fleming, 30 Grange Avenue, Falkirk, FK2 9ER on 19 October 2012.
22. Letter of Objection received from D Stewart, 28 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
23. Letter of Objection received from Owner/Occupier, 51 Caledonian Court, Falkirk, FK2 7FL on 19 October 2012.
24. Letter of Objection received from M McKay, 48 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
25. Letter of Objection received from Owner/Occupier, 7 Grange Drive, Falkirk, FK2 9ES on 19 October 2012.

26. Letter of Objection received from Elizabeth Burden, 19 York Street, Falkirk, FK2 9EN on 19 October 2012.
27. Letter of Objection received from E Munro, 8 Grange Avenue, Falkirk, FK2 9ER on 19 October 2012.
28. Letter of Objection received from Owner/Occupier, 5 York Street, Falkirk, FK2 9EN on 19 October 2012.
29. Letter of Objection received from Owner/Occupier, 52 South Green Drive, Airth, Falkirk, FK2 8JP on 19 October 2012.
30. Letter of Objection received from S McFarlane, 33 College Crescent, Falkirk, FK2 9HL on 19 October 2012.
31. Letter of Objection received from Mr John McKinlay, 71 Braemar Drive, Falkirk, FK2 9HB on 19 October 2012.
32. Letter of Objection received from D Melville, 41 Montgomery Street, Falkirk, FK2 9BN on 19 October 2012.
33. Letter of Objection received from Mr Jim Craigie, 117 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
34. Letter of Objection received from Mrs Jacqueline Craigie, 117 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
35. Letter of Objection received from A M Young, 77 Montgomery Street, Falkirk, FK2 9BN on 29 October 2012.
36. Letter of Objection received from W Ray Russell, 107 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
37. Letter of Objection received from Catherine Stewart, 53 Cunningham Gardens, Falkirk, FK2 9BE on 29 October 2012.
38. Letter of Objection received from R Young, 77 Montgomery Street, Falkirk, FK2 9BN on 29 October 2012.
39. Letter of Objection received from Jessie Gibb, 69 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
40. Letter of Objection received from Yvonne Cook, 71 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
41. Letter of Objection received from R Garth, 14 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
42. Letter of Objection received from J Corrigan, 71 Westfield Street, Falkirk, FK2 9DX on 29 October 2012.
43. Letter of Objection received from Owner/Occupier, 85 Randyford Street, Falkirk, FK2 9DH on 29 October 2012.
44. Letter of Objection received from M Williamson, 31 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
45. Letter of Objection received from Maureen McDonald, 34 Woodburn Road, Falkirk, FK2 9BS on 29 October 2012.
46. Letter of Objection received from C Swan, 29 Woodburn Road, Falkirk, FK2 9BT on 29 October 2012.
47. Letter of Objection received from Owner/Occupier, 63 Livingstone Crescent, Falkirk, FK2 9BW on 29 October 2012.
48. Letter of Objection received from R O'Hara, 14 Woodburn Road, Falkirk, FK2 9BP on 29 October 2012.
49. Letter of Objection received from Owner/Occupier, 84A Easton Drive, Shieldhill, Falkirk, FK1 2TA on 29 October 2012.
50. Letter of Objection received from J McCallum, 40 Glenview Avenue, Banknock, Bonnybridge, FK4 1JX on 29 October 2012.

51. Letter of Objection received from Alex Fisher, 7 Dawson Place, Bo'ness, EH51 0NW on 29 October 2012.
52. Letter of Objection received from Mr Peter Docherty, 22 Woodside Road, Tullibody, Alloa on 29 October 2012.
53. Letter of Objection received from Owner/Occupier, 15 Portree Crescent, Polmont, Falkirk, FK2 0PA on 29 October 2012.
54. Letter of Objection received from Graham J Nicoll, 40 Chacefield Street, Bonnybridge, FK4 1PS on 29 October 2012.
55. Letter of Objection received from A Strachan, 14 Scotstoun Road, Cowie, Stirling, FK7 7AL on 29 October 2012.
56. Letter of Objection received from Mr Jim Maxwell, 2 Kersehill Crescent, Falkirk, FK2 9GH on 29 October 2012.
57. Letter of Objection received from Owner/Occupier, 21 Westfield Street, Falkirk, FK2 9DT on 29 October 2012.
58. Letter of Objection received from Mr James McPherson, 11 Cunningham Gardens, Falkirk, FK2 9BE on 29 October 2012.
59. Letter of Objection received from Mr Charles Fullerton, 48 Kennard Street, Falkirk, FK2 9EJ on 28 October 2012.
60. Letter of Objection received from Irene McPherson, 11 Cunningham Gardens, Falkirk, FK2 9BE on 30 October 2012.
61. Letter of Objection received from Andrew McInnes, 1A Munro Street, Stenhousemuir, Larbert, FK5 4QF on 30 October 2012.
62. Letter of Objection received from M Christie 98 Woodburn Road, Falkirk, FK2 9BS on 30 October 2012.
63. Letter of Objection received from M Walinck, 5 Thornbridge Square, Falkirk, FK2 9BA on 30 October 2012.
64. Letter of Objection received from Mary Kerr, 19 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
65. Letter of Objection received from Betty Cook, 33 Livingstone Crescent, Falkirk, FK2 9BW on 30 October 2012.
66. Letter of Objection received from C Dickinson, 34 Kerse Gardens, Falkirk, FK2 9DY on 30 October 2012.
67. Letter of Objection received from C Sutherland, 19 Woodburn Street, Falkirk, FK2 9DR on 30 October 2012.
68. Letter of Objection received from Owner/Occupier, 4 Woodburn Road, Falkirk, FK2 9BP on 30 October 2012.
69. Letter of Objection received from Elizabeth N McNeil, 35 Inchyra Place, Grangemouth, FK3 9EQ on 30 October 2012.
70. Letter of Objection received from Tracy Gorbitt, 5 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
71. Letter of Objection received from Mary MacDonald, 9 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
72. Letter of Objection received from Wilma Cumming, 11 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
73. Letter of Objection received from J Gemmell, 65 Westfield Street, Falkirk, FK2 9DX on 30 October 2012.
74. Letter of Objection received from Joanne Cumming, 11 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
75. Letter of Objection received from J Cook, 33 Livingstone Crescent, Falkirk, FK2 9BW on 30 October 2012.

76. Letter of Objection received from Owner/Occupier, 5 Thornbridge Road, Falkirk, FK2 9AZ on 30 October 2012.
77. Letter of Objection received from Owner/Occupier, 13 Mariner Street, Falkirk, FK1 4LF on 30 October 2012.
78. Letter of Objection received from James Gardiner, 28 Montgomery Street, Falkirk, FK2 9BN on 30 October 2012.
79. Letter of Objection received from LVD Hock, 3 Thornbridge Square, Falkirk, FK2 9BA on 30 October 2012.
80. Letter of Objection received from Barbara Cruse, 31 Braemar Drive, Falkirk, FK2 9HB on 19 October 2012.
81. Letter of Objection received from D Easton, 6 Thistle Street, Falkirk, FK2 7ED on 19 October 2012.
82. Letter of Objection received from Agnes Brown, 47 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
83. Letter of Objection received from J McIntosh, 37 Kennard Street, Falkirk, FK2 9EH on 19 October 2012.
84. Letter of Objection received from E Davie, 5 York Drive, Falkirk, FK2 9EP on 19 October 2012.
85. Letter of Objection received from Owner/Occupier, 37 Thornhill Court, Falkirk, FK2 9HH on 19 October 2012.
86. Letter of Objection received from J Bodman, 53 Thornhill Court, Falkirk, FK2 9HH on 19 October 2012.
87. Letter of Objection received from Owner/Occupier, 35 Eriskay Court, Falkirk, FK1 2PZ on 19 October 2012.
88. Letter of Objection received from Owner/Occupier, 19 Eriskay Court, Falkirk, FK1 2PZ on 19 October 2012.
89. Letter of Objection received from J Dunlop, 18 Earn Court, Grangemouth, FK3 0HT on 19 October 2012.
90. Letter of Objection received from Liz McCaffer, 50 Thornbridge Square, Falkirk, FK2 9BA on 12 October 2012.
91. Letter of Objection received from Fraser Halliday, 80 Westfield Street, Falkirk, FK2 9DX on 12 October 2012.
92. Letter of Objection received from J.S. Marshall, 6 Cunningham Gardens, Falkirk, FK2 9BE on 12 October 2012.
93. Letter of Objection received from Charles McKerral, 9 Russel Street, Falkirk, FK2 7HX on 12 October 2012.
94. Letter of Objection received from Thornwood Tenants & Residents Association, F.A.O Elizabeth Godfrey (Chairperson), 14 Woodburn Road, Falkirk, FK2 9BP on 16 October 2012.
95. Letter of Objection received from Mr William M Wilson, 7 George Street, Falkirk, FK2 7EY on 19 October 2012.
96. Letter of Objection received from Owner/Occupier, 5 York Drive, Falkirk, FK2 9EP on 19 October 2012.
97. Letter of Objection received from J Copeman, 66 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
98. Letter of Objection received from Mr John Williamson, 62 College Crescent, Falkirk, FK2 9HN on 19 October 2012.
99. Letter of Objection received from Janet Strathie, 4 Woodburn Road, Falkirk, FK2 9BP on 19 October 2012.
100. Letter of Objection received from Anne Miller, 4 Burnfield Place, Falkirk, FK2 9HW on 19 October 2012.

101. Letter of Objection received from Mr Andrew Miller, 4 Burnfield Place, Falkirk, FK2 9HW on 19 October 2012.
102. Letter of Objection received from H McGovern, 73 College Crescent, Falkirk, FK2 9HL on 19 October 2012.
103. Letter of Objection received from Mrs Simone Easton, 17 Camelon Road, Falkirk, FK1 5RU on 26 October 2012.

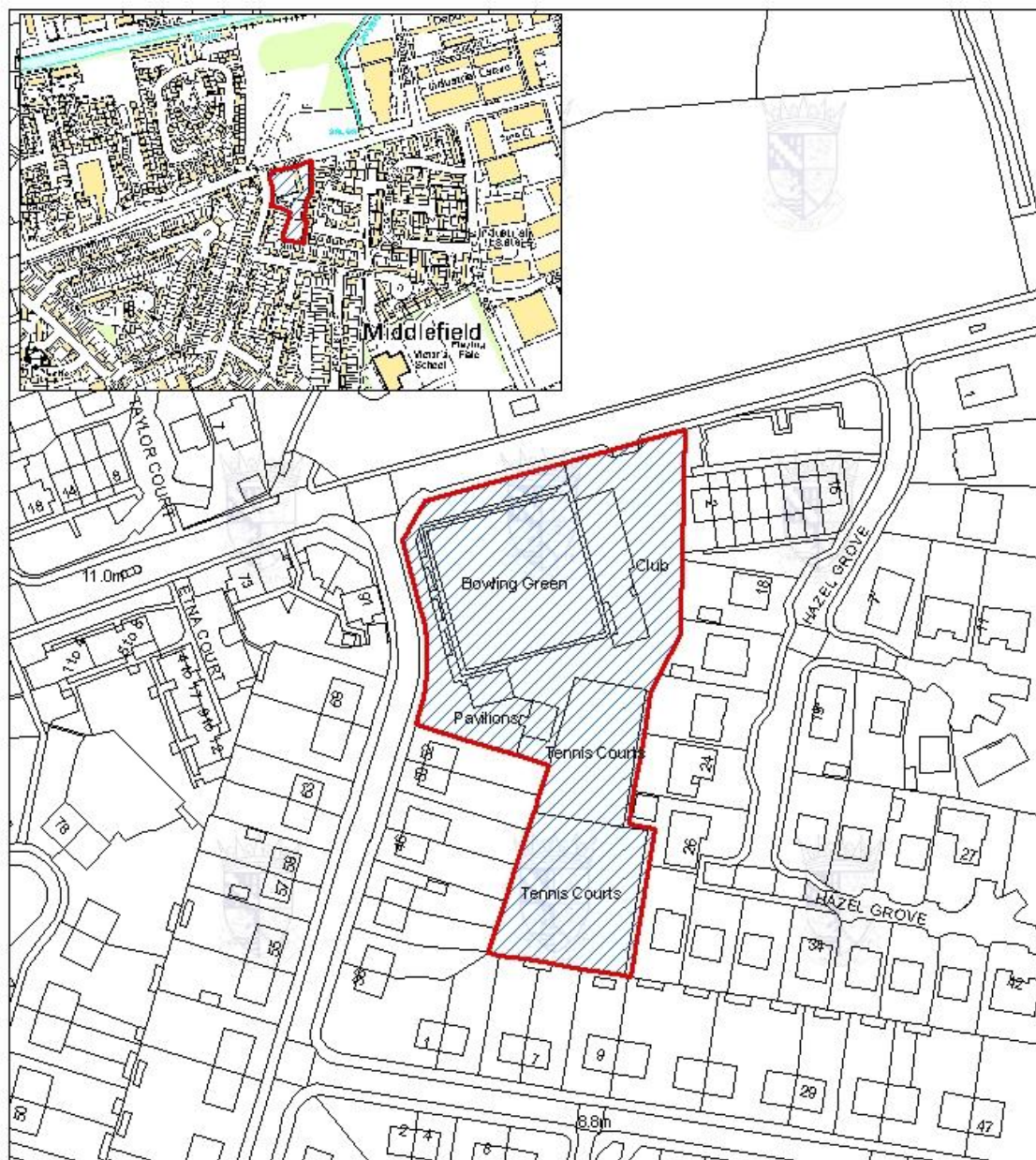
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/12/0543/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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FALKIRK COUNCIL

Subject: TEMPORARY STORAGE, TREATMENT AND DISTRIBUTION
OF ORGANIC WASTE INCLUDING LIME TREATMENT,
JAWCRAIG BRICKWORKS, FALKIRK FK1 3AL FOR JAMES
MCCAIG FARMS - P/10/0762/FUL

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: No Community Council

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT

1. Members will recall that this application was originally referred to the meeting of the Planning Committee on 1 February 2012 where it was agreed to continue the application for a Committee site visit. This took place on Monday 20 February 2012.
2. At the following meeting of the Planning Committee on 7 March 2012, the application was deferred to allow further consideration by officers over procedural matters.
3. On 25 June 2013, the Planning Committee were presented with a further update report, but deferred decision until clarification was sought over the role of the Scottish Environment Protection Agency in the control and monitoring of potential activities on the site.
4. Members may be aware that further clarification over these matters was sought by officers prior to the Committee meeting of 25 June 2013 (Appendix 1) and a draft copy of the Waste License Agreement between the applicant and the Scottish Environment Protection Agency is available (Appendix 2).
5. On the Planning Committee of 22 August 2013 the application was further continued to allow officers to liaise with SEPA and to request their attendance at a forthcoming meeting of the Committee to answer questions in respect of the Waste Management License process and to provide other pertinent information.
6. A representative of the Scottish Environment Protection Agency will be in attendance.

7. RECOMMENDATION

7.1 It is therefore recommended that Committee approve planning permission subject to the following conditions:

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) For the avoidance of doubt, no development shall be initiated prior to the construction and operation of the vehicular access arrangement (subject to P/09/0193/FUL approved 21 May 2009) as indicated in the submitted supporting statement dated November 2010.
- (3) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
 - i. the nature, extent and types(s) of contamination on the site.
 - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - iii. measures to deal with contamination during construction works.
 - iv. condition of the site on completion of decontamination measures.

Before the site is brought into use the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (4) For the avoidance of doubt, the proposed 1.8m high chain-link fence shall be placed in the inner side of the site boundary, with existing and new tree planting placed on the outer boundary of the site.
- (5) Further information shall be submitted to, and approved in writing by the Planning Authority as to:-
 - exact specification of the screen planting, including details of new planting, species to be used, nursery stock size and methods of protection.
 - details of woodland management and long term maintenance.
 - Measures to enhance the existing tree cover on the boundary of the site, including:-
 - cutting out any existing dead tree stems,
 - removing debris and rabbit fencing off a 15 metre wide strip of land on the north, west and south boundaries.
 - the planting of native tree species in shelters at 3m spacing.
- (6) Prior to any works on site, a Flood Risk Statement shall be submitted to and approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) The development would not be acceptable without these additional works.
- (3) To ensure the ground is suitable for the proposed development.
- (4-5) To safeguard the visual amenity of the area.
- (6) To enable the Planning Authority to consider this/these aspect(s) in detail.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03C, 04 and 05.
- (3) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (4) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.
- (5) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.
- (6) It is recommended that the applicant should consult with Development Services Environmental Health Division with regard to legislation governing hours of operation.

pp

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of objection received from NFU Scotland Rural Centre, West Mains, Ingleston Newbridge, Midlothian EH28 8LT on 31 January 2011.
4. Letter of objection received from Mr Peter Goldie, Muiravonside Cottage, Maddiston FK2 0BX on 10 January 2011.
5. Letter of objection received from Avonbridge and Standburn Community Council, c/o Ballenbriech Farm, Blackstone Road, Avonbridge, FK1 2LB on 23 January 2012.
6. Letter of objection received from Mr C Herd, Easter Jawcraig, Falkirk, FK1 3AL on 23 February 2012.
7. Letter of objection received from Mr C Herd, Easter Jawcraig, Falkirk, FK1 3AL on 23 February 2012.
8. Letter of objection received from Peter & Doreen Goldie, Muiravonside Cottage, Falkirk, FK2 0BX on 19 January 2012.
9. Letter of objection received from Julie Coulthard, julia@martincoulthard.com on 5 March 2012.
10. Letter of objection received from Margaret Mitchell MSP, Constituency Office, 104 Cadzow Street, Hamilton, ML3 6HP on 22 March 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

FALKIRK COUNCIL

Subject: TEMPORARY STORAGE, TREATMENT AND DISTRIBUTION
OF ORGANIC WASTE INCLUDING LIME TREATMENT,
JAWCRAIG BRICKWORKS, FALKIRK FK1 3AL FOR JAMES
MCCAIG FARMS - P/10/0762/FUL

Meeting: PLANNING COMMITTEE

Date: 22 August 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: No Community Council

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

CONTINUED

1. Members will recall that this application was originally referred to the meeting of the Planning Committee on 1 February 2012 where it was agreed to continue the application for a Committee site visit. This took place on Monday 20 February 2013.
2. At the following meeting of the Planning Committee on 7 March 2013, the application was deferred to allow further consideration by officers over procedural matters.
3. On 25 June 2013, the Planning Committee were presented with a further update report, but deferred decision until clarification was sought over the role of the Scottish Environment Protection Agency in the control and monitoring of potential activities on the site.
4. Members may be aware that further clarification over these matters was sought by officers prior to the Committee meeting of 25 June 2013 (Appendix 1) and a draft copy of the Waste Licence Agreement between the applicant and the Scottish Environment Protection Agency is available (Appendix 2).
5. The Scottish Environment Protection Agency do not object to the application. A number of matters will be controlled by the Scottish Environment Protection Agency through a required Waste Management Licence, including:-
 - Waste type and quantities
 - Hours of operation
 - Maximum duration of storage
 - Lighting

- Inspection of loads
- Pollution Discharge
- Dust
- Mud on roads
- Odour
- Vermin/insect/bird control
- Litter, and
- Burning

While these matters are not exhaustive, reference may be made to the Schedule of Matters on page 1 of the draft Waste Management License for further expansion.

6. With regard to the letter from the Scottish Environment Protection Agency dated 20 June 2013, it is confirmed that odour will be controlled as part of the Waste Management License to reduce the likelihood of offensive odours being detected beyond the site boundary (paragraph 1.3). The Scottish Environment Protection Agency suggest that Falkirk Council may wish to consider if the site is compatible with existing land use and whether there are adequate separation distances for process failures which could generate odour problems.
7. Noise is not controlled through the Waste Management License for the site.
8. The Scottish Environmental Protection Agency recommend that if Falkirk Council requires additional information or assurance on the impacts of the proposal, that determination of the planning application is deferred until it can be established whether or not a Waste Management License can be granted (paragraph 1.6).
9. In response to these matters, it should be noted that no objection to the application has been raised through Falkirk Council's Environmental Health and Trading Standards Unit. In terms of the nearest dwellinghouse, the nearest occupied property is Easter Jawcraig Farm (approximately 130 metres). Easter Jawcraig is recognised as a working farm, where storage and distribution of agriculturally related material occurs. Indeed, on the site visit by Planning Committee on 20 February 2013, animal waste was being stored on the land between the property and the application site, capable of generating odour to the Easter Jawcraig inhabitants. Therefore, not only the separation distance from application site to residential property should be considered but also the use of the intervening land (agriculture) and the potential for odour creation. There are no further residential properties that are closer to the site than Easter Jawcraig. This is a rural location and the proposed use is considered appropriate for this location.
10. It may be considered that planning powers should not be used to regulate matters more properly dealt with under other specific statutory powers, unless such circumstances indicate that a planning purpose is being served. In addition, if other statutory consents are required on an application site, there is no general rule requiring a decision on the planning application to be delayed until the outcome of the other statutory consent process(es). In this instance, odour is defined as being within the remit of the Scottish Environment Protection Agency through a Waste Management License. Falkirk Council's Environmental Health and Trading Standards Unit has not raised objection to the application. The intervening land use (agriculture) between the application site and Easter Jawcraig is capable of giving rise to odour issues, limiting any creation of a 'neutral buffer' in terms of odour control.

11. In the context of the application site, it would be process failures which could generate odour problems – the process being controlled through the Scottish Environment Protection Agency's Waste Management License.

12. RECOMMENDATION

- 12.1 It is therefore recommended that Committee approve planning permission subject to the following conditions:

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) For the avoidance of doubt, no development shall be initiated prior to the construction and operation of the vehicular access arrangement (subject to P/09/0193/FUL approved 21 May 2009) as indicated in the submitted supporting statement dated November 2010.
- (3) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
 - i. the nature, extent and types(s) of contamination on the site.
 - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - iii. measures to deal with contamination during construction works.
 - iv. condition of the site on completion of decontamination measures.

Before the site is brought into use the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (4) For the avoidance of doubt, the proposed 1.8m high chain-link fence shall be placed in the inner side of the site boundary, with existing and new tree planting placed on the outer boundary of the site.
- (5) Further information shall be submitted to, and approved in writing by the Planning Authority as to:-
 - exact specification of the screen planting, including details of new planting, species to be used, nursery stock size and methods of protection.
 - details of woodland management and long term maintenance.
 - Measures to enhance the existing tree cover on the boundary of the site, including:-

- cutting out any existing dead tree stems,
 - removing debris and rabbit fencing off a 15m wide strip of land on the north, west and south boundaries.
 - the planting of native tree species in shelters at 3m spacing.
- (6) Prior to any works on site, a Flood Risk Statement shall be submitted to and approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) The development would not be acceptable without these additional works.
- (3) To ensure the ground is suitable for the proposed development.
- (4-5) To safeguard the visual amenity of the area.
- (6) To enable the Planning Authority to consider this/these aspect(s) in detail.

Informative(s):-

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03C, 04 and 05.
- (3) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (4) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.
- (5) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.

- (6) It is recommended that the applicant should consult with Development Services Environmental Health Division with regard to legislation governing hours of operation.

Pp

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Director of Development Services

Date: 13 August 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of objection received from NFU Scotland Rural Centre, West Mains, Ingleston Newbridge, Midlothian EH28 8LT on 31 January 2011.
4. Letter of objection received from Mr Peter Goldie, Muiravonside Cottage, Maddiston FK2 0BX on 10 January 2011.
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10. Letter of objection received from Margaret Mitchell MSP, Constituency Office, 104 Cadzow Street, Hamilton, ML3 6HP on 22 March 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

APPENDIX 1



Our ref: PCS/120945
Your ref: P/10/0762/FUL

If telephoning ask for:
Stephanie Balman

John Milne
Development Services
Falkirk Council

By email only to: john.milne@falkirk.gov.uk

20 June 2013

Dear Mr Milne

Town and Country Planning (Scotland) Acts
Planning application: P/10/0762/FUL
Temporary Storage, Treatment and Distribution of Organic Waste Including Lime Treatment
Jawcraig Brickworks, Falkirk, FK1 3AL

Thank you for your email dated 17 June 2013 requesting a representative from SEPA to attend the planning committee for the above planning application. We will be unable to attend the planning committee but have the following comments to make. We have **no objection** to this planning application.

1. Waste Management Licence

- 1.1 We stated in previous responses, that the proposed site will require authorisation from us under the Waste Management Licensing (Scotland) Regulations 2011. We have received an application for a waste management licence (WML). However, this is still to be determined and we are consulting with the applicant on the draft licence. We are satisfied that the proposal is potentially capable of being authorised under this regime.
- 1.2 We note that the planning application has now been amended and now excludes the open windrow composting element. We therefore no longer require the submission of a site specific bio-aerosol risk assessment with the WML application to demonstrate that bio-aerosol levels will be maintained at acceptable levels.
- 1.3 Due to the nature of the development proposed, there may be potential for residual odour to be detected outwith the site boundary. Odour will be controlled by us as part of the WML and SEPA will ensure that the applicant puts measures in place to reduce the likelihood of offensive odours being detected beyond the site boundary. Notwithstanding this, even a well managed site that operates in accordance with the licence conditions, there is always a risk that residual odour nuisance may occasionally be experienced by neighbouring properties. A residual odour is defined as an odour detected at or beyond the site boundary that is deemed to be non-offensive by the attending SEPA officer. This is not something which we can control and given the potential for residual odour from the site, the Council may wish to consider if this site is compatible with existing and proposed adjacent land use, and whether there are adequate separation distances for process failures which could generate odour problems.



Chairman
David Sigsworth
Chief Executive
James Curran

Edinburgh Office
Clearwater House, Heriot Watt Research Park
Avenue North, Riccarton, Edinburgh EH14 4AP
tel 0131 449 7296 fax 0131 449 7277
www.sepa.org.uk

- 1.4 Scottish Planning Policy (paragraph 217) states that planning authorities should consider the need for buffer zones between sensitive receptors (e.g. houses) and new waste management facilities.
- 1.5 It should be noted that we do not intend to control noise through the WML for this site. We will however, be attaching standard conditions to the licence regarding dust and litter. As we are still consulting with the applicant on these we can not be specific at this time about what they will include.
- 1.6 We recommend that if the Council requires additional information or assurance on the impacts of this proposal that determination of the planning application is deferred until we can establish whether or not a licence can be granted.
- 1.7 It should be noted that our preference would be that all the technical information required for all permissions and licensing is submitted at the same time as the planning application. However, we consider it to be at the applicant's own commercial risk if they do not wish to provide it at this stage and any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising.
- 1.8 This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at the planning stage. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. If you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found in How and when to consult SEPA, and on flood risk specifically in the SEPA-Planning Authority Protocol.

Regulatory advice

2. Regulatory requirements

- 2.1 Details of regulatory requirements and good practice advice for the applicant can be found on our website at www.sepa.org.uk/planning.aspx. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office (tel: 01786 452595).

If you have any queries relating to this letter, please contact me by telephone on 0131 449 8559 or e-mail at planning.se@sepa.org.uk.

Yours sincerely

Stephanie Balman
Planning Officer
Planning Service

APPENDIX 2



INTERPRETATION OF TERMS3

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INTERPRETATION OF TERMS

For the purposes of these Conditions, and unless the context requires otherwise, the following definitions shall apply:

"authorised SEPA officer" means any person who is authorised in writing under Section 108 of the Environment Act 1995 to carry out duties on behalf of SEPA;

"European Waste Catalogue" is a list of wastes pursuant to Article 1(a) of Directive 75/442/EEC on waste and Article 1(4) of Directive 91/689/EEC on hazardous waste contained in Council Decision 2000/532/EC (O.J. L 226, 6.9.2000p.3) as amended by Council Decisions 2001/118/EC (O.J. L 47 16.2.2001, p.32) and 2001/119/EC (O.J. L 203, 28.7.2001, p.18)(or any subsequent amendments to the same);

"incident" means any of the following situations:

- (a) Where an accident occurs which has caused or may have the potential to cause pollution of the environment;
- (b) Where any malfunction, breakdown, or failure of plant or techniques is detected which has caused or has the potential to cause pollution of the environment;

"other relevant person" has the same meaning as in section 74(7) of the Act;

"pollution of the environment" has the same meaning as in section 29 of the Environmental Protection Act 1990;

"SEPA" means the Scottish Environment Protection Agency;

"sealed drainage system" has the same meaning as in paragraph 45(7) of Schedule 3 of the Waste Management Licensing Regulations 1994;

"the Act" means the Environmental Protection Act 1990;

"the Licence Holder" means the Licence Holder specified in the licence or other person to whom the licence has been transferred in accordance with section 40 of the Act. Except where specified otherwise, any reference to the Licence Holder shall include a reference to the Licence Holder's employees, agents or contractors;

"the site" is defined in the site licence;

"the site licence" is waste management licence WML/L/1109101 granted to the Licence Holder by SEPA;

"waste" has the same meaning as in section 75 of the Act;

"Water Environment" means all surface water, groundwater and wetlands as defined in Section 3(1) of the Water Environment and Water Services (Scotland) Act 2003;

"Working Plan" means the document(s) identified as the Working Plan in writing by SEPA at the time of grant of the licence, as listed in appendix 2 to the schedule of conditions, and any subsequent changes to that Working Plan made in accordance with the conditions of the licence;

Any reference to a group of Conditions, numbered Condition, Schedule, Table, Appendix, Figure or Paragraph is a reference to a group of Conditions, numbered Condition, Schedule, Table, Appendix, Figure or Paragraph bearing that number in these Conditions;

Except where specified otherwise in these Conditions:

- "day" means any period of 24 consecutive hours,
- "week" means a period of 7 consecutive days,
- "month" means a calendar month,
- "year" means any period of 12 consecutive months,

and any derived words (e.g. "monthly", "quarterly") shall be interpreted accordingly.

Except where specified otherwise, any reference to an enactment or statutory instrument includes a reference to it as amended (whether before or after the date of the Conditions) and to any other enactment, which may, after the date of this licence, directly or indirectly replace it, with or without amendment.

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1 GENERAL CONSIDERATIONS

1.1 Licence Conditions

- 1.1.1 The activity/activities at the site shall be restricted to the keeping and treating of waste.
- 1.1.2 The site licence shall apply to the area of land at Jawcraig Brickworks, Falkirk, FK1 3AL ("the site") as delineated in red on the Site Plan attached to this Licence as Appendix 1.

1.2 Site Licence

- 1.2.1 A copy of the site licence, its conditions and the associated Working Plan shall be made available on the site when the site is in operation. The licence, its conditions and the details of the associated Working Plan shall be made known to all staff manning, or responsible for supervising, the site.

1.3 Waste Types and Quantities

- 1.3.1 Only waste types detailed in column 1 of Table 1 shall be accepted at the site for the purpose of keeping. The quantities of waste accepted at the site on any day shall not exceed those detailed in column 2 of Table 1. The quantities of waste accepted at the site in any year shall not exceed those detailed in column 3 of Table 1.

Table 1

Column 1	Column 2	Column 3
Waste Accepted	Daily Tonnage	Yearly Tonnage
Sewage Pellets (EWC code 19 08 05)	75	1000
Distillery Cake (EWC code 02 07)	100	1000
Off Specification Compost (EWC code 19 05 03)	100	250
Digestate from anaerobic treatment of animal and vegetable waste (EWC code 19 06 06)	100	250
Wood Waste (EWC code 03 01 05)	100	250
Ash (EWC code 10 01) not containing dangerous substances	100	250

- 1.3.2 Only waste types detailed in column 1 of Table 2 shall be accepted at the site for the purpose of treatment. The quantities of waste accepted at the site on any day shall not exceed those detailed in column 2 of Table 2. The quantities of waste accepted at the site in any year shall not exceed those detailed in column 3 of Table 2.

Table 2

Column 1	Column 2	Column 3
Waste Accepted	Daily Tonnage	Yearly Tonnage
Sewage Sludge Cake (EWC code 19 08 05)	700	17000

1.3.3 The total quantity of waste kept on site shall not exceed 2800 tonnes.

1.3.4 Waste types detailed in Table 2 shall not be accepted at the site.

Table 3

Waste Excluded
All special wastes as defined in the Special Waste Regulations 1996 (as amended)

1.4 Hours of Operation

1.4.1 The Licence Holder shall notify SEPA in writing of the opening hours for the receipt of waste, and if different, the hours of other operations. SEPA shall be given 7 days written notice of any change in operating hours.

1.4.2 The site shall only receive waste within the following hours -

Monday to Friday	07:00 hours – 18:30 hours
Saturday	07:00 hours – 18:30 hours
Sunday	07:00 hours – 18:30 hours

1.4.3 Waste processing / handling shall only take place within the following hours

Monday to Friday	07:00 hours – 18:30 hours
Saturday	07:00 hours – 18:30 hours
Sunday	07:00 hours – 18:30 hours

1.5 Commencement of Operations

1.5.1 SEPA must be advised in writing of the date the site is to become operational and receive waste at least 7 days before the site becomes operational and receives waste.

1.6 Temporary Cessation of Operations

- 1.6.1 Any temporary cessation of operations in excess of two weeks shall be notified to SEPA in writing.
- 1.6.2 SEPA shall be given at least one day's prior notice of the Licence Holder's intention to recommence operations after such a temporary cessation.

1.7 Permanent Cessation of Operations

- 1.7.1 Written notice shall be given to SEPA of the designated date when the site shall cease operations permanently at least 14 days prior to the said designated date.

1.8 Staffing and Management

- 1.8.1 When the site is open to receive waste the site shall be staffed by at least 1 member of staff.
- 1.8.2 When the site is closed to receive waste, but waste processing / handling are taking place, the site shall be staffed by at least 1 member of staff.

1.9 Working Plan

- 1.9.1 All operations on site shall be carried out in accordance with the Working Plan. Where any licence condition conflicts with the Working Plan, the licence condition shall take precedence over the Working Plan.
- 1.9.2 Any change(s) to the Working Plan shall be made in writing to SEPA in accordance with condition 1.9.3 or 1.9.4 below, and must be accompanied by a completed quality control sheet as detailed in Appendix 3 to the schedule of conditions.
- 1.9.3 Proposed change(s) submitted as described in Condition 1.9.2 above to any section of the Working Plan detailed in Table 4 below shall not be implemented until SEPA has given its written consent to the proposed change(s). If SEPA does not give its written consent within 28 days of receipt of the proposed change(s) the request for change(s) shall be deemed refused.
- 1.9.4 Changes to any subject area of the Working Plan other than those areas detailed in Table 4 below, may be implemented at any time provided the licence holder complies with the requirements of condition 1.9.2 above within 7 days of implementation of the change.
- 1.9.5 The licence holder, in consultation with SEPA, shall review the Working Plan to ensure consistency with licence conditions at least once a year and by 31 May each year. This review shall include the submission of "as-built" drawings for construction work undertaken during the year.

Table 4

Section of working plan requiring prior consent	Activity to which working plan section relates
5	Staffing
8	Technical Competence
9	Security
10	Waste Acceptance
13.3	Waste storage
14.2	Dust
14.5	Odours

1.10 Incident Procedures

- 1.10.1 SEPA shall be informed forthwith of any incidents occurring on site. Immediate action shall be taken to deal with the incident. A written report shall be forwarded to SEPA within 7 days of any such incident. This shall include the circumstances of the incident, the identity of any persons responsible or thought to be responsible for the incident and the actions taken by the Licence Holder.

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1.11 Maximum Duration of Storage

1.11.1 Waste shall not remain on site for a period exceeding that specified below:

Waste Type	Maximum Storage Period
Digestate	7 days
Sewage sludge awaiting treatment	7 days
Processed sewage cake	3 months
Segregated Wood	3 months
Distillery cake	3 months
Off Specification Compost	6 months
Ash	12 months
Sewage Pellets	12 months

1.12 Technical Competence

1.12.1 At least one technically competent person shall be responsible for supervising the site and shall be contactable by site staff and SEPA at all times during operational hours.

1.12.2 A list of technically competent persons shall be included in the Working Plan.

1.12.3 Any changes to the list of technically competent persons who may be in charge of the site shall be notified to SEPA within 2 working days.

1.13 Reporting of Relevant Convictions

1.13.1 Where the Licence Holder or other relevant person (as defined in Section 74(7) of the Act) has been convicted of an offence prescribed by Regulation 3 of The Waste Management Licensing Regulations 1994, the Licence Holder shall notify SEPA in writing within 7 days of the conviction, whether or not the conviction is subsequently appealed.

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2 SITE INFRASTRUCTURE

2.1 Internal Site Roads

- 2.1.1 All roads and surfaces shall be constructed and maintained in a condition such that their use is not compromised by debris, ruts, potholes or ponded surface water, as detailed in the Working Plan.

2.2 Site Security

- 2.2.1 The site shall be maintained in a secure condition to prevent unauthorised access as detailed in the Working Plan.

2.3 Notice Board and Signs

- 2.3.1 A site notice board of durable material and finish shall be displayed at the site entrance. The notice board shall contain the under noted information, which information shall be legible from outwith the site boundary.

- site name, address and WML number
- site Licence Holder's name
- site opening times
- emergency contact telephone number for the Licence Holder
- telephone number of the SEPA area office and emergency number

- 2.3.2 Legible signs of a durable material and finish shall be prominently displayed throughout the site to ensure that users of the site are aware of:-

- traffic routing and access restrictions
- the location of the various facilities
- all areas of high risk

2.4 Storage of Liquids

- 2.4.1 All containers used to store any liquids shall be located in a bund. The minimum capacity of any bund shall be either; 110% of the capacity of the largest container, or 25% of the total capacity of all the containers within the bund, whichever is the greater. In the event of any containers being connected to one another, they shall be treated as one container.

2.4.2 The bunded area(s) and containers shall conform to the following standards -

- the walls and base of the bund shall be impermeable
- the base shall drain to a sump
- when not in use all taps, valves, pipes and every part of each container shall be located within the area served by the bund
- vent pipes shall be directed downwards into the bund
- no part of the bund shall be within 10 metres of a watercourse

2.4.3 The accumulation of rainwater, spillages or leaks shall be managed to ensure that at least 95% of the capacity of the bund is free of liquid.

2.5 Secure Compound

2.5.1 An area within the site boundaries shall be provided for isolating non-conforming wastes. This area shall have an impermeable surface as detailed in the working plan, designed to ensure that no liquid fraction can escape beyond this area.

2.6 Lighting

2.6.1 At all times the site is open to the public or operations are being carried out on site average and minimum luminance detailed in Table 4 below must be achieved.

Table 4

Area	Average Luminance Lx	Minimum Measured Luminance Lx
1. Movement of people, vehicles, plant, machines	50 (measured at ground level)	20 (measured at ground level)
2. Waste Inspection	200 (measured at waste level)	100 (measured at waste level)

2.6.2 If lighting systems are used to comply with the standards they must be provided and maintained as detailed in the Working Plan.

2.7 Traffic Control

2.7.1 Waiting areas shall be provided and maintained for vehicles delivering waste to or removing waste from the site as detailed in the Working Plan in order to prevent vehicles queuing on the public highway and congestion within the site.

2.7.2 Spaces shall be provided for staff and visitor car parking, in accordance with the Working Plan.

2.8 Impermeable Pavement

2.8.1 All working surfaces shall be impermeable to water and laid to falls that direct surface run-off to a purpose designed drainage system.

- 2.8.2 Impermeable pavement shall be constructed of concrete or similar material and be laid to a fall so as to direct pavement water run-off to a sealed drainage system and oil interceptor. The impermeable pavement shall be of such a design that any spillage on it or run-off from it is fully contained and cannot escape onto adjacent ground.

2.9 Bays and Bins

- 2.9.1 Separate facilities shall be provided for the reception of different categories of wastes. These facilities shall be as detailed in the Working Plan.

2.10 Site Office

- 2.10.1 A site office facility equipped with an effective communication system shall be provided and maintained as detailed in the Working Plan.

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3 WASTE RECEPTION

3.1 Inspection of Loads

- 3.1.1 The Licence Holder shall monitor all wastes entering the site as detailed in the Working Plan, (including weight recording of waste loads) to ensure that they are within the types/quantities permitted under the conditions of this licence. Vehicles shall not be permitted to proceed to the storage area / treatment area unless the source of waste has been checked and where practicable, the load visually inspected by a suitably trained member of staff and found to comply with the requirements of this licence.
- 3.1.2 All waste received shall be further inspected by a suitably trained member of staff when it is kept/treated, to check that the waste is permitted for acceptance under the conditions of this licence. Any waste found not to conform to the conditions of this licence detected during this inspection shall be immediately removed to the secure compound as detailed in the Working Plan.

3.2 Procedure for Rejected Loads

- 3.2.1 Where the Licence Holder refuses any person permission to deposit waste at the site the Licence Holder shall take all reasonable steps to obtain the following details: name and address of person, registration number of vehicle, quantity and type of waste, date and time of refusal. Details of the occurrence shall be passed to SEPA forthwith.

3.3 Labelling

- 3.3.1 All waste storage areas shall be clearly labelled. The label shall identify the material stored in the area and any hazardous properties. This information shall be legible from outwith the storage area.

3.4 Adequate Storage Capacity

- 3.4.1 In the event that the maximum capacity of the storage facilities, as detailed in the Working Plan, is reached, no further waste shall be accepted at the site until capacity becomes available.

4 SITE OPERATIONS

4.1 Plant and Machinery

- 4.1.1 All plant, machinery, equipment and instrumentation used at the site shall be operated, maintained and inspected in accordance with the manufacturers' guidelines. Should the plant, machinery equipment and instrumentation for any reason become unserviceable or inoperable, its replacement, repair or arrangements for its repair shall be put in hand forthwith.

4.2 Breakdowns, Leakages, Spills

- 4.2.1 Any spillages of waste, fuel or other liquids shall be cleaned up forthwith. A supply of a suitable absorbent material as detailed in the Working Plan shall be kept on site to deal with any such spillages.

4.3 Tidiness

- 4.3.1 All storage areas shall be cleared of all wastes at least once every 3 months and the area thoroughly cleaned. Details of such cleaning shall be recorded in the Site Diary.

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5 POLLUTION CONTROL

5.1 Polluting Discharge

- 5.1.1 In the event of any contaminants from the site entering or threatening to enter the Water Environment or land out with the site boundary, SEPA shall be informed forthwith. Immediate action shall be taken to terminate such a discharge and to take such other remedial action as may be necessary.

5.2 Dust

- 5.2.1 The emission of dust to the atmosphere shall be minimised and dust suppression water spraying equipment shall be provided, maintained and used as detailed in the Working Plan or specify when needed.

5.3 Mud on Roads

- 5.3.1 The Licence Holder shall ensure that all roads and site surfaces are kept free from mud and other debris to the extent necessary to prevent fouling of the public highway.

5.4 Odour

- 5.4.1 Waste Operations shall be carried out so that offensive odours from the site in the opinion of an authorised SEPA officer do not become detectable beyond the boundaries of the site.

5.5 Vermin/Insect/Bird Control

- 5.5.1 All site operations shall be carried out so as to minimise the presence of insects, birds and vermin. The site shall be inspected at least once every three months by a person suitably qualified and experienced in pest control and a treatment programme shall be undertaken to deal with any identified infestation forthwith.

5.6 Litter

- 5.6.1 All site operations shall be carried out such that no litter escapes beyond the site boundary. On a daily basis any litter lying within the site shall be removed and contained.

5.7 Burning

- 5.7.1 No waste shall be burned within the boundaries of the site.

Draft - Not a legal document

6 RECORDS

6.1 Site Diary

6.1.1 The Licence Holder shall keep on site a diary to record significant events including as a minimum those detailed below:-

- Site visits by a certificate of technical competence holder & any instruction issued to staff regarding compliance with licence conditions
- Plant maintenance
- Emergencies and details of remedial action taken
- Problems with waste received including actions taken
- Pest control inspections
- Environmental problems specific to the site

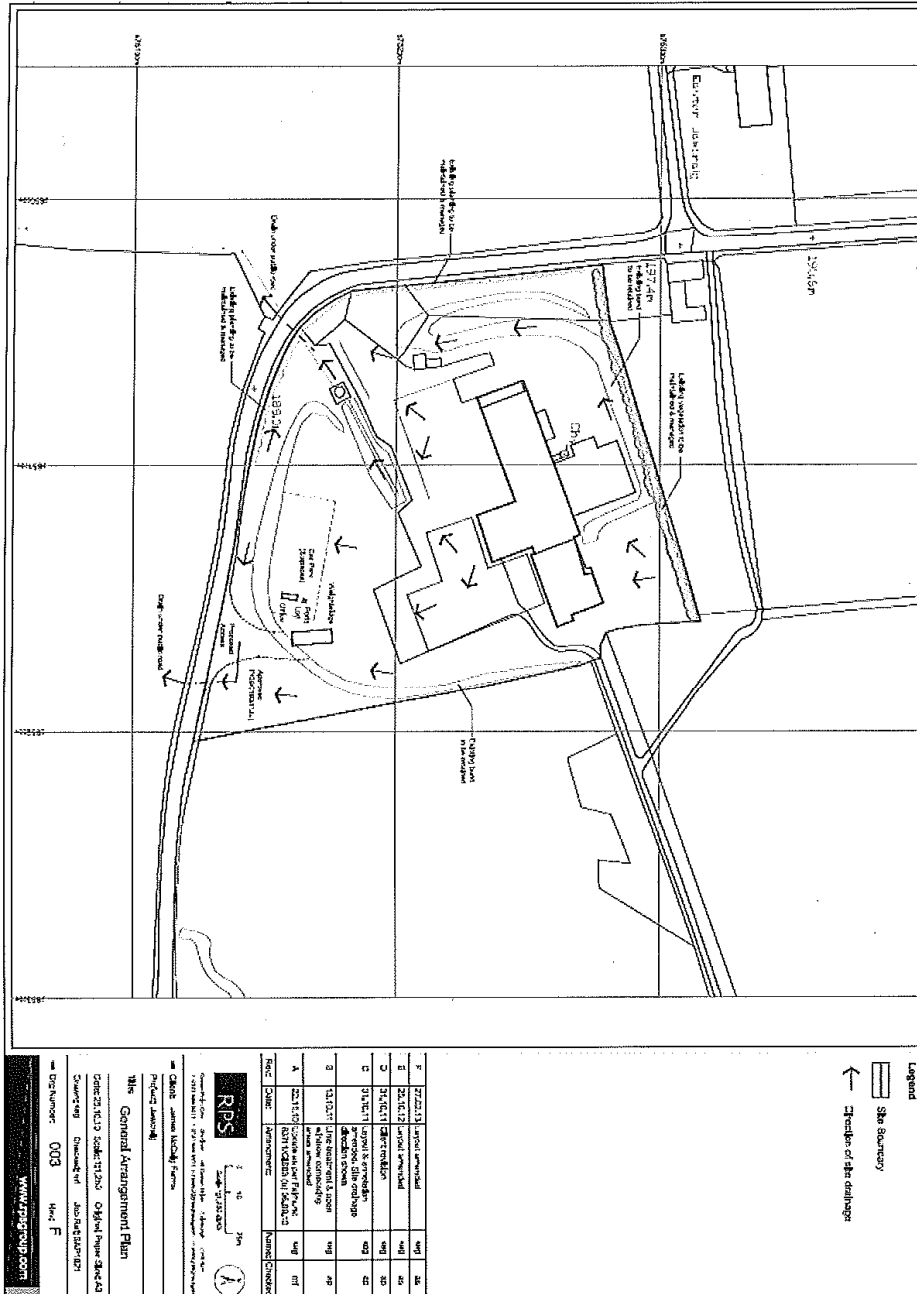
The site diary shall be kept in a form that can be audited and shall be made available for inspection at any reasonable time.

6.2 Waste Data Returns

6.2.1 The Licence Holder shall compile the data required to complete "the Licensed/Permitted Site return form" detailed in Appendix 4. A copy of the completed form shall be returned to SEPA within 28 days of the last day of March, June, September and December each year.

Draft - Not a legal document

7 APPENDIX 1 - SITE PLAN



APPENDIX 2 - LIST OF DOCUMENTS COMPRISING THE WORKING PLAN

- Site Working Plan for the Storage and Treatment of Waste Materials at Jawcraig Brickworks
- Brickworks Material Transfer Station: Odour Management Plan

Draft - Not a legal document

APPENDIX 3 - WORKING PLAN - QUALITY CONTROL SHEET

Amendments

Revision No	Date	Page/ Item No	Change	Signed Operator	Acknowledged SEPA	Approval Required	WP Amended	QC Sheet Returned

Draft - Not a legal document

Licence Number: WML/L/1109101
File Reference: WML/L/1109101

APPENDIX 4 - LICENSED/PERMITTED SITE RETURN FORM

Draft - Not a legal document

EXPLANATORY NOTES

(These explanatory notes do not form part of the licence)

1. GRANT OF LICENCE

This licence is granted in accordance with the provisions of Section 35 and 36 of the Environmental Protection Act 1990.

2. MODIFICATION OF LICENCE

Licence conditions may only be modified in accordance with Section 37 of the Environmental Protection Act 1990. The working plan may be modified in accordance with the relevant conditions of the licence.

3. SUSPENSION OF LICENCE

SEPA may suspend or partially suspend a licence in accordance with the provisions of Sections 38 and 42 (5) and (6) of the Environmental Protection Act 1990 and Section 41(6) of the Environment Act 1995.

4. REVOCATION OF LICENCE

A licence may be revoked or partially revoked in accordance with the provisions of Sections 38, and 42(5) and (6) of the Environmental Protection Act 1990 and Section 41(6) of the Environment Act 1995.

5. SURRENDER OF LICENCE

A licence may only be surrendered in accordance with the provisions of Section 39 of the Environmental Protection Act 1990.

A licence shall remain in effect, subject to any modification, revocation or transfer issued by SEPA until such time as the licensed activity has ceased, an application for surrender of licence has been made by the licence holder and the certificate of completion has been issued by SEPA.

6. TRANSFER OF LICENCE

A licence may only be transferred in accordance with the provisions of Section 40 Environmental Protection Act 1990.

7. GENERAL STATUTORY REQUIREMENTS

A licence does not detract from any other statutory requirements applicable to the licence holder or his operations, such as any need to obtain planning permission or building regulations approval or any responsibilities under legislation for health, safety and welfare in the workplace.

8. SUBSISTENCE CHARGES

An annual subsistence charge will be payable in respect of the licence under Section 41 of the Environment Act 1995.

9. OFFENCES

Under Section 33(6) of the Environmental Protection Act 1990, a person who contravenes any condition of a waste management licence commits an offence.

A person who commits an offence under Section 33(6) may be liable to imprisonment and/or to a fine.

10. ADDRESS AND TELEPHONE NUMBERS

The contact address and telephone number for all information to be reported in terms of the licence, is as follows: -

Scottish Environment Protection Agency
Bremner House
Castle Business Park
Stirling
FK9 4TF

Tel No: 0800 80 70 60 and/or 01786 452595
Fax No: 01786 461425

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FALKIRK COUNCIL

Subject: TEMPORARY STORAGE, TREATMENT AND DISTRIBUTION
OF ORGANIC WASTE INCLUDING LIME TREATMENT,
JAWCRAIG BRICKWORKS, FALKIRK FK1 3AL FOR JAMES
MCCAIG FARMS – P/10/0762/FUL

Meeting: PLANNING COMMITTEE

Date: 25 June 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: No Community Council

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT

1. Members will recall that this application was originally referred to the meeting of the Planning Committee on 1 February 2012 (copy of previous report appended) where it was agreed to continue the application for a Committee Site visit. This took place on Monday 20 February 2012.
2. At the following meeting of the Planning Committee on 7 March 2012, it was agreed to continue consideration of the application to allow further deliberation by officers of various technical matters as well as await receipt of a response from the Scottish Ministers on a request made to them to carry out a Screening Directive.
3. Approach to Scottish Ministers resulted in a response dated 30 March 2012, where Scottish Ministers declined to issue a Screening Direction in this case. Instead Scottish Ministers returned the case to Falkirk Council for further consideration and determination.
4. On 13 July 2012, Falkirk Council issued a Screening Opinion (PRE/2012/0009/SCREEN). Although both SEPA and SNH commented that they did not consider EIA to be necessary for the protection of their interests, Falkirk Council considered that the proposal required an Environmental Impact Assessment.
5. On consideration, the applicant requested that the windrow composting element be withdrawn from the proposal. This element has now been deleted from the application description.

6. On 15 April 2013, Falkirk Council issued a Screening Opinion (PRE/2013/0006/SCREEN) confirming that, with the removal of the windrow composting element, an Environmental Impact Assessment is not required.
7. Members will note that previously recommended planning conditions (3, 7 and 8) relating to bioaerosol monitoring, screening and storage of organic waste have been deleted as no windrow operations are the subject of this application.
8. For clarification, the principal elements of the proposal would comprise:-

Re-use of the existing brickworks buildings for:

- housing lime treatment of sewage cake;
- sewage cake receiving bay;
- storage of lime and mixing equipment; and
- loading and unloading of cake and lime treated cake
- pellet storage; and
- reception area

Outwith the brickworks there would be:

- weighbridge;
- site office cabin; and
- staff and visitor parking for approximately 8 cars.

9. Taking into account the removal of the windrow composting element from the proposal and an Environmental Impact Assessment not being required, it is considered that the proposed development is acceptable. With some amendment to conditions the previous recommendation to grant planning permission is reiterated below.

10. RECOMMENDATION

- 10.1 It is therefore recommended that Committee approve planning permission subject to the following conditions.

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) For the avoidance of doubt, no development shall be initiated prior to the construction and operation of the vehicular access arrangement (subject to P/09/0193/FUL approved 21 May 2009) as indicated in the submitted supporting statement dated November 2010.

- (3) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:

- i. the nature, extent and types(s) of contamination on the site.
- ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
- iii. measures to deal with contamination during construction works.
- iv. condition of the site on completion of decontamination measures.

Before the site is brought into use the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (4) For the avoidance of doubt, the proposed 1.8m high chain-link fence shall be placed in the inner side of the site boundary, with existing and new tree planting placed on the outer boundary of the site.

- (5) Further information shall be submitted to, and approved in writing by the Planning Authority as to:-

- exact specification of the screen planting, including details of new planting, species to be used, nursery stock size and methods of protection.
- details of woodland management and long term maintenance.
- Measures to enhance the existing tree cover on the boundary of the site, including:-
 - cutting out any existing dead tree stems,
 - removing debris and rabbit fencing off a 15m wide strip of land on the north, west and south boundaries.
 - the planting of native tree species in shelters at 3m spacing.

- (6) Prior to any works on site, a Flood Risk Statement shall be submitted to and approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) The development would not be acceptable without these additional works.
- (3) To ensure the ground is suitable for the proposed development.

- (4-5) To safeguard the visual amenity of the area.
- (6) To enable the Planning Authority to consider this/these aspect(s) in detail.

Informative(s):

- (1) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03C, 04 and 05.
- (3) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (4) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.
- (5) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.
- (6) It is recommended that the applicant should consult with Development Services Environmental Health Division with regard to legislation governing hours of operation.

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Director of Development Services

Date: 17 June 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Letter of objection received from NFU Scotland Rural Centre, West Mains, Ingleston Newbridge, Midlothian, EH28 8LT on 31 January 2011.
4. Letter of objection received from Mr Peter Goldie, Muiravonside Cottage, Maddiston, FK2 0BX on 10 January 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

FALKIRK COUNCIL

Subject: TEMPORARY STORAGE, TREATMENT AND DISTRIBUTION
OF ORGANIC WASTE INCLUDING LIME TREATMENT AND
OPEN WINDROW COMPOSTING AT JAWCRAIG
BRICKWORKS FALKIRK FK1 3AL FOR JAMES MCCAIG FARMS
- P/10/0762/FUL

Meeting: PLANNING COMMITTEE

Date: 7 March 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: No Community Council

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

- 1 Members will recall that this application was originally presented to the meeting of the Planning Committee on 1 February 2012 (copy of previous report appended) where it was agreed to continue the application for a Committee site visit. This visit took place on Monday 20th February 2012.
2. One letter of objection has been received, dated 15 January 2012, objecting to the application. The points raised can be summarised as follows:-
 - The proposal represents a serious health risk and discomfort threat to the community at large, through airborne contaminants and offensive odours.
 - There will be an adverse impact on amenity of residents through the large increase in heavy goods vehicle movements on a road network which, it is opinioned, has already failed.
 - The road network has shortcomings in both alignment and construction, with no pedestrian pathways along the majority of its lengths.
 - Falkirk Council has been unable to monitor, control, nor impose conditions on developments of a broadly similar nature.

3. Two letters of objection were received on 13 January 2011 and 19 January 2011 that were not initially allocated to the planning application file. The objections raised can be summarised as follows:-

- With reference to a similar operation being carried out at Wester Jawcraig, the odour currently endured will be exacerbated by odour from the application site.
- The sewage cake will be stored 9m away from land not within the applicant's ownership and 100m from the nearest dwellinghouse.
- The speeding and uncovered lorries already perceived as a nuisance in the area will be increased, potentially increasing traffic on the single track road adjoining the complainant's property.
- Concern is raised that the composting operations are to be carried out adjacent to a Site of Special Scientific Interest (SSSI) all to the detriment of the site's designation.
- Plastics, metals and other undesirable materials will be blown across land actively used for grazing.
- Only a few local farms spread lime cake on land, so where is the applicant's client base?
- The "Farm Assured" status of the complainant's business may be jeopardised.
- Asbestos may be present on the application site.
- There is a rodent infestation on the site, which will be exacerbated if material is stored on the site - particularly if food waste is present.
- Health problems may arise as a consequence of the proposals.
- The number and frequency of lorry trips are an underestimate, while the timing of deliveries may lead to unsociable noisy activity being generated.
- The threshold capacity may be breached.
- The new entrance may be no safer than the existing entrance.
- A derelict structure near to the site may be refurbished for occupation, the potential occupants being susceptible to harm.
- The risk to human health are reiterated as a major concern, and information relating to advice from The Environment Agency, The Composting Association's Code of Practice, extract from a Health and Safety Executive Report (RR786) and a SEPA document on open windrow composting are submitted as confirmation of these concerns.

4. In response to the matters raised, the following comments can be made;-
- The Scottish Environment Protection Agency have been consulted on the application and responded that, while SEPA is not a primary authority on human health, SEPA must consider human health impacts when making regulatory decisions, including the granting of licences. While SEPA does not have a formal regulatory position on bioaerosol generation from open windrow composting, any licence granted by SEPA would be likely to contain requirements for ongoing monitoring of bioaerosols and specific limits that would require to be adhered to.
 - There may also be limits imposed on the quantities of material which could be composted at any one time. In addition, SEPA would regulate odour, dust and litter through conditions within the Waste Management Licence.
 - For the avoidance of doubt, SEPA contends that a Waste Management Licence will need to be in place prior to any composting taking place on the site.
 - The issue of bioaerosols impact is not a material planning consideration and, as such, no opinion or evaluation can be offered by the Planning Authority.
5. The number of vehicles generated from the site cannot be controlled through planning condition. Planning permission is not required for heavy goods vehicles utilising the public road. However, if noise generation is created through activities on the site, Falkirk Council is able to monitor and enforce statutory noise nuisance breaches.
6. The loss of 'Farm Assured Status' is not a material planning consideration, nor is the aspiration to renovate a derelict structure near the site (as no planning application has been submitted for consideration).
7. The threshold capacity of the site will be monitored through the Waste Management licence and any intensification of use may trigger a further planning application being required.

Scottish Natural Heritage Response

8. For the avoidance of doubt, Scottish Natural Heritage are satisfied that the revised site layout and activities, alongside the additional information on site drainage, have addressed the issues of impacts from the waste treatment operations upon Darnrig Moss SSSI. Scottish Natural Heritage withdrew the objection to the proposal subject to the following measures being secured by conditions or other appropriate means:
- Screening of all waste treatment and composting operations to prevent airborne pollution impacting upon Darnrig Moss SSSI.
 - Scottish Natural Heritage withdraws its objection to the application.
 - The suggested planning condition has been imposed (conditions nos 5 and 6).

Improved Site Access

9. The improved site access arrangement was the subject of planning application P/09/0193/FUL – Formation of access – approved on 21st May 2009.
10. The applicant has pointed out that the proposed wheelwash facility and 1.8m high link fencing are no longer proposed for the site and the planning conditions have been amended accordingly.
11. Since the date of the site inspection, the applicant has advised that the composting activity will be moved into the existing shed. The following paragraph replaces 10.3 within the supporting information appendix 3, previously submitted in October 2011:-

10.3 Compost Materials

- Waste for the composting process will include green waste and garden wastes, wood and forestry wastes in the main.
 - The material will be discharged on the ground within the confines of the building.
 - All composting operations will take place on the concrete base of the shed floor.
 - The material will be inspected for any contamination and removed. The material will then be shredded and formed into a batch of approximately 300 tonnes.
 - The composting process will be managed by using temperature measurement as the main control method. Temperature of windrows will be monitored on a daily basis at several points to determine the need for turning to improve aeration and moisture. Moisture levels will be monitored through a standard "squeeze test" technique.
 - Windrows will be turned using a back actor or similar piece of equipment and will be completed on a basis determined by temperature and moisture levels within the windrow. All controls and records needed to comply with PAS 100 for composting will be utilised.
 - When windrow temperatures do not respond to re-aeration or moisture addition the active compost phase will be deemed to be complete. The windrow can then be left in situ to mature to ambient temperature or alternatively moved off-site.
 - A planning condition (condition no. 8) has been imposed to reflect this amendment.
12. No other matters were raised that would amend the original recommendation to approve planning permission.

13. RECOMMENDATION

13.1 It is therefore recommended that Committee grant planning permission subject to the following conditions:-

- (1) The development to which this permission relates must be begun within three years of the date of this permission.
- (2) For the avoidance of doubt, no development shall be initiated prior to the construction and operation of the vehicular access arrangement (subject to P/09/0193/FUL approved 21 May 2009) as indicated in the submitted supporting statement dated November 2010.
- (3) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The level and scope of works associated with potential decontamination are as indicated in Falkirk Council's e-mail dated 28 February 2012 (M Campbell/ A Pollock) and the scheme shall contain details of proposals to deal with contamination to include:
 - i. the nature, extent and types(s) of contamination on the site.
 - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - iii. measures to deal with contamination during construction works.
 - iv. condition of the site on completion of decontamination measures.

Before the site is brought into use the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (4) Further information shall be submitted to, and approved in writing by the Planning Authority as to:-
 - exact specification of the screen planting, including details of new planting, species to be used, nursery stock size and methods of protection.
 - details of woodland management and long term maintenance.
 - Measures to enhance the existing tree cover on the boundary of the site, including:-
 - cutting out any existing dead tree stems,
 - removing debris and rabbit fencing off a 15m wide strip of land on the north, west and south boundaries.
 - the planting of native tree species in shelters at 3m spacing.
- (5) Further information shall be submitted to and approved in writing by the Planning Authority as to the long term screening of waste treatment and composting operations to prevent airborne pollution.
- (6) For the avoidance of doubt, all pre-treated organic waste shall be stored within the existing building, with no outside storage taking place.

- (7) Prior to any works on site, a Flood Risk Statement shall be submitted to and approved in writing by the Planning Authority.
- (8) For the avoidance of doubt, all composting shall be restricted to the interior of the existing shed, with no outside storage taking place.

Reason(s):-

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) The development would not be acceptable without these additional works.
- (3) To ensure the ground is suitable for the proposed development.
- (4) To safeguard the visual amenity of the area.
- (5-6) To safeguard the environmental amenity of the area.
- (7) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (8) To accord with the terms of the Supporting Information document (appendix 3) as submitted and amended.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03C, 04 and 05.
- (2) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.
- (3) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.
- (4) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.

- (5) It is recommended that the applicant should consult with Development Services Environmental Health Division with regard to legislation governing hours of operation.

Pp

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Director of Development Services

Date: 28 February 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of objection received from NFU Scotland Rural Centre, West Mains, Ingleston Newbridge, Midlothian, EH28 8LT on 31 January 2011.
4. Letter of objection received from Mr Peter Goldie, Muiravonside Cottage, Maddiston, FK2 0BX on 10 January 2011.
5. Two letters of objection received from Mr Herd, Easter Jawcraig, Falkirk, FK1 3AL on 13 January 2011 and 19 January 2011.
6. Letter of objection received from Peter and Doreen Goldie, Muiravonside Cottage, Falkirk, FK2 0BX on 19 January 2012.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

FALKIRK COUNCIL

Subject: TEMPORARY STORAGE, TREATMENT AND DISTRIBUTION
OF ORGANIC WASTE INCLUDING LIME TREATMENT AND
OPEN WINDROW COMPOSTING AT JAWCRAIG
BRICKWORKS FALKIRK FK1 3AL FOR JAMES MCCAIG FARMS
- P/10/0762/FUL

Meeting: PLANNING COMMITTEE

Date: 1 February 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: No Community Council

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to Jawcraig brickworks, located approximately 1.7km north of Slamannan and abutting the B803 Easter Jawcraig to Slamannan Road. The brickworks date from the inter-war years and were closed in the 1980's. Since then, the site has remained vacant, in a semi-derelict condition and comprises:
- A former brickwork shed, largely intact;
 - An extended area of hardstanding;
 - Foundations and base for a weighbridge, and
 - A restricted vehicular access.
- 1.2 The applicant proposes to utilise the site for the temporary storage, treatment and distribution of organic waste, including open-windrow composting and lime treatment. The proposed development would have a maximum throughput capacity of up to 23,000 tonnes per annum and would comprise:
- Re-use of existing brickworks building for storage;
 - Reception and shredding area;

- Lime treatment area;
- Reinstatement of weighbridge;
- Wheel wash facility;
- Site office cabin, and
- Staff and visitor parking for approximately 8 cars.

Operation

- 1.3 It is the applicant's intention that organic material for storage and treatment will be sourced from the Falkirk, Glasgow and Edinburgh areas with occasional loads from locations further north. It is intended to be utilised as a substitute to inorganic fertiliser for local agricultural benefit.

Organic Waste Storage

- 1.4 The proposal would reuse the existing brickwork building for the temporary storage of the pre-treated organic waste. This would ensure that the pretreated organic waste is kept dry. The size of the existing brickwork building would ensure that all the pre-treated organic waste held on site is stored within the building. It is anticipated that the organic waste would be stored on site for a maximum period of 12 months. Within the buildings, modifications would be made to the existing kilns to form storage bins for the organic material.

Lime Treatment of Bio-Solids

- 1.5 The proposals would also utilise an area of hard standing to the north-west of the existing brickworks building (approximately 625m²) for the lime treatment of organic waste. The lime cake for treatment would also be stored within this area. The area would be fully contained on two sides and partly contained on the other two sides by a reinforced concrete wall up to 3.6m high.
- 1.6 Incoming waste materials would pass over the proposed weighbridge before being deposited. The material would then be inspected and tested prior to treatment. The material would then be put through the mixing plant and lime. This would be monitored with a Hazard Analysis and Critical Control Points (HACCP) plan.
- 1.7 At the end of the process the material would be enhanced treated and would comply with regulatory requirements for use in agriculture. The material would then be utilised as a fertilizer for local agricultural land.

Open Windrow Composting

- 1.8 The proposal would also utilise part of the existing area of hard standing of the yard (approximately 1350m²) for small scale open windrow composting of green waste. Suitable materials for composting in this manner include forestry wastes, grass cuttings, sawdust and other products with a similar nature. A brief description of the process is given below.

- 1.9 Incoming waste materials will pass over the proposed weighbridge before being deposited at the reception area. The material will then be inspected, shredded into finer particles and screened to remove contaminants such as plastics and metals before being delivered to the composting area. After delivery the material will be pushed up into a windrow. Each windrow would measure approximately 4m high, 6m wide and be approximately 18m in length.
- 1.10 Temperature and moisture levels within the windrow will be regularly monitored to check when turning is needed and to ensure that aerobic conditions are maintained throughout the process. The windrow will be turned on a regular basis to ensure complete sanitisation of the material. Its shape may be altered during turning to increase or lower moisture levels as required.
- 1.11 At the end of the process the volume of waste will be significantly reduced, will be stabilised and sanitised. The compost material will then be utilised as a fertilizer for agricultural land.

Site Drainage

- 1.12 Surface water runoff from the composting and lime treatment operations will be drained to local sumps which would be drained down on a daily basis.
- 1.13 As the proposed development would be undertaken within the existing areas of concrete hardstanding and no additional areas of impervious hardstanding would be created, the quantity of surface water on the hardstanding areas would not increase above that currently experienced and would continue to be managed based upon the existing drainage system.

Maintenance

- 1.14 The composting and lime treatment areas would be inspected on a regular basis by one of the site operatives in case of any defects in the integrity of the concrete pad. Any such defects would be repaired at the earliest opportunity.

Access and Deliveries

- 1.15 The remaining existing area of hard standing of the yard would be utilised for vehicles accessing the site and for the turning and manoeuvring of vehicles.
- 1.16 Access to the site would be via new approved access onto the B803 from the south-east corner of the site.
- 1.17 Deliveries to the site would be in the form of 8 wheeler tipper lorries with a payload of approximately 20 tonnes. It is estimated that there would be in the region of up to 10 two way lorry movements per day at peak periods of activity. However, a more typical daily rate of movement may be in the order of 3 to 4 two way lorry movements per day. Lorries would be routed through Falkirk and Slamannan via the B803.

Vehicle Circulation

- 1.18 There would be no internal roads as a result of the proposed development. Vehicles dropping off/collecting materials would circulate within the area to the south of the existing brickwork buildings on the existing hardstanding.

Hours of Working

- 1.19 Waste deliveries would generally take place between the hours of 0700 and 1800 Monday to Friday and between 0700 and 1300 hours on Saturday. It may also be required to occasionally accept waste outside these hours in the event of unforeseen emergency circumstances.
- 1.20 The movement and storage of waste and turning of windrows would take place during normal working hours. Being a natural process, the outdoor windrow composting would operate continuously.

Staffing

- 1.21 There would be 6 members of staff required to run the site with additional car parking proposed in order to cater for visitors to the facility.

Plant and Machinery

- 1.22 The equipment used for operation on site would consist of the following:

- Mobile shredder
- Screening equipment comprising a hopper, de-stoner, magnet and mobile screen
- Excavator
- Atomiser
- Telehandler
- Loading shovel
- Batch mixer

None of the above plant would be permanently fixed and would be moved around the site as required. When not in use mobile plant may be removed from the site.

Boundary

- 1.23 The boundary of the site would be secured by a 1.8 metre high chain link fence with matching swing gates. The gates would be kept closed and locked when the site is unattended and at all times outside operating hours referenced above.
- 1.24 The banking to the north of the site would also be enhanced with additional planting of native broadleaves and shrubs. This would reduce the potential visual impact of the site and reduce the levels of noise from the site into the surrounding area.
- 1.25 The existing planting to the south and west of the site would be retained to minimise views of the site from the B803.

Site Facilities and Layout

- 1.26 The location of the proposed open windrow composting operations and lime treatment operations are shown on the submitted plans.
- 1.27 The site office cabin would be located to the west of the site entrance. The 20ft temporary container cabin (approx 6.1m long x 2.4m wide x 2.4m high) would be used for office and administration use and would include toilet and washing facilities. Adjacent to this cabin will be the site car park, which would provide parking for eight vehicles, based on six spaces for staff and two for visitors.
- 1.28 The weighbridge at the site of the former entrance to the south west of the site would be reinstated.
- 1.29 A wheel wash would be located at the entrance to the site located in line for all vehicles entering and exiting the site. The wheel wash system has the facility to recycle all water used in the washing process.
- 1.30 All the proposed development would be within the existing areas of hardstanding and no additional areas of impervious hardstanding would be created as a result of these proposals.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been referred to the Planning Committee at the request of Councillor Gordon Hughes.

3. SITE HISTORY

- 3.1 P/09/0193/FUL – formation of access – approved 21 May 2009.

4. CONSULTATIONS

- 4.1 The Scottish Environment Protection Agency (SEPA) has no objection to the proposals. The operation would require a licence under the Waste Management Licensing Regulations 1984 and would control:

- Odour
- Dust
- Noise (operational only) and
- Litter.

In principle, SEPA supports proposals for composting which would contribute towards delivery of the Zero Waste Plan objectives, to maximise the recycling and reuse of waste.

- 4.2 Scottish Natural Heritage has no objection to the proposals, subject to a planning condition that ensures the screening of all waste treatment and composting operations to prevent airborne pollution impacting upon Darnrig Moss SSSI.
- 4.3 Falkirk Council's Roads and Development Unit advise that, in general, the proposal is acceptable. However, it is recognised that the existing vehicular access to the site from the B803 has road safety concerns and a proposed new access to the east of the site (P/09/0193/FUL) has been approved. It is therefore considered that no construction relating to the proposed development should commence until the new access has been constructed in accordance with the planning permission. In addition, a Flood Risk Statement is requested to demonstrate that the development does not increase the flood risk downstream and/or in the vicinity of the site.
- 4.4 Falkirk Council's Environmental Protection Unit advises that planning conditions relating to the submission of a contaminated land assessment should be imposed, in addition to a planning informative regarding noise working.

5. COMMUNITY COUNCIL

- 5.1 No Community Council in place.
- 5.2 The adjoining Avonbridge and Standburn Community Council objects to the application on the grounds:
- Inappropriate development in a Green Belt;
 - Threat to wildlife and neighbouring SSSI (Birds);
 - Excessive bulk and scale;
 - Harm to plants and animals;
 - Threat to health of local population both human and animal;
 - Generating smells and pollution;
 - Road system inadequate;
 - Adverse affect on rural economy.

6. PUBLIC REPRESENTATION

- 6.1 2 letters of objection have been received, one from a neighbouring proprietor and one from the National Farmers Union of Scotland, concerned that:
- The location is inappropriate for the proposed function;
 - Traffic generation will adversely impact on local amenity;

- Damage to the environment through water run-off;
- The storage of waste and drainage arrangements are not clear;
- The continued exploitation of the rural community without benefit to that community;
- There is potential to negatively impact on the wellbeing of neighbouring agricultural businesses and farming families through bioaerosols, the nearest dwelling being 90m from the site;
- The capacity of the site falls just short (25,000 tonnes per annum) of constituting a 'major development'.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 'Countryside and Protected Areas' states:

- “(1) There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

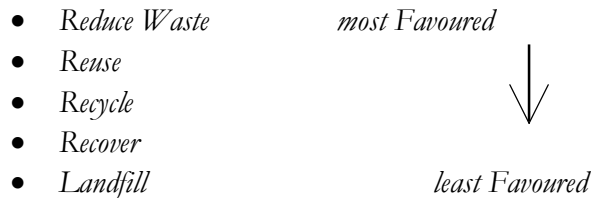
7a.2 It is considered that the proposal type normally requires a non urban location and that the principle is in accordance with this policy.

7a.3 Policy ENV.11 'General Approach to Waste Management' states:

“Provision will be made for a range of waste management facilities which will adequately treat the waste generated in the area and assist in meeting any specific regional waste management needs identified by the National Waste Strategy and any subsequent Regional Waste Strategy, subject to the following general principles:

- (1) *A general presumption in favour of new facilities which support the aims of the 'Waste Hierarchy' (see Figure 2) in shifting the emphasis away from landfilling of waste towards other options including: waste minimisation, re-use of materials, re-cycling and recovery of waste materials.*

Fig. 2: The Waste Hierarchy



- (2) *The treatment of waste as close as possible to the area in which it is generated.*
- (3) *The minimisation of the impact on the local environment and the amenity of communities through the selection of appropriate sites and adoption of best operational practices.*

The preferred location for new waste management facilities will be within or adjacent to existing waste management sites or alternatively within general industrial areas."

7a.4 While the above policy prefers locations to be within or adjacent to existing waste management facilities or within general industrial areas, the proposal is broadly consistent with the terms contained therein.

7a.5 Policy ENV.3 'Nature Conservation' states:

"The protection and promotion of nature conservation interests will be an important consideration in assessing all development proposals. Accordingly:

- (1) *Any development likely to have a significant effect on a designated or potential European Site under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or on a Ramsar or Site of Special Scientific Interest (see Schedule Env.3), must be subject to an appropriate assessment of the implications for the sites conservation objectives. The development will only be permitted where the appropriate assessment demonstrates that:*
- (a) *it will not adversely affect the integrity of the site, or;*
 - (b) *there are no alternative solutions and there are imperative reasons of overriding national public interest.*
- (2) *Sites of local or regional importance, including Wildlife Sites and Sites of Importance for Nature Conservation, will be defined in Local Plans. The designation of Sites will be based on Scottish Wildlife Trust criteria. Development likely to have an adverse impact on any such site or feature will not be granted planning permission unless it can be clearly demonstrated that there are reasons which outweigh the need to safeguard the site or feature. Until such areas are defined in Local Plans, identified or potential sites will be afforded the same protection.*

- (3) *Local Plans will identify opportunities for enhancing the natural heritage including new habitat creation, the identification of 'wildlife corridors' and measures to ensure the protection of priority local habitats and species as identified in the forthcoming Falkirk Local Biodiversity Action Plan.*
- (4) *The aims and objectives of the forthcoming Falkirk Local Biodiversity Action Plan and any associated Species Action Plans and Habitat Action Plans will be a material consideration in assessing any development proposal likely to impact on local priority species and habitats."*

7a.6 The potential impact of the proposals on the adjacent Darnrig Moss SSSI have been examined by Scottish Natural Heritage and no objection has arisen.

Falkirk Council Local Plan

7a.7 Policy EQ8 - 'Vacant, Derelict And Contaminated Land' states:

"The Council will seek to reduce the incidence of vacant, derelict and contaminated land, particularly within the priority areas for enhancement set out in Policy EQ7. Subject to compliance with other local plan policies, development involving the rehabilitation and re-use of derelict land will be encouraged."

7a.8 It is recognised that the application site is recorded in the Scottish Survey of Vacant Derelict Land and, as such, the principle of redevelopment is supported by Policy EQ8.

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

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

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

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

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

7a.10 The above policy makes provision for development outwith settlement boundaries where it can be demonstrated that a countryside location is required, noting that proposals will be subject to specific policies outlined in Table 3.3. The relevant policy in this case is Policy EP5 (Business and Industrial Development in the Countryside), sub paragraph 3 of which refers to proposals involving the reuse of vacant industrial property. This policy also refers to the need for rigorous assessment of impact on the rural environment, having particular regard to policies which protect natural heritage (EQ19 –EQ30). It is considered that Policy EP5 offers support in principle for the proposal, with the natural heritage, rural amenity and landscape issues being satisfied.

7a.11 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations include comments received from consultees and contributors.

Points Raised Through Consultation

7b.2 The requested suspensive planning conditions relating to:

- the construction of an improved vehicular access prior to any use of the site;
- the preventative measures to secure the integrity of the adjacent SSSI;
- the effective drainage of the site;
- the submission of a Flood Risk Assessment;
- satisfactory landscaping provision, and
- the submission of further contaminated land information

have been noted and imposed.

Points Raised By Contributors

7b.3 The matters raised may be addressed as follows:

- The application site comprises isolated former industrial premises continuing to fall into a derelict condition with limited scope for redevelopment. The premises are not located within the Green Belt.
- The application represents an opportunity to introduce a use suitable for a countryside location and linked to existing infrastructure;
- The traffic generation is of limited frequency and the road system considered able to absorb the proposed activities;

- Scottish Natural Heritage have examined the proposal in terms of impact on the environment – including the sensitive Darnrig Moss SSSI –and have requested suspensive planning conditions to be imposed to ensure the standard of mitigation;
- The waste water storage and treatment is subject to a suspensive planning condition;
- No financial planning gain is sought through the application, but the introduction of employment opportunity into the area is recognised, any potential adverse affect on the rural economy has not been expanded upon;
- The production and dispersal of bioaerosols – a general term for micro-organisms suspended in the air – through waste and waste management operations is recognised, although bioaerosols are ubiquitous and can be found associated with houses, hospitals, industry, agriculture and waste management facilities. A suspensive planning condition to monitor bioaerosols, as well as make good working practice conducive to their limitations has been imposed. The Scottish Environment Protection Agency will also monitor bioaerosol generation through any license agreement.
- Any smell or pollution potential will be monitored through a licence agreement with the Scottish Environment Protection Agency.

7c Conclusion

- 7c.1 It is considered that the proposal accords with the terms of the Development Plan and, subject to the proposed planning conditions, represents an acceptable re-use of a derelict industrial operation within the rural community.

8. RECOMMENDATION

- 8.1 It is therefore recommended that Committee approve planning permission subject to the following conditions.

- (1) The development to which this permission relates must be begun within three years of the date of this permission.
- (2) For the avoidance of doubt, no development shall be initiated prior to the construction and operation of the vehicular access arrangement (subject to P/09/0193/FUL approved 21 May 2009) as indicated in the submitted supporting statement dated November 2010.
- (3) Prior to any works on site, further information shall be submitted to and approved in writing by the Planning Authority as to bioaerosol risk from the site, including details of management techniques, monitoring arrangements and bioaerosol control and mitigation measures to be employed.
- (4) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:

- i. the nature, extent and types(s) of contamination on the site.
- ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
- iii. measures to deal with contamination during construction works.
- iv. condition of the site on completion of decontamination measures.

Before the site is brought into use the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (5) For the avoidance of doubt, the proposed 1.8m high chain-link fence shall be placed in the inner side of the site boundary, with existing and new tree planting placed on the outer boundary of the site.
- (6) Further information shall be submitted to, and approved in writing by the Planning Authority as to:-
 - exact specification of the screen planting, including details of new planting, species to be used, nursery stock size and methods of protection.
 - details of woodland management and long term maintenance.
 - Measures to enhance the existing tree cove on the boundary of the site, including:-
 - cutting out any existing dead tree stems,
 - removing debris and rabbit fencing off a 15m wide strip of land on the north, west and south boundaries.
 - the planting of native tree species in shelters at 3m spacing.
- (7) Further information shall be submitted to and approved in writing by the Planning Authority as to the long term screening of waste treatment and composting operations to prevent airborne pollution.
- (8) For the avoidance of doubt, all pre-treated organic waste shall be stored within the existing building, with no outside storage taking place.
- (9) Prior to any works on site, a Flood Risk Statement shall be submitted to and approved in writing by the Planning Authority.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) The development would not be acceptable without these additional works.
- (3, 9) To enable the Planning Authority to consider this/these aspect(s) in detail.

(4) To ensure the ground is suitable for the proposed development.

(5-6) To safeguard the visual amenity of the area.

(7, 9) To safeguard the environmental amenity of the area.

Informative(s):

(1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03C, 04 and 05.

(2) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.

(3) It is recommended that the applicant should consult with the Development Services Environmental Protection Unit concerning this proposal as legislation relating to odour nuisance is likely to affect this development.

(4) It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal, as legislation relating to the spread of dust is likely to affect this development.

(5) It is recommended that the applicant should consult with Development Services Environmental Health Division with regard to legislation governing hours of operation.

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Director of Development Services

Date: 24 January 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Letter of objection received from NFU Scotland Rural Centre, West Mains, Ingleston Newbridge, Midlothian, EH28 8LT on 31 January 2011.
4. Letter of objection received from Mr Peter Goldie, Muiravonside Cottage, Maddiston, FK2 0BX on 10 January 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/10/0762/FUL

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



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FALKIRK COUNCIL

Subject: REMOVAL OF CONDITION ATTACHED TO HAZARDOUS SUBSTANCES CONSENT P/10/0582/HAZ TO ALLOW STORAGE OF ETHANOL IN WAREHOUSES M, N AND S, INCREASING THE OVERALL MAXIMUM STORAGE QUANTITY TO 41,000 TONNES AT STORAGE UK, GRANGE LANE, GRANGEMOUTH FK3 8EG FOR DIAGEO (SCOTLAND) LTD - P/12/0597/HAZ

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Grangemouth

Baillie Joan Paterson
Councillor David Balfour
Councillor Allyson Black
Councillor Robert Spears

Community Council: No Community Council

Case Officer: Bernard Whittle (Development Management Co-ordinator), Ext. 4875

UPDATE REPORT

1. INTRODUCTION

- 1.1 Members will recall that on 11 March 2013 a special meeting of the Planning Committee agreed to grant the above mentioned hazardous substances consent application. Also, the Committee agreed that officers write to the Scottish Ministers asking that a national investigation be undertaken into the effects of black mould on premises in the vicinity of bonded warehouses. The purpose of this report is to advise members of the response received from Scottish Ministers and to provide recommendations in respect of the response.

2. BACKGROUND

- 2.1 Letters were sent on 27 March 2013 to the Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead MSP and the Minister for Environment and Climate Change, Paul Wheelhouse MSP. A response was received on 1 July 2013 and is appended for information (appendix 1).

- 2.2 In summary the response from Ministers is that the Scottish Government considers that investigation of the incidence of black mould is an issue to be taken forward at individual local authority level rather than on a national basis. The Scottish Government considers there is not enough evidence to support a national survey. Also, Ministers advise that if the Council considers the mould is a statutory nuisance then it can take action under the Environmental Protection Act 1990 (EPA).
- 2.3 Members are advised that the Council has previously commissioned Health Protection Scotland to investigate and report on occurrences of black mould in the vicinity of the Diageo site at Glasgow Road, Denny. Surveys were undertaken with regard to the potential health impacts resulting from the presence of black mould on structures and vegetation near the Diageo site. The report of this investigation concluded that the black mould is common, naturally occurring and is no risk to the health of a normal person. No direct link between the incidence of black mould and the storage of whisky was proven.
- 2.4 The Falkirk Council Environmental Protection Unit has been consulted regarding the response from Scottish Ministers. The Unit advises that, with regard to the Grangemouth site, taking into account the findings of the Health Protection Scotland report, there is not a statutory nuisance and it would not be appropriate for the Council to take action under the EPA.

3. CONCLUSION

- 3.1 The Scottish Government advise that there is not enough evidence to support a national investigation into the health and environmental effects of black mould and suggest that this is a local issue to be dealt with individually by local authorities. The Council has previously commissioned Health Protection Scotland to investigate the incidence of black mould. No statutory nuisance has been identified. It is not considered appropriate to take action under the Environmental Protection Act 1990

4. RECOMMENDATION

- 4.1 It is recommended that Members note the content of this report.

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. The Planning (Hazardous Substances) (Scotland) Act 1997
4. Health Protection Scotland Report in respect of black mould.
5. Environmental Protection Act 1990.
6. Letter of objection received from Grangemouth Yacht Club, Grange lane, Grangemouth, FK3 8EG on 19 November 2012

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504875 and ask for Bernard Whittle, Development Management Co-ordinator.

Chief Medical Officer and Public Health Directorate
Public Health Division

T: 0131-244 2678 F: 0131-244 2157
E: annette.stuart@scotland.gsi.gov.uk

Mr Bernard Whittle
Development Management Co-ordinator, Planning & Transportation
Falkirk Council
Abbotsford House
Davids Loan
FALKIRK
FK2 7YZ



Your ref: BW/GA
Our ref: 2013/0009092
1 July 2013

Dear Mr Whittle

Thank you for your letters of 27 March 2013 to the Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead MSP and the Minister for Environment and Climate Change, Paul Wheelhouse MSP respectively calling for a national investigation into the health and environmental effects of black mould in the vicinity of bonded warehouses. Your correspondence has been passed to me for reply and I apologise for the time it has taken to do so.

I note from your correspondence that there has been previous concerns raised around the presence of these moulds and at that time the Scottish Government sought advice about whether there was enough evidence to support a national survey. This advice is still appropriate. I suggest that the issue might usefully be taken forward at the individual local authority level rather than on a national basis. This would help to focus any outputs and support the delivery of local priorities.

The Environmental Protection Act 1990 (EPA) enables local authorities to investigate such issues and determine whether a statutory nuisance exists. Section 79 (1) e) of the EPA defines any accumulation or deposit which is prejudicial to health or a nuisance as a statutory nuisance. There is, however, no objective measure for what constitutes a statutory nuisance - each individual case is for investigation by an environmental health officer who will decide whether the law is being breached according to the specific circumstances of the case.

In determining whether or not a particular accumulation or deposit amounts to a statutory nuisance it is necessary for a local authority to consider whether or not it is "prejudicial to health or a nuisance" and it is the responsibility of the local authority to ensure compliance with the legislation. Local authorities must satisfy themselves that a statutory nuisance exists to enable them to take action under the EPA.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.scotland.gov.uk



Where the local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, it must serve an abatement notice under section 80 of the EPA. The statutory nuisance regime also makes provision for the use of fixed penalty notices.

Procedural guidance on statutory nuisance is available on the Scottish Government website. <http://www.scotland.gov.uk/Publications/2009/01/23142152/0>. In this particular case I would draw your attention to section 3, and the advice on "best practicable means". You may wish to take legal advice before considering issuing any abatement notice.

I hope that this information is of use to you.

A Stuart

ANNETTE STUART

FALKIRK COUNCIL

Subject: REMOVAL OF CONDITION ATTACHED TO HAZARDOUS SUBSTANCES CONSENT P/10/0582/HAZ TO ALLOW STORAGE OF ETHANOL IN WAREHOUSES M, N AND S, INCREASING THE OVERALL MAXIMUM STORAGE QUANTITY TO 41,000 TONNES AT STORAGE UK, GRANGE LANE, GRANGEMOUTH, FK3 8EG FOR DIAGEO (SCOTLAND) LTD - P/12/0597/HAZ

Meeting: PLANNING COMMITTEE

Date: 27 February 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Grangemouth

Councillor David Balfour
Councillor Allyson Black
Councillor Joan Paterson
Councillor Robert Spears

Community Council: Grangemouth

Case Officer: Bernard Whittle (Development Management Co-ordinator), Ext. 4875

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks hazardous substances consent to vary the terms of existing hazardous substances consent, reference P/10/0582/HAZ, to increase the amount of ethanol that can be stored on the site from 25,000 tonnes to 41,000 tonnes and, to permit ethanol to be stored within other parts of the warehouse premises.
- 1.2 The application site comprises a warehouse situated to the north west of Grangemouth Town Centre at the junction of Grange Lane and South Bridge Street. The warehouse is divided into 18 separate units. The site adjoins the River Carron to the north, the Old Dock and Junction Dock to the east and south, business premises to the west and vacant business land to the south west.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 This application requires consideration by the Planning Committee because it has been called in by Councillor Spears.

3. SITE HISTORY

- 3.1 Hazardous substances consent reference H/2004/0004 seeking consent to store 10,000 tonnes of ethanol within the premises was granted in March 2005.
- 3.2 Hazardous substances consent reference 06/0906/HAZ seeking a continuation of consent (ref: H/2004/0004) for the storage of 10,000 tonnes of ethanol following a change in control of part of the site was granted in March 2007.
- 3.3 Hazardous substances consent reference P/10/0582/HAZ seeking consent for the storage of 25,000 tonnes of ethanol within the premises was granted in December 2010.

4. CONSULTATIONS

- 4.1 Scottish Natural Heritage have no objection to the proposal.
- 4.2 The Health and Safety Executive (HSE) advises that there are no significant reasons for refusing hazardous substances consent on safety grounds. The Executive does however request the inclusion of a condition relating to the use and storage location of the substance(s) to which the application relates and an informative confirming the strength of the ethanol/water mix to be stored.
- 4.3 The Scottish Environment Protection Agency do not wish to comment.
- 4.4 British Gas Transco have not made comment.
- 4.5 Scottish Power Energy Networks have not made comment.
- 4.6 Fife Council have not made comment.
- 4.7 The Council's Roads Development Unit have no objection to the proposal.
- 4.8 Scottish Water have not made comment.
- 4.9 The Council's Environmental Protection Unit have no objection to the proposal.
- 4.10 Ineos Manufacturing (Scotland) Ltd have not made comment.
- 4.11 A response was received from Essar Oil (UK) Ltd which now operates a nearby pipeline. They confirm that the pipeline is unaffected by the proposal.
- 4.12 The Council's Emergency Planning Unit have no objection to the proposal.

5. COMMUNITY COUNCIL

- 5.1 Grangemouth Community Council initially lodged a holding objection pending consideration of the application by the Health and Safety Executive (HSE). On the receipt of comments from the HSE the Community Council withdrew their holding objection on the basis that the proposal does not change the existing established HSE consultation zones for the site and the proposals do not impact on sites allocated for development in the Falkirk Council Local Plan.

6. PUBLIC REPRESENTATION

- 6.1 A letter of objection was received from Grangemouth Yacht Club, situated at the Old Dock. The Club objects to the proposals on the ground that they consider existing use of the premises to store ethanol is causing a fungus to grow on their boat decks, ropes, sails and hatch covers as well as on their moorings, pontoons and landing decks. The Club is concerned that the fungus causes surfaces to be slippery and, as a consequence, the Club considers there is a risk of persons falling. The Club is also concerned about the time and expense for Club members to remove the fungus.

7. DETAILED APPRAISAL

- 7.1 When assessing applications for hazardous substances consent, section 7(2) of the Planning (Hazardous Substances) (Scotland) Act 1997 requires that the planning authority shall have regard to any material considerations and, in particular:

- (a) to any current or contemplated use of the land;
- (b) to the way in which land in the vicinity is being used or is likely to be used;
- (c) to any planning permission that has been granted for development of land in the vicinity;
- (d) to the provisions of the Development Plan; and
- (e) to any advice from the Health and Safety Executive.

7a *Current or Contemplated Use of the Land*

- 7a.1 The proposal relates to the use of existing warehouse premises. No material change of use or physical operations requiring planning permission is proposed. The current use of the site for the storage of ethanol is established as evidenced by the history of previous consents detailed in paragraph 3. The premises are within an area identified in the Falkirk Council Local Plan as a business and industrial area with potential for redevelopment but there are no planning permissions for redevelopment of the application site or planning applications pending consideration.

7b *Use of Land Within the Vicinity*

- 7b.1 The application site lies within a well established industrial area with no housing in close proximity. Land to the south of the site is identified in the Local Plan for port related general industrial/storage development (ED.GRA02 and ED.GRA03) and for general industrial, storage or retail development (ED.GRA05). Provided the ethanol is managed and stored in the manner described in the application its presence is consistent with land uses in the immediate vicinity and would not result in an additional constraint on the proposals in the Local Plan for the redevelopment of these sites.

7c *Planning Permission in the Vicinity*

- 7c.1 The proposed consent would not have adverse consequences for any planning permissions which have been granted in the vicinity.

7d *The Development Plan*

Falkirk Council Structure Plan

- 7d.1 Policy ECON.8, 'Petrochemical and Chemical Industries' states:

Proposals for new petrochemicals and chemicals development will be supported within Grangemouth and at Kinneil Kerse subject to environmental health and safety considerations and provided that they are compatible with the regeneration of Grangemouth Docks, Town Centre or Bo'ness Town Centre.

- 7d.2 The supporting text for this Policy emphasises the major economic importance of the chemical companies in Grangemouth in both a Scottish and a local context. The opportunity to build on the presence in the town of these companies is stated as a key goal of the Economic Strategy of the Council but the potential impact on other development opportunities is noted. It is recognised that a careful balance needs to be struck between maximizing the economic benefits of the chemical industries and minimising constraints on regeneration of Grangemouth Docks and the town centre.
- 7d.3 This proposal would not alter the HSE hazard consultation zones associated with the existing use of the site for the storage of ethanol or further constrain the regeneration of Grangemouth Docks or the town centre. The HSE do not advise against the proposal and have concluded that the risks to the surrounding population arising from the proposed operations are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent. Accordingly, the proposal accords with Structure Plan Policy ECON.8.

Falkirk Council Local Plan

7d.4 Policy EP3 'Existing Business and Industrial Areas with Potential for Redevelopment' states:

- (1) *Within the business and industrial areas with potential for redevelopment identified on the Proposals Map, the Council will consider favourably proposals for comprehensive redevelopment for other uses which:
are appropriate in terms of the character of the surrounding area;
are satisfactory in terms of environmental, access, traffic generation and other detailed considerations; and
comply with other Local Plan policies.
Pending any such redevelopment, use of these sites for Class 4, 5 or 6 development will continue to be supported.*
- (2) *Changes of use or redevelopment of other business/ industrial land or premises within the Urban Limit which are not safeguarded under Policy EP2 may be permitted subject to amenity, environmental, access, traffic generation and other detailed considerations.*

7d.5 The application site lies within an area identified in the Local Plan as a business and industrial area with potential for redevelopment. Policy EP3 supports proposals for comprehensive redevelopment for other uses in this area but, pending any such redevelopment, continues to support use of the area for business, industrial and storage uses. There is no current scheme for the comprehensive redevelopment of the area. The continued use of the premises for storage purposes does not conflict with the Policy and, given the advice of the HSE that the proposal would not change the existing hazard consultation zones, does not introduce any further constraint to prejudice potential future redevelopment. Accordingly, the proposal accords with Policy EP3.

7d.6 Policy EP19 'Hazardous Substances Consent' states:

There will be a general presumption against applications for hazardous substances consent which would extend the hazard consultation zones within urban areas beyond their present coverage or prejudice the development of sites allocated in the Local Plan.

7d.7 The proposal would not extend the hazard consultation zones associated with existing consented use of this site and so will not prejudice the development of sites allocated in the Local Plan. The proposal accords with Policy EP19.

7d.8 Accordingly, the proposal complies with the Development Plan

7e Health and Safety Executive Advice

7e.1 The HSE do not advise against the proposal and have concluded that the risks to the surrounding population arising from the proposed operations are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent.

- 7e.2 The HSE have previously identified consultation zones around the site in relation to the existing consented use of the premises and have advised that this proposal does not require these zones to be changed. A plan identifying the zones is attached (Appendix 1). The inner and middle consultation zones are tight to the boundary of the application site. The outer zone extends over part of the Junction Dock and Old Dock and over land to the west of South Bridge Street but these areas already fall within the HSE outer, middle and inner consultation zones associated with consents relating to Calachem, Syngenta and Firmin Coates.

7f Material Considerations

- 7f.1 The material considerations to be assessed are the consultation responses and representation received.

7g Consultation Responses

- 7g.1 No objections have been received from consultees. The HSE advise that there are no significant reasons on safety grounds for refusing hazardous substances consent subject to a condition relating to the use and storage location of the ethanol and an informative confirming the mixture of the substance .

7h Representation Received

- 7h.1 To date a causative link between fungus growth and the storage of ethanol has not been scientifically proven. Even if a link were proven the fungus relates to an existing phenomenon. It would be problematic to establish the specific impact of the proposed increase in the amount of ethanol stored. Also, with regard to the provisions of The Planning (Hazardous Substances) (Scotland) Act 1997, it would not be competent to impose conditions requiring fungus to be removed.

8. Conclusion

- 8.1 The use of the premises for the storage of ethanol is already established. The HSE do not advise against the proposal to increase the amount stored and have concluded that the risks to the surrounding population arising from the proposed operations are so small that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent. The proposal does not change the existing HSE hazard consultation zones for the site and does not introduce any new constraints that would prejudice the Local Plan allocations for the future redevelopment of this area.

9. RECOMMENDATION

9.1 It is recommended that the Committee grant Hazardous Substances Consent subject to the following condition(s):-

- (1) The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the application form, nor outside the areas marked for storage of the substances on the plan which formed part of the application. The storage areas are those shown on the 'ROSSCO properties' untitled/undated plan as included in the consent application which shows locations A through to S.

Reason(s):-

- (1) To ensure the safe keeping of the substances at all times.

Informative(s):-

- (1) Please note, the substances covered by the existing consent (reference P/10/0582/HAZ) and that covered by this application (reference P/0597/HAZ) is category B6, which in the case of the existing/proposed activities at this site restricts the substance to ethanol/water mixtures at less than 70% ethanol by volume as confirmed by the applicant (email from the applicant to HSE dated 12/11/12).

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Director of Development Services

Date: 19 February 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. The Planning (Hazardous Substances) (Scotland) Act 1997
4. Letter of objection received from Grangemouth Yacht Club, Grange lane, Grangemouth, FK3 8EG on 19 November 2012

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504875 and ask for Bernard Whittle, Development Management Co-ordinator.

Planning Committee

Planning Application Location Plan

P/12/0597/HAZ

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



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Appendix 2

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FALKIRK COUNCIL

Subject: DISCHARGE OF PLANNING OBLIGATION WHICH RESTRICTS THE OCCUPANCY OF THE DWELLINGHOUSE APPROVED UNDER PLANNING PERMISSION P/09/0849/FUL TO THE MANAGER, OPERATOR OR OTHER PERSON EMPLOYED OR LAST EMPLOYED FULL TIME, IN THE ADJACENT BUSINESS, PATERSON GARDEN BUILDINGS, KERSIE BANK, KERSIE TERRACE, SOUTH ALLOA, INCLUDING DEPENDANTS OF SUCH A PERSON, AND SHALL BE USED FOR NO OTHER PURPOSE IN ALL TIME COMING. AT KERSIE BANK, KERSIE TERRACE, SOUTH ALLOA, STIRLING FK7 7NJ FOR GARY PATERSON – P/13/0505/75D

Meeting: PLANNING COMMITTEE

Date: 18 September 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Carse, Kinnaird and Tryst

Councillor Stephen Bird
Councillor Steven Carleschi
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

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

1. INTRODUCTION

- 1.1 A request has been submitted to discharge an Agreement made under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 restricting the occupation of the dwellinghouse (approved under Planning Permission Ref: P/09/0849/FUL) to the manager, operator or other person employed or last employed full time in the adjacent business, Paterson Garden Buildings, Kersie Bank, Kersie Terrace, South Alloa.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The planning application for the erection of the dwellinghouse was considered at the meeting of the Planning Committee on 24 March 2010, 21 April 2010, 23 February 2011 and 23 March 2011. The application was originally considered at the meeting of the Planning Committee on 24 March where Members agreed to continue the application to allow a site visit. This visit took place on 15 April and the application was presented to the Planning Committee on 21 April, where Members agreed to grant the application subject to appropriate conditions and the conclusion of a Section 75 Legal Agreement. The applicant asked that the application be put on hold as concerns were raised in relation to VAT. The application was next presented to the Planning Committee on 23 February 2011 when Members agreed to continue the application to allow the preparation of an update report in relation to VAT issues. This was presented to the Planning Committee on the 23 March 2011 when it was agreed that planning permission be granted subject to a Section 75 obligation.
- 2.1 The current Scheme of Delegation requires applications of this nature, which were previously determined by Committee, to be determined by the Planning Committee when amendments or discharges of Legal Agreements are proposed.

3. BACKGROUND TO SECTION 75 AGREEMENT/SITE HISTORY

- 3.1 Planning permission Ref: P/09/0849/FUL for the erection of a dwellinghouse was subject to the conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. This agreement restricts the occupancy of the dwellinghouse and effectively ties it to the adjacent business.

4. REQUEST TO DISCHARGE SECTION 75 AGREEMENT

- 4.1 The applicant requests discharge of the Legal Agreement on the basis that it causes him financial hardship. He states that he is unable to claim back any VAT and is unable to obtain a mortgage on the property. The applicant needs to take out a short term loan and the resulting monthly payments are far higher than a mortgage would be and this is restricting completion of the dwellinghouse. The applicant also refers to changes in Scottish Government advice in relation to restricting occupancy by means of planning obligations.

5. CONSIDERATION OF REQUEST

- 5.1 Members will note that the dwellinghouse was recommended for refusal of planning permission (copy of reports to the Planning Committee appended), as it had not been demonstrated that a countryside location was essential for the proposed house and the site did not represent an appropriate infill opportunity. At the Planning Committee Site visit on 15 April 2010, following questions from Members, the applicant advised that he would be *willing* to accept an occupancy restriction.
- 5.2 Members subsequently granted planning permission for the house on the basis that the Legal Agreement justified a departure from the Development Plan.

- 5.3 Whilst it is noted that the applicant agreed to the occupancy restriction, no formal justification for the proposed house, as being essential to the management of the adjacent business, was submitted. As such the applicant failed to demonstrate the following as part of the application process:
- The operational need for the additional house in association with the business;
 - That no existing dwelling which might have served that need had been sold or otherwise alienated from the holding;
 - That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse; and
 - That the business as a whole is capable of providing the main source of income for the occupant.
- 5.4 The system of Section 75 Legal Agreements are now classed as planning obligations. The Chief Planner wrote to all heads of planning on 4 November 2011, advising that the Scottish Government believes that occupancy restrictions are rarely appropriate and should be avoided. A number of issues were cited including difficulty obtaining a mortgage, difficulty selling a property and forcing people to move. It is noted that the use of occupancy restrictions introduces an additional level of complexity (and potentially expense) into the process of gaining permission for a new house. Occupancy restrictions can also be intrusive, resource-intensive and difficult to monitor or enforce.
- 5.5 Planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
 - Fairly and reasonably relate in scale and kind to the proposed development; and
 - Be reasonable in all other respects.
- 5.5 In this instance it is considered that the Legal Agreement does not meet all of the above tests. In particular, no justification or evidence was submitted with the application which demonstrated the operational need for the house, as such it cannot be argued that agreement was not necessary to make the proposed development acceptable in planning terms. It is also considered that the use of a Legal Agreement instead of a planning condition has led to financial difficulties for the applicant.
- 5.6 In conclusion, the Legal Agreement was not strictly speaking required to justify the house in planning terms, although it is noted that the applicant offered to have the occupancy restriction imposed. As such and in light of the comments from the Chief Planner, it is considered that the use of a Legal Agreement was unnecessary in this instance and should be discharged.

6. RECOMMENDATION

- 6.1 It is recommended that Committee agree to the discharge of the Section 75 Agreement on the grounds that it was not necessary to make the proposed development acceptable in planning terms.**

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

- 1. Planning application Ref: P/09/0849/FUL**

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

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE WITH INTEGRATED DOMESTIC GARAGE AT KERSIE BANK, KERSIE TERRACE, SOUTH ALLOA FK7 7NJ FOR MR PATERSON - P/09/0849/FUL
Meeting: PLANNING COMMITTEE
Date: 24 March 2010
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

Case Officer: Julie Seidel (Planning Officer) ext 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks detailed planning permission for the erection of a single dwellinghouse.
- 1.2 The application site is located within the countryside and currently forms part of the existing 'Patersons Garden Buildings' site. Access would be taken via the existing business access from Kersie Terrace.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor Craig Martin.

3. SITE HISTORY

- 3.1 F/2004/0505 - extension to workshop - granted on 19 July 2004.
- 3.2 F/2004/0865 - extension to existing yard to form storage area, car park, lorry turning facility and extension to display - granted on 21 December 2004.
- 3.3 05/1013/REM - erection of fence and landscaping works - granted on 29 November 2005.
- 3.4 06/1102/FUL - extension to existing building to provide additional covered storage area - refused on 6 August 2007.
- 3.5 P/07/0167/ADV - display of non-illuminated advertisement - granted on 6 March 2007.
- 3.6 P/07/0965/FUL - extension to existing building to provide additional covered storage - granted on 20 March 2008.

4. CONSULTATIONS

- 4.1 Scottish Water has no objections.
- 4.2 Scottish Natural Heritage (SNH) has no objections. SNH comment that it is unlikely the proposal will have a significant effect on any qualifying interests of the Firth of Forth Special Protection Area (SPA) either directly or indirectly. An appropriate assessment is not required.
- 4.3 The Roads Development Unit request that the applicant confirms that the parking area and turning head is in compliance with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area. The Unit also advise of a condition relating to visibility at the vehicular access.
- 4.4 The Environmental Protection Unit request the undertaking of a contaminated land assessment and the submission of measures to protect the proposed dwelling from noise associated with the adjacent business.
- 4.5 The Scottish Environment Protection Agency (SEPA) has no objections. SEPA comment that the development will not be at risk from coastal flooding.

5. COMMUNITY COUNCIL

- 5.1 The Airth Parish Community Council has made no comment on the application.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, no letters of representation were received.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 'Countryside and Protected Areas' states:

- “(1) There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 Policy ENV.1 'Countryside and Protected Areas' seeks to protect the countryside from development unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. It has not been demonstrated that a countryside location is essential for the proposed dwellinghouse and the proposal is not an appropriate form of agricultural diversification. The application fails to accord with policy ENV.1.

7a.3 Policy ENV.3 'Nature Conservation' states:

“The protection and promotion of nature conservation interests will be an important consideration in assessing all development proposals. Accordingly:

- (1) Any development likely to have a significant effect on a designated or potential European Site under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or on a Ramsar or Site of Special Scientific Interest (see Schedule Env.3), must be subject to an appropriate assessment of the implications for the sites conservation objectives. The development will only be permitted where the appropriate assessment demonstrates that:*
- (a) it will not adversely affect the integrity of the site, or;*
- (b) there are no alternative solutions and there are imperative reasons of overriding national public interest.*
- (2) Sites of local or regional importance, including Wildlife Sites and Sites of Importance for Nature Conservation, will be defined in Local Plans. The designation of Sites will be based on Scottish Wildlife Trust criteria. Development likely to have an adverse impact on any such site or feature will not be granted planning permission unless it can be clearly demonstrated that there are reasons which outweigh the need to safeguard the site or feature. Until such areas are defined in Local Plans, identified or potential sites will be afforded the same protection.*
- (3) Local Plans will identify opportunities for enhancing the natural heritage including new habitat creation, the identification of 'wildlife corridors' and measures to ensure the protection of priority local habitats and species as identified in the forthcoming Falkirk Local Biodiversity Action Plan.*

- (4) *The aims and objectives of the forthcoming Falkirk Local Biodiversity Action Plan and any associated Species Action Plans and Habitat Action Plans will be a material consideration in assessing any development proposal likely to impact on local priority species and habitats.”*

7a.4 Policy ENV.3 'Nature Conservation' seeks to protect and promote nature conservation interests. SNH comment that it is unlikely the proposal will have a significant effect on any qualifying interests of the Firth of Forth Special Protection Area (SPA) either directly or indirectly and as such the application accords with policy ENV.3.

7a.5 Policy ENV.4 'Coastal Planning and Flooding' states:

“The Council will apply the following general principles with regard to coastal planning and flooding issues:

- (1) *There will be a general presumption against development in the undeveloped coastal zone (as indicated generally on the key diagram), unless it is clearly demonstrated that a coastal location is essential for that development.*
- (2) *In assessing proposals for development within the coastal zone or coastal defence measures on the developed coast, particular attention will be paid to the likely implications in terms of flooding, existing and future coastal defence works, nature conservation, landscape impact, water pollution and the need to work in partnership with other agencies to promote the integrated management of the estuary and its resources.*
- (3) *The Coastal zone north of the River Carron will be a priority area for evaluating the feasibility for managed retreat and other coastal zone management measures.*
- (4) *In areas where there is a significant risk of flooding, there will be a presumption against new development which would be likely to be at risk or would increase the level of risk for existing development. Where necessary the Council will require applicants to submit supplementary information to assist in the determination of planning applications.”*

7a.6 Policy ENV.4 'Coastal Planning and Flooding' seeks to prevent development in areas where there is a significant risk of flooding. The existing ground level of the application site is above the currently agreed flood levels for the River Forth and as such the proposal will not be at risk of coastal flooding and accords with the terms of policy ENV.4.

Rural Local Plan

7a.7 The application site lies outwith any urban or village limit, within the countryside under the adopted Rural Local Plan.

7a.8 Policy RURAL 1 'New Development in the Countryside' states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances:-

1. *Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
2. *On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council's "Guide to Tree Planting/Housing Proposals on Slamannan Plateau".*
3. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
4. *Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
5. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council's Tourism Strategy are particularly welcomed.*
6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

The scale, siting and design of those developments which are granted permission will be strictly controlled. Building designs compatible with the District Council's "Design Guide For Buildings In The Rural Areas" and sympathetic to vernacular architectural forms will be expected."

7a.9 Policy RURAL 1 'New Development in the Countryside' seeks to protect and conserve the open nature and character of the countryside whilst at the same time encouraging a level of beneficial development appropriate to the rural location. This policy has a general presumption against new development in the countryside except in limited circumstances. In this instance the relevant potential exceptions are Criteria 1 and 3. With regard to Criterion 1, it has not been demonstrated that the proposed dwellinghouse is essential to the pursuance of agriculture or any other economic activity requiring a rural location. With regard to Criterion 3, the proposed dwellinghouse would not occupy a clear gap in an existing development pattern and would arguably contribute to further sporadic, ribbon development at this countryside location. The proposed development is therefore not considered to represent appropriate infill development at this location. The proposal is contrary to policy RURAL 1.

7a.10 Policy RURAL 2 'Village Limits' states:

"That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside."

7a.11 Policy RURAL 2 'Village Limits' seeks to prevent ribbon development and intrusion into open countryside. The proposal is not infill development as the application site is separate from the existing business buildings to the south-west of the application site. There are no buildings to the south-east of the application site and as such the proposal would contribute to sporadic, ribbon development in the countryside. The application is contrary to policy RURAL 2.

7a.12 Policy RURAL 12 'Ecological Sites' states:

“That to protect and conserve wildlife and other natural features of significance :-

- 1. There will be an overriding presumption against development which would adversely affect sites designated as a Special Protection Area, a Special Area of Conservation or a Ramsar site, Sites of Special Scientific Interest or any sites proposed by the UK Government or Scottish Natural Heritage for such designation.*
- 2. Development likely to adversely affect Listed Wildlife Sites and local or non-statutory nature reserves will not normally be permitted.*
- 3. Other sites of high nature conservation value will be safeguarded wherever possible.*
- 4. Where development is to be approved which could affect any site of high nature conservation value, appropriate measures will be required to conserve, as far as possible, the site's biological or geological interest and to provide for replacement habitats or features where damage is unavoidable,*
- 5. Appropriate site management will be encouraged wherever possible,*
- 6. Local nature reserves will be designated as appropriate.”*

7a.13 Policy RURAL 12 'Ecological Sites' seeks to protect and conserve significant wildlife and other natural features of significance. SNH comment that it is unlikely the proposal will have a significant effect on any qualifying interests of the Firth of Forth Special Protection Area (SPA) either directly or indirectly and as such the application accords with policy RURAL 12.

7a.14 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The following matters were considered to be material in the consideration of the application:

- Falkirk Council Local Plan Finalised Draft (Deposit Version);
- Scottish Planning Policy;
- Responses to consultation; and
- Information Submitted in support of the proposal.

Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.2 The application site lies outwith any urban or village limit, within the countryside, under the emerging Local Plan, Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.3 Policy EQ19 - 'Countryside' states:

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

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

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

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

7b.4 Policy EQ19 'Countryside' of the above Local Plan sets out the detailed policies for consideration of development proposals in the countryside. In this instance the detailed policy is Policy SC3 'Housing Development in the Countryside'.

7b.5 Policy SC3 - 'Housing Development In The Countryside' states:

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

(1) Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:

- The operational need for the additional house in association with the business*
- That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
- That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
- That the business as a whole is capable of providing the main source of income for the occupant;*

(2) Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where

- *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
- *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
- *The restored or converted building is of comparable scale and character to the original building*
- *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*

(3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8.”*

7b.6 Policy SC3 'Housing Development in the Countryside' continues the general presumption of the Development Plan against new housing development in the countryside except in limited circumstances. The relevant potential exceptions in this instance are 1 and 3. With regard to 1, it has not been demonstrated that the proposed dwellinghouse is essential for the pursuance of an activity for which a countryside location is essential. With regard to 3, the proposed dwellinghouse would not be sited within the envelope of an existing group of residential buildings and it would arguably contribute towards sporadic development at this countryside location. The proposed dwellinghouse is therefore not considered to represent an appropriate infill opportunity. The application does not accord with policy SC3.

7b.7 Policy EQ24 'Ecological Sites and Features' states:

- “(1) *Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers)..*
- (2) *Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) *Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) *Development likely to have an adverse affect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*

- (5) *Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site's natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future management.*
- (6) *The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest."*

7b.8 Policy EQ24 'Ecological Sites and Features', sets out the Council's policy for protecting the network of sites of ecological importance within the area. SNH comment that it is unlikely the proposal will have a significant effect on any qualifying interests of the Firth of Forth Special Protection Area (SPA) either directly or indirectly. The application accords with policy EQ24.

7b.9 Policy EQ28 'The Coastal Zone' states:

"The Council will promote an integrated approach to the management of the coastal zone, and will support the provisions of the Forth Integrated Management Strategy. Development and other land management proposals within the coastal zone will be assessed in terms of:

- (1) *Impacts on the amenity, ecology and water quality of the coastal environment (see Policies EQ 24 and EQ25);*
- (2) *The requirement to safeguard the undeveloped coast, as defined on the Proposals Map, from further development unless it is proven that the development is essential, a coastal location is essential, and no suitable sites exist within the developed coast;*
- (3) *Long-term flooding risk (see Policy ST12), and compatibility with existing coastal defence strategies, including the desirability of working with natural coastal processes where possible and the need to recognise the wider impacts where intervention is unavoidable; and*
- (4) *Appropriate promotion of the recreational potential of the coastal zone, including the development of the Forth Foreshore Path and linked coastal access networks, providing it is compatible with Policy EQ24 and the protection of coastal habitats and species."*

7b.10 Policy EQ28 'The Coastal Zone' provides a list of criteria against which proposals within the coastal zone will be considered. The application site is adjacent to the River Forth and as such is considered to be within the coastal zone. The application is unlikely to have a significant impact on the amenity, ecology and water quality of the coastal environment and as such the application does not offend the terms of policy EQ28.

7b.11 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."

7b.12 Policy ST12 'Flooding' seeks to prevent new development in areas which are likely to be at significant risk from flooding. The existing ground level of the application site is above the currently agreed flood levels for the River Forth and as such the proposal will not be at risk of coastal flooding and therefore accords with the terms of policy ST12.

- 7b.13 The emerging District wide Local Plan supports the policies set out in the Development Plan, Falkirk Council Structure Plan and Rural Local Plan covering this site and described earlier in this report. The proposed development is contrary to the terms of the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Scottish Planning Policy

- 7b.14 Scottish Planning Policy 'A Statement of the Scottish Government's Policy on Nationally Important Land Use Planning Matters' promotes opportunities, through the Development Plan, for small scale housing development in all rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding. All new development should respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards, particularly in relation to energy efficiency. Planning authorities should apply proportionate standards to access roads to enable small developments to remain viable.
- 7b.15 Scottish Planning Policy promotes the Development Plan as the means by which to identify opportunities for housing in the countryside. In this instance the Development Plan and the Falkirk Council Local Plan Finalised Draft (Deposit Version) are considered to provide an appropriate policy framework to support a range of sustainable development opportunities for housing in the countryside. The proposed development has been found, in this report, to be contrary to the relevant policies of these plans.

Responses to Consultation

- 7b.16 The Environmental Protection Unit advise that contamination is a material consideration and should be dealt with at the application stage. The area surrounding the application site has been recorded as producing ground gas readings of methane at elevated concentrations. Other contaminative activities relating to the site and surrounding area have also been identified. The applicant was advised on 12 January 2010 that a contaminated land assessment and noise mitigation details are required. To date the required information has not been submitted. The other issues raised through consultation are noted.

Information Submitted in Support of the Proposal

- 7b.17 The applicant has submitted a letter of support for the proposal as follows:
1. The applicant's business was set up in 1993 and moved to Kersie bank in 2000. Eight people are employed on a permanent full time basis and the business has built up an excellent reputation;
 2. The business has helped with work experience from Falkirk College and Alloa Academy;
 3. The proposed house is in keeping with the surrounding area of South Alloa and will not intrude in anyone's privacy;
 4. The house is required for security reasons, to protect the machinery and stock and to enable the applicant to run a successful business; and

5. The house is required due to a change in family circumstances.

7b.18 The points raised by Mr Paterson are noted. However, these fail to demonstrate the operational need for a house in association with the business, particularly as the business has been operating at this location without the need for a dwellinghouse since 2000. The applicant was given an opportunity to provide further information to support the proposal but, to date, further supporting information has not been received.

7c Conclusion

7c.1 The proposed development, for the erection of a dwellinghouse, is contrary to the Development Plan for the reasons detailed in this report. Material considerations are therefore required to justify setting aside the terms of the Development Plan and approve the application. In this instance it is considered that the weight of material considerations, as detailed in this report, do not support a departure from the above mentioned policies in the Development Plan.

7c.2 Accordingly, the application is recommended for refusal.

8. RECOMMENDATION

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

- (1) The application does not accord with Policy ENV. 1 'Countryside and Protected Areas' of the approved Falkirk Council Structure Plan, Policy Rural 1 'New Development in the Countryside' and policy RURAL 2 'Village Limits' of the adopted Rural Local Plan and Policy SC3 'Housing Development in the Countryside' of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouse and the proposed dwellinghouse is not considered to represent an appropriate infill opportunity. The proposed development therefore represents unjustified development in the countryside.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our reference number(s) 01 - 10 and additional information.

Pp

.....
Director of Development Services

Date: 16th March 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Rural Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Scottish Planning Policy

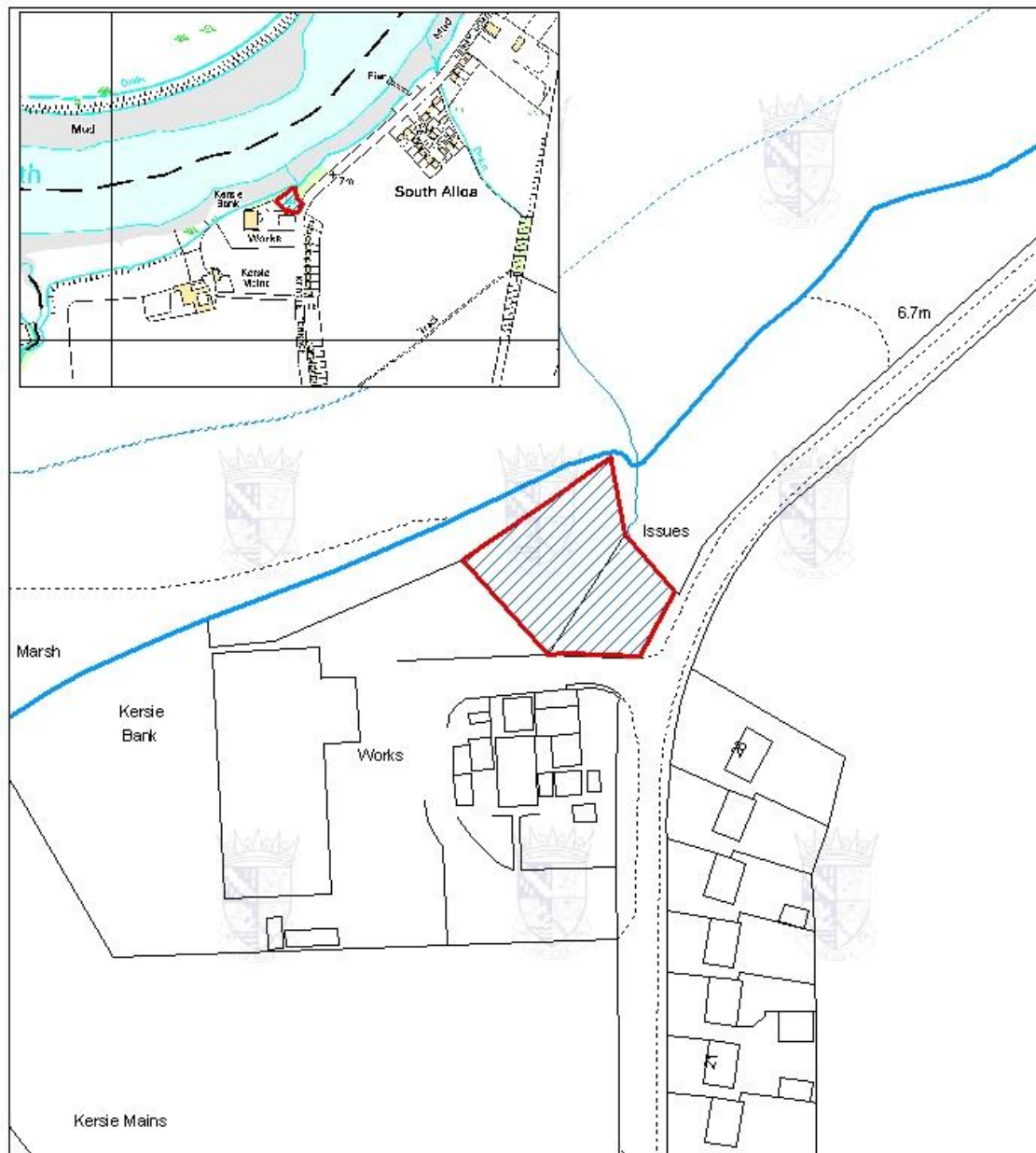
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel (Planning Officer).

Planning Committee

Planning Application Location Plan

P/09/0849/FUL

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



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Directorate for the Built Environment
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Heads of Planning

DELIVERING
A GAMES LEGACY FOR SCOTLAND

4 November 2011

Dear Sir/Madam

OCCUPANCY RESTRICTIONS AND RURAL HOUSING

I am writing to clarify the Scottish Government's views on the use of conditions or planning obligations to restrict the occupancy of new rural housing.

Occupancy restrictions are typically used in Scotland to limit the occupancy of new houses in the countryside either to people whose main employment is with a farming or other rural business that requires on-site residency, or to people with a local connection. Sometimes new houses are tied to particular land holdings, preventing them being sold separately. Such restrictions have been applied either through planning conditions or Section 75 planning obligations.

A number of issues have arisen with the use of occupancy restrictions, some of which have been exacerbated by the current economic situation. Some people have found it difficult to get a mortgage to buy a house with an occupancy restriction. Others have found it difficult to sell the house, or have the restriction lifted, when they are forced by necessity to move. While it may be possible to include provisions in the condition or obligation that attempt to address these issues, any use of occupancy restrictions introduces an additional level of complexity (and potentially expense) into the process of gaining consent for a new house. Occupancy restrictions can also be intrusive, resource-intensive and difficult to monitor and enforce.

Scottish Planning Policy promotes a positive approach to rural housing. It states that development plans should support more opportunities for small scale housing development in all rural areas, including housing which is linked to rural businesses. It does not promote the use of occupancy restrictions.

The Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided.

B5142669
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www.scotland.gov.uk

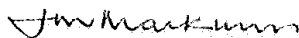


In determining an application for a new house in the countryside, it may be appropriate for the planning authority to consider the need for a house in that location, especially where there is the potential for adverse impacts. In these circumstances, it is reasonable for decision-makers to weigh the justification for the house against its impact, for example on road safety, landscape quality or natural heritage, and in such circumstances it may be appropriate for applicants to be asked to make a land management or other business case. Where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.

The Scottish Government believes that a vibrant populated countryside is a desirable objective and that new housing to realise this aim should be well sited and designed, and should not have adverse environmental effects that cannot be readily mitigated. In areas, including green belts, where, due to commuter or other pressure, there is a danger of suburbanisation of the countryside or an unsustainable growth in long distance car-based commuting, there is a sound case for a more restrictive approach. In areas where new housing can help to support vibrant rural communities or sustain fragile rural areas, planning authorities should seek to support suitable investment in additional provision, focussing on the issues of location, siting, design and environmental impact rather than seeking to place restrictions on who occupies the housing.

Where sites are considered unsuitable for new housing, more acceptable locations will often exist elsewhere on the same landholding or nearby, and planning authorities can assist applicants by advising where these are.

Yours faithfully



JAMES G MACKINNON

FALKIRK COUNCIL

Subject: **ERECTION OF WIND TURBINE, CONSTRUCTION OF SUB-STATION BUILDING AND CRANE PAD AND UPGRADING OF ACCESS TRACK AT GARDRUM FARM, FALKIRK FK1 2DQ FOR WIND HARVEST - P/12/0516/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **18 September 2013**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Upper Braes**

Councillor Gordon Hughes
Councillor John McLuckie
Councillor Rosie Murray

Community Council: **Shieldhill and California**

Case Officer: John Milne, (Senior Planning Officer), Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application seeks the erection of a single wind turbine measuring 49m to hub and 74m to blade tip. The turbine will be located on agricultural land and accessed via an existing farm track off Gardrum Farm.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to Planning Committee at the request of Councillor McLuckie.

3. SITE HISTORY

- 3.1 The application site benefits from a previous planning permission for an anemometer mast, which is currently erected on site.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has no objections or requested any planning conditions.
- 4.2 Scottish Water has no objections.

- 4.3 The Environmental Protection Unit has requested planning conditions regarding noise and the potential to encounter contaminated land on the site.
- 4.4 Scottish Natural Heritage has no objection but advise appropriate assessment to be undertaken.
- 4.5 Defence Infrastructure Organisation-Safeguarding-Wind Development has no objections but request further contact on initiation on development.
- 4.6 Air Ambulance has not responded.
- 4.7 The BAA Safeguarding Team has no objections.
- 4.8 The Civil Aviation Authority has given a standard response advising that relevant air interests should be considered through consultation.
- 4.9 The Police have no comments.
- 4.10 NATS En-Route Ltd had an initial objection but this has been removed through agreement with the applicant.
- 4.11 Ofcom Spectrum Licensing's do not object to the application.
- 4.12 The Safeguarding Officer - Edinburgh Airport has no objection.

5. COMMUNITY COUNCIL

- 5.1 Shieldhill and California Community Council did not make any representations.

6. PUBLIC REPRESENTATION

- 6.1 3 letters of objection have been submitted by 1 objector, concerned about the potential visual impact of the turbine, noise pollution and health issues. The letter states that the turbine should be located in the highlands where no one lives.

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 Local Plan

7a.1 Policy ST21 'Wind Energy' states:

Wind energy developments will be assessed in relation to the following factors:

- (1) The visual impact of the development, having regard to the scale and number of turbines, existing landscape character, and views from settlements, main transport corridors and other key vantage points. Development will not necessarily be excluded from Green Belts or Areas of Great Landscape Value, but must demonstrate particular sensitivity in terms of scale and design where these designated areas are affected;*
- (2) The ecological impact of the development, having regard to Policies EQ24 and EQ25, including impacts on both designated sites and protected species. In particular, developers will be required to demonstrate that there will be no adverse impact on migratory birds;*
- (3) The impact on the cultural heritage and the landscape setting of cultural features, having regard to Policies EQ12, EQ14, EQ16, EQ17 and EQ 18;*
- (4) The impact on aviation and telecommunications, with particular regard to the safeguarding zones and operational needs associated with Edinburgh, Glasgow and Cumbernauld airports;*
- (5) The impact on settlements and residential properties by virtue of noise and 'shadow flicker'; and*
- (6) Cumulative impacts in relation to the above factors, where there are existing developments in the area, or the development is one of a number of proposals for an area.*

7a.2 There are no objections raised by consultees in terms of landscape setting or noise nuisance and, as such, there are considered to be no matters which offend Development Plan policy. The proposal was previously the subject of an EIA screening opinion, which resulted in no EIA being required.

Falkirk Local Development Plan (Proposed Plan)

7a.3 Policy RW01 – 'Renewable Energy' states:

- "1. Renewable energy developments will be supported subject to satisfactory assessment of their impacts on the environment and communities.*
- 2. Wind energy developments will be assessed in relation to the following factors, and the associated detailed guidance contained in Supplementary Guidance SG14 'Spatial Framework and Guidance for Wind Energy Developments':*
 - Landscape and visual impacts;*
 - Ecological impacts;*
 - Impact on green belt objectives;*
 - Impact on carbon rich and rare soils;*
 - Impact on the water environment;*
 - Impacts on the historic environment;*
 - Impacts on aviation and telecommunications interests;*
 - Impacts on communities, whether settlements or individual residential properties, including issues of noise, shadow flicker and air quality; and*
 -

- *Cumulative impacts in relation to the above factors, arising from the combined effect of the proposal with other existing or approved wind energy developments.”*

7a.4 This policy reflects the existing Local Plan Policy ST21 – ‘Wind Energy’ and there are no matters arising which could be considered to offend this policy. The applicant has submitted an environmental appraisal document and supporting information relating to the application proposal.

7a.5 Accordingly, the proposal is considered to accord with the Development Plan.

7b Material Considerations

Consultation Responses

7b.1 Extensive delay has been incurred through a NATS holding objection, which has now been removed. Comments regarding appropriate planning conditions have also been raised through consultation.

Assessment of Public Representations

7b.2 The turbine is in an isolated location and its visual impact will be diminished over the distances involved from the nearest properties. No issues of noise are envisaged, but a precautionary suspensive planning condition (condition no. 4) is recommended.

7b.3 Supplementary Planning Guidance on Windfarm development was published by Falkirk Council in May 2013. The proposal is not considered to contradict this guidance.

7c Conclusion

7c.1 It is considered that the siting of the turbine is in an acceptable location in terms of visual impact and, through its isolated position, is unlikely to have detrimental visual or amenity impact on the nearest residential occupants.

8. RECOMMENDATION

8.1 It is therefore recommended that the Committee grant planning permission subject to the following conditions:-

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Prior to operation, the proposed turbine shall be fitted with infrared aviation lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

- (3) Prior to initiation of development, the applicant shall inform, in writing, the Ministry of Defence of:
- the date construction will start and end,
 - the maximum height of construction equipment, and
 - the latitude and longitude of the turbine.
- (4) Should complaints of noise be received as a result of the operation of the wind turbine, the operator shall, at its expense, employ an independent consultant (not financially involved) approved by the Planning Authority to assess the level of noise emissions from the wind turbine in relation to that specified in the original application (35dB(A)) at the nearest noise sensitive receptor. . The report shall be submitted to the Planning Authority for perusal with a view to prevent noise disturbance.

Reason(s):

- (1) As these drawings and details constitute the approved development.
- (2) The development would not be acceptable without these additional works.
- (3) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (4) To ensure that the occupants of the property are safeguarded against excessive noise intrusion.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 1-35.
- (2) Falkirk Council have determined the application on the basis of available information relating to ground contamination/landfill gas. The responsibility for the safe development and secure occupancy of the site remains with the applicant/developer.

PP

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Director of Development Services

Date: 6 September 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Plan.
2. Falkirk Local Development Plan (Proposed Plan).
3. Three letters of objection received from Ms Janie Macleod, 31 Main Street, Sheildhill, Falkirk, FK1 2DZ on 13 May 2013.

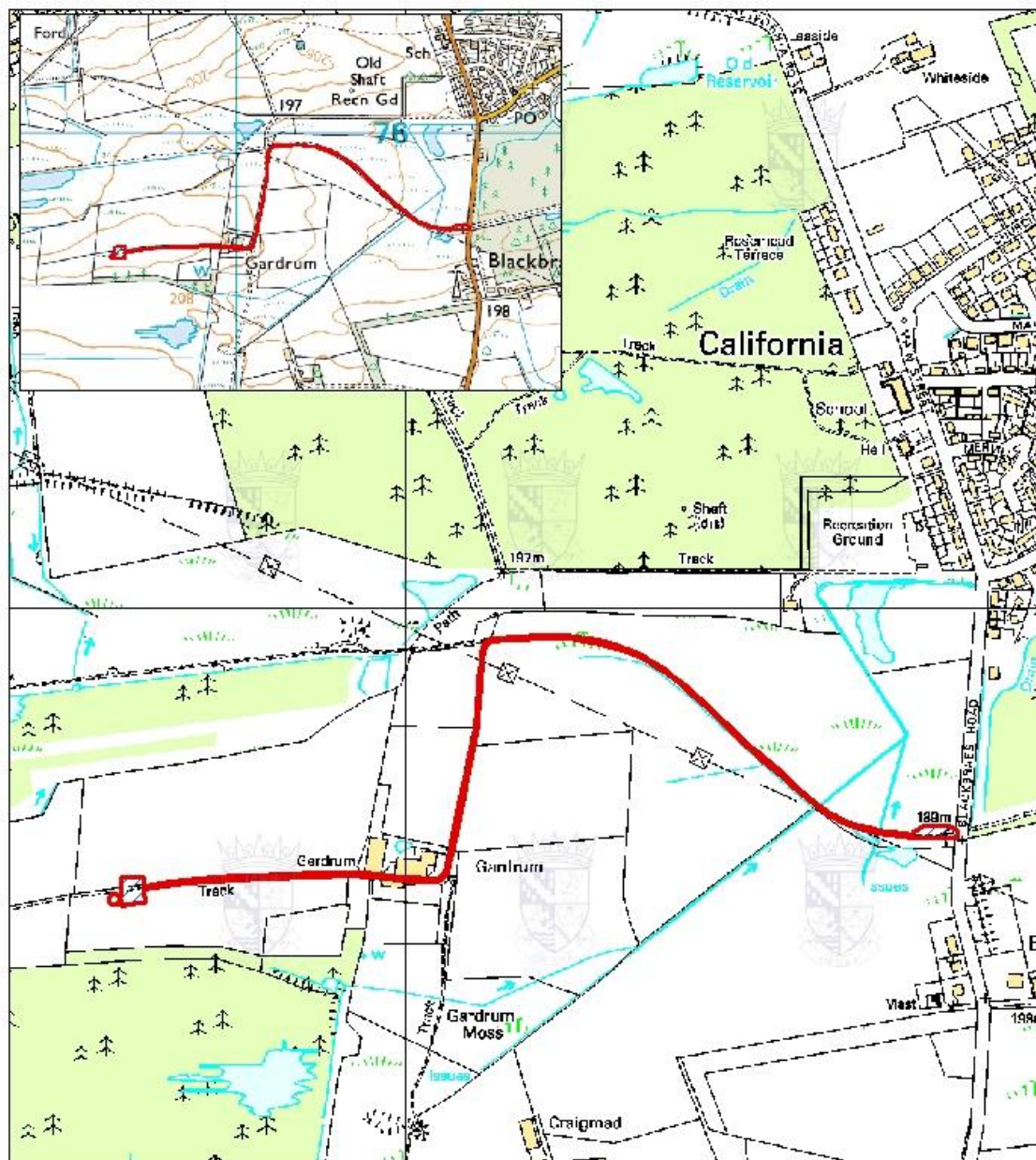
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/12/0516/FUL

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