

**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 23 MARCH 2011 at 9.30 A.M.**

**PRESENT:** Councillors Buchanan, Carleschi, Lemetti, A MacDonald, McLuckie, McNeill, Mahoney, Nicol and Oliver.

**CONVENER:** Councillor Buchanan.

**APOLOGIES:** Councillors Constable, C Martin and Thomson.

**ATTENDING:** Director of Development Services; Acting Head of Planning and Transportation; Development Manager; Development Management Co-ordinator (B Whittle); Roads Development Co-ordinator (B Raeburn); Roads Development Officer (C Russell); Transport Planning Co-ordinator; Senior Forward Planning Officer; Legal Services Manager (I Henderson); and Committee Officer (A Sobieraj).

**DECLARATIONS OF INTEREST:** Councillor Buchanan declared a non-financial interest in agenda item 12 (P217) as he was related to the applicant through marriage and stated that he would take no part in consideration or discussion of this item of business.

Councillor Lemetti declared a non financial interest in agenda item 2 (P207) in consequence of his own business interests in Camelon and having regard to the issue of public perception in relation to the application stated that he would take no part in consideration or discussion of this item of business.

Councillor Oliver declared a non financial interest in agenda item 10 (P215) as an objector to the application and stated that he would take no part in consideration or discussion of this item of business.

Prior to consideration of business, the Members below made the following statements:-

- Councillor Oliver informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/10/0630/PPP, P/10/0774/FUL and P/10/0776/PPP (minute P209, P210 and P211) but that he would take part in consideration of planning applications P/10/0621/FUL and P/10/0553/FUL (minute P207 and P208) as he was sufficiently familiar with the sites.
- 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/09/0849/FUL (minute P212).

- Councillor Carleschi informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/10/0553/FUL, P/10/0630/PPP, P/10/0774/FUL and P/10/0776/PPP (minute P208, P209, P210 and P211) but that he would take part in consideration of planning application P/10/0621/FUL (minute P207) as he was sufficiently familiar with the site.
- Councillor A MacDonald informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/10/0630/PPP and P/10/0776/PPP (minute P209 and P211) but that he would take part in consideration of planning applications P/10/0621/FUL, P/10/0553/FUL and P/10/0774/FUL (minute P207, P208 and P210) as he was sufficiently familiar with the sites.

## **P206. MINUTES**

There was submitted and **APPROVED**:-

- (a) Minute of Meeting of the Planning Committee held on 23 February 2011; and
- (b) Minute of Meeting of the Planning Committee held On-Site on 7 March 2011.

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

## **P207. CHANGE OF USE OF EXISTING PUBLIC HOUSE TO HOT FOOD TAKEAWAY, ALTERATIONS TO SHOPFRONT AND INSTALLATION OF FLUE AT MAGPIE, MAGGIE WOODS LOAN, FALKIRK FK1 5HR FOR OBAN BAY PROPERTIES LIMITED - P/10/0621/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 26 January and 23 February 2011 (Paragraphs P168 and P191 refer), Committee gave further consideration to Report (circulated) dated 18 January 2011 by the Director of Development Services and Reports (circulated) dated 16 February and 15 March 2011 by the said Director on an application for full planning permission for the change of use of a public house to a hot food takeaway at Magpie, Maggie Woods Loan, Falkirk.

**AGREED to GRANT** planning permission, subject to the following conditions:-

- (1) The development to which the permission relates must be begun within three years of the date of the permission.
- (2) Prior to the approved use being open to the public, detailed specifications of the cooking odour extraction system, including its filters and its proposed termination point shall be submitted to the Planning Authority. For the avoidance of doubt, the approved use shall not open to the public until written approval of these details has been given by the Planning Authority and the approved cooking odour extraction system has been installed.

- (3) Prior to the approved use being open to the public, detailed measures employed to control noise emissions from any extraction or ventilation systems shall be submitted to the Planning Authority for approval. For the avoidance of doubt, the approved use shall not open to the public until these details have been submitted and approved by the Planning Authority.

Reason(s): -

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2,3) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

Informative(s):-

- (1) The application was submitted online, and the decision notice is issued without plans. For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01 and 02.
- (2) The applicant shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:-

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday/Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

- (3) 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.

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

**P208. CHANGE OF USE FROM PUBLIC HOUSE TO HOT FOOD TAKEAWAY, ALTERATIONS TO SHOPFRONT AND INSTALLATION OF FLUE AT THE CRITERION, 6 - 10 STIRLING STREET, DENNY FK6 6DU FOR SUNSHINE FOODS - P/10/0553/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 23 February 2011 (Paragraph P196 refers), Committee gave further consideration to Report (circulated) dated 15 February 2011 by the Director of Development Services and an

additional Report (circulated) dated 15 March 2011 by the said Director on an application for full planning permission for the change of use from a public house to a hot food takeaway, including alterations to the shop front and installation of a flue at 6 to 10 Stirling Street, Denny.

**AGREED to REFUSE** planning permission on the basis that:-

- (1) There would be an adverse impact on road safety; and
- (2) The development is contrary to Policy EP9.

Councillors Carleschi and Oliver left the meeting prior to consideration of the following item of business and re-entered the meeting during consideration of the following item of business but did not take part in consideration thereon.

**P209. DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT LOCKUPS, GRAHAMSDYKE ROAD, BO'NESS FOR BENJAMIN CADELL - P/10/0630/PPP (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 23 February 2011 (Paragraph P197 refers), Committee gave further consideration to Report (circulated) dated 15 February 2011 by the Director of Development Services and an additional Report (circulated) dated 15 March 2011 by the said Director on an application for planning permission in principle for the development of an existing privately owned garage compound for residential purposes at Grahamsdyke Road, Bo'ness.

**AGREED to GRANT** planning permission in principle, subject to the following conditions:-

- (1) The permission is granted under the provisions of Paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:-
  - (a) the siting, size, height, design and external appearance of the proposed development;
  - (b) details of the access and parking arrangements;
  - (c) details of landscaping of the site and future maintenance of landscaping;
  - (d) details of boundary treatments; and
  - (e) details of drainage.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:-
  - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or

- (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
- (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

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

- (3) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
  - (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or
  - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (4) Development on the site shall be limited to no more than three dwellinghouses.
- (5)
  - (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.
- (6) The sketch drawing and plan (reference 02) is not approved.

Reason(s):-

- (1) To comply with Paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.

- (2-3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4) To safeguard the interests of the users of the highway.
- (5) To ensure the ground is suitable for the proposed development.
- (6) For the avoidance of doubt.

Informative:-

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

**P210. USE OF CARPARK FOR OVERNIGHT PARKING OF BUSES AT LITTLE KERSE LEISURE LTD, GRANGE ROAD, GRANGEMOUTH FK3 9UY FOR STEPHEN BARR - P/10/0774/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 23 February 2011 (Paragraph P198 refers), Committee gave further consideration to Report (circulated) dated 9 February 2011 by the Director of Development Services and an additional Report (circulated) dated 15 March 2011 by the said Director on an application for full planning permission for the temporary use of a section of car park to park buses overnight at Little Kerse Leisure Ltd, Grange Road, Grangemouth.

**AGREED to GRANT** temporary planning permission subject to the conditions that the maximum number of buses that shall be parked within the site and any one time shall be 15 and that parking of buses within the site shall be limited to overnight during school term time only and not at weekends or during the daytime and the following further condition:-.

- (1) The permission shall be valid for a limited period until 1 February 2016 and at the end of that time, unless further planning permission is granted, the site shall not be used for the overnight parking of buses.

Reason:-

- (1) To ensure that the Planning Authority can control the future use of the site.

Informative:-

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

Councillor A McDonald left the meeting prior to consideration of the following item of business and re-entered the meeting during consideration of the following item of business but did not take part in consideration thereon.

Councillor Carleschi left and re-entered the meeting during consideration of the following item of business but did not take part in consideration thereon.

**P211. DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT GLEN ROMA, SHIELDHILL ROAD, REDDINGMUIRHEAD, FALKIRK FK2 0DU FOR IAIN GIFFEN - P/10/0776/PPP (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 23 February 2011 (Paragraph P200 refers), Committee gave further consideration to Report (circulated) dated 16 February 2011 by the Director of Development Services and an additional Report (circulated) dated 15 March 2011 by the said Director on an application for planning permission in principle for the development of land for housing purposes for two detached dwellinghouses at an existing single house plot (the house now demolished) at Glen Roma on the northern side of Shieldhill Road, Reddingmuirhead, Falkirk.

Councillor Nicol, seconded by Councillor Buchanan, moved refusal of the application on the grounds of road safety due to the introduction of an additional access to the properties from Shieldhill Road.

By way of an Amendment, Councillor Mahoney, seconded by Councillor McLuckie, moved that the application be approved as detailed in the Report.

In clarification, the Development Manager provided information that should approval take place a condition could be added that only one access serve the two properties.

Having regard to this clarification and in accordance with Standing Order 19.8, and with the unanimous consent of the meeting, Councillor Nicol and his seconder withdrew the motion to allow a condition that one access serve the two properties. In light of this, Councillor Mahoney and his seconder also withdrew the Amendment with the unanimous consent of the meeting. .

Accordingly, **AGREED** to **GRANT** planning permission in principle subject to the additional condition that there shall be one access only onto Shieldhill Road to serve both dwellinghouses and the following conditions:-.

- (1) The permission is granted under the provisions of Paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:-
  - (a) the siting, size, height, design and external appearance of the proposed development;
  - (b) details of the access and parking arrangements;
  - (c) details of landscaping of the site and future maintenance of landscaping;
  - (d) details of drainage arrangements; and
  - (e) details of all boundary treatments.

- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:-
- (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
  - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
  - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.
- (3) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
- (a) the expiration of 5 years from the date of the grant of the planning permission in principle; or
  - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

whichever is the latest.

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

- (4) (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.
- (5) Development shall not begin until a scheme for protecting the dwellinghouses from noise from transportation has been submitted to and approved in writing by the Planning Authority. The dwellinghouses shall not be brought into use until



the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.

Reason(s):-

- (1) To comply with Paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2,3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4) To ensure the ground is suitable for the proposed development.
- (5) To ensure that the occupants of the property are safeguarded against excessive noise intrusion.

Informative:-

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

Councillor Mahoney left and re-entered the meeting prior to consideration of the following item of business but did not take part in consideration thereon.

**P212. ERECTION OF DWELLINGHOUSE WITH INTEGRATED DOMESTIC GARAGE AT KERSIE BANK, KERSIE TERRACE, SOUTH ALLOA, STIRLING FK7 7NJ FOR MR GARY PATERSON - P/09/0849/FUL (CONTINUATION)**

With reference to Minute of Meeting of the Planning Committee held on 24 March and 21 April 2010 and 23 February 2011 (Paragraphs P199, P9 and P195 refer), Committee gave further consideration to Report (circulated) dated 16 March and 20 April 2010 and 15 February 2011 by the Director of Development Services and an additional Report (circulated) dated 15 March 2011 by the said Director on an application for full planning permission for the erection of a dwellinghouse with an integrated domestic garage at a site currently forming part of the existing Paterson's Garden Buildings site at Kersie Bank, Kersie Terrace, South Alloa.

The Committee on 21 April 2010 was minded to grant planning permission, subject to the satisfactory completion of an agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to restrict occupation of the living accommodation to a person employed in the business. Thereafter, on conclusion of the agreement, to remit to the Director of Development Services to grant planning permission subject to appropriate conditions. On 23 February 2011 the Committee continued the matter for further information in relation to financial issues associated with VAT, including HMRC regulations and clarification from other local authorities, as appropriate, and to receive an update Report from the Director of Development Services.

**AGREED** to **RELEASE** the Section 75 Agreement to the Keeper of the Registers of Scotland thus resulting in the issue of planning permission and such planning permission to be subject to appropriate conditions as determined by the Director of Development Services.

**P213. USE OF LAND FOR BUS PARKING AND INSTALLATION OF PLANT AND MACHINERY FOR REFUELLING AND WASHING DEPOT AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS EH51 9SF FOR FIRST SCOTLAND EAST LTD – P/10/0848/FUL**

There was submitted Report (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the use of an existing industrial yard for bus parking including the erection of plant and machinery for refuelling and washing on a site located on the north side of Bridgeness Road, Bo'ness and within an established D J Manning Auctioneers site behind an existing office block building and car park.

**AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

**P214. DEVELOPMENT OF LAND AS ANIMAL SANCTUARY, (INCORPORATING SHELTERS, STABLES AND STORES) AND SITING OF TEMPORARY RESIDENTIAL ACCOMMODATION (PART RETROSPECTIVE) ON LAND TO THE SOUTH WEST OF AN CALA, CALIFORNIA ROAD, MADDISTON FOR MR PAUL BORG GRECH - P/10/0197/FUL**

There was submitted Report (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the change of use for the development of land as an animal sanctuary (incorporating shelters, stables and stores) and siting of temporary residential accommodation (part in retrospect) on a site to the west of Greenwells Farm, Rumford and accessed from the C66 California Road into a loose surface access and parking area on land to the south west of An Cala, California Road, Maddiston.

**AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

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

**P215. DEVELOPMENT OF LAND FOR UP TO 550 HOUSES, A COMMERCIAL BLOCK INCLUDING A CONVENIENCE STORE AND NURSERY, AND ASSOCIATED INFRASTRUCTURE INCLUDING ACCESS JUNCTION WORKS, NEW ROADS AND PATHS, OPEN SPACE, WOODLAND PLANTING, SURFACE WATER DRAINAGE PONDS AND PLAY FACILITIES ON LAND TO THE NORTH OF WATSON PLACE, GLASGOW**

**ROAD, LONGCROFT FOR MACTAGGART AND MICKEL -  
P/09/0508/OUT**

There was submitted Report (circulated) dated 16 March 2011 by the Director of Development Services on an application for planning permission in principle (formerly outline planning permission) for the development of land for up to 550 dwellinghouses and a commercial block and associated infrastructure including an access junction works, new roads and paths, open space, woodland planting, surface water drainage ponds and play facilities on a site extending approximately 31.5 hectares and bounded by an established housing area to the east, a disused railway line to the south, Station Road to the west and field boundaries and the natural contours of the land to the north of Watson Place, Glasgow Road, Longcroft. The site extended across the A803 (Glasgow Road) at two locations, where junctions to access the site were proposed. The M80 is located to the north of the site.

Councillor Buchanan, seconded by Councillor McLuckie, moved that Committee be minded to grant planning permission in principle as detailed in recommendations in the Report, subject to the amendments to conditions within the Report as detailed by the Acting Head of Planning and Transportation at the meeting being:- .

- (1) the replacement of the word 'imposition' with the word 'application' at recommendation 8.1(b);
- (2) the amendments at recommendation 8.1 (c)(iii) to read 'the provision of nursery facilities on the site';
- (3) the addition of the word 'proportionate' before the words 'financial contribution' at recommendation 8.1 (c)(v);
- (4) the introduction of a new condition to read 'the provision of affordable housing' at recommendation 8.1(c);
- (5) the amendment of the figure '3' to the figure '10' where it occurs twice at recommendation 8.1 (e)(2); and
- (6) the replacement of the word 'completion' with the word 'occupancy' at recommendation 8.1 (e)(23).

By way of an Amendment, Councillor A MacDonald, seconded by Councillor Carleschi, moved that consideration of the application be continued to allow an inspection of the site by Committee.

Councillor Nicol abstained from taking a decision on this item.

On a division, 5 Members voted for the Motion and 2 voted for the Amendment.

Accordingly, **AGREED** that Committee is **MINDED** to **GRANT** planning permission in principle subject to the following conditions which incorporated the amendments detailed at the meeting by the Acting Head of Planning and Transportation:-

- (a) The submission of further traffic modelling information and the subsequent approval in writing by the Planning Authority of the location, design, timing/phasing of provision and means of delivery, and Roads Safety Audit(s), in respect of the proposed upgrade works to the M80/A80 slip road junctions on the A803; and/or the satisfactory conclusion of an Agreement within the terms

of Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of any matter, as appropriate, relative to these proposed upgrade works;

- (b) The submission and approval in writing by the Planning Authority of a Stage 1 Safety Audit for the proposed western and eastern access junctions on the A803; and the application of conditions by the Director of Development Services on grant of planning permission in respect of any matter, as appropriate, relative to this Safety Audit;
- (c) The satisfactory conclusion of an Agreement within the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of:-
  - (i) The provision of an extension to Head of Muir Primary School;
  - (ii) The payment of a financial contribution towards increasing the future capacity of Denny High School, at a rate of £1000 per dwellinghouse and £550 per flat;
  - (iii) The provision of nursery facilities on the site;
  - (iv) The provision of enhanced community recreational facilities at Head of Muir Primary School, including an all-weather, lit, sports pitch;
  - (v) The payment of a proportionate financial contribution towards the provision of the Denny Eastern Access Road (DEAR);
  - (vi) The payment of a financial contribution towards the provision of a footpath link from the north-east corner of the site to Denny Road;
  - (vii) The payment of a financial contribution towards enhancing local bus services, if it is agreed by this Planning Authority that enhancing bus services would form part of the measures to mitigate the impact of the proposed development on the M80/A80 slip road junctions on the A803 or for other reasons;
  - (viii) The preparation of a Travel Plan Framework;
  - (ix) The provision of affordable housing; and
  - (ix) The details, as appropriate, of the exact location, specification, timing/phasing of provision and means of delivery in respect of the above matters;
- (d) Referral of the application to Scottish Ministers should Transport Scotland fail to respond or formally respond by recommending refusal.
- (e) And thereafter, subject to the satisfactory conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission in principle subject to the following conditions:-
  - (1) The permission is granted under the provisions of Paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:-
    - (a) the siting, size, height, design and external appearance of the proposed development;
    - (b) details of the access arrangements; and

- (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:-
- (a) the expiration of 10 years from the date of the grant of planning permission in principle; or
  - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
  - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 10 year period mentioned in sub-paragraph (a) above.

- (3) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
- (a) the expiration of 5 years from the date of the grant of the planning permission in principle; or
  - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

#### *Approval of Further Details*

- (4) Prior to, or with, submission of the first application for the approval of Matters Specified in Conditions, the following details shall be submitted for the written approval of the Planning Authority:-
- (a) An Energy Strategy;
  - (b) An Ecological Impact Assessment;
  - (c) A Site Biodiversity Action Plan; and
  - (d) Stage 2 Safety Audits for the proposed western and eastern access junctions on the A803.
- (5) Each application for the approval of Matters Specified in Conditions shall be accompanied by the following details (where relevant) for consideration for approval in writing by the Planning Authority:-
- (a) Detailed site layout and design information, which accords with the land uses, site layout, landscape framework, road hierarchy and design principles set out in the Masterplan, dated 11 February 2011, submitted with the PPP application, unless otherwise agreed in writing by this Planning Authority or a variation is required by a condition of this permission;

- (b) A detailed Phasing Plan showing the exact sequence of development for the proposed land uses, provision of infrastructure, landscaping and open space;
- (c) A Construction Environmental Management Plan;
- (d) Detailed proposals for embedding sustainable energy use into the proposed development through, for example, site and building design and the utilisation of renewable energy sources, which accord with the approved Energy Strategy;
- (e) A detailed scheme of proposed soft landscaping works and measures to promote, enhance and add to biodiversity, which accords with the approved Site Biodiversity Action Plan and the Ecological Impact Assessment. The scheme shall include: an indication of existing trees and hedges proposed to be retained or removed (accompanied by a tree survey); the location of all proposed new trees, shrubs, hedges and grass areas; and a schedule of plants to comprise species, plant sizes and proposed numbers/densities;
- (f) A Japanese Knotweed Management Plan;
- (g) A detailed scheme of proposed hard landscaping works, which includes: the specification and colour of all proposed surface materials; and the location and design of all other proposed artefacts and structures e.g. street furniture, lighting, walls, fences and gates;
- (h) Updated surveys for badgers, bats and breeding birds, and species protection plans (where necessary);
- (i) A full site-specific surface water drainage scheme, which accords with SUDS principles;
- (j) A Flood Risk Assessment/Statement;
- (k) A Contaminated Land Assessment;
- (l) A scheme for the protection of the proposed dwellinghouses from transportation noise, which ensures that the internal levels, with windows closed, do not exceed 45dB daytime and 35dB night-time when measured as LAeqT, and provides for permanent ventilation so that windows can be kept closed without the loss of ventilation;
- (m) The exact location and specification of all proposed foot/cycle paths, including connections to the wider path network;
- (n) The exact details with regard to the proposals for retention and any removal of the former railway line;

- (o) The exact location and design of all proposed waste management facilities, which accords with the Council's guidance for refuse and recycling collection in new housing and commercial developments; and
- (p) The proposed management and maintenance arrangements in respect of the matters specified in this condition (where relevant).

#### *Natural Heritage*

- (6) All areas of existing vegetation which are to be retained shall be fenced off and signposted as 'exclusion areas' prior to the relevant development phase commencing, in accordance with details approved in writing by the Planning Authority, and shall not be used for the storage of soils, materials, plant or machinery, or as a compound area.
- (7) Where the proposed development has not commenced within 12 months of the last survey of the site for badgers, bats and breeding birds, further walkover survey(s) and any necessary species protection plan shall be submitted to and approved in writing by the Planning Authority prior to the relevant phase of the development commencing.
- (8) Vegetation removal shall be carried out in the months of August to April, in order to avoid disturbance to breeding birds, unless otherwise agreed in writing by the Planning Authority.

#### *Cultural Heritage*

- (9) No development shall take place until a scheme of archaeological investigation (including a timetable) in respect of Easter Shielyards Farm has been submitted to and approved in writing by the Planning Authority.
- (10) During the undertaking of the scheme approved under Condition 9, access at all reasonable times shall be afforded to any archaeologist nominated by the Planning Authority, to allow that person to observe work in progress and record items of interest and finds. Notification of the commencement date of ground breaking works, the site contact person and the name of the archaeologist retained by the applicant shall be submitted in writing to the Planning Authority not less than 14 days prior to the development commencing.

#### *Commercial Development Block*

- (11) Prior to completion of the 100<sup>th</sup> residential unit, or any other timescale that may be agreed in writing by the Planning Authority, the proposed commercial development block shall be fully completed and available for occupancy, in accordance with details approved in writing by the Planning Authority.
- (12) Prior to completion of the 100<sup>th</sup> residential unit, or any other timescale that may be agreed in writing by the Planning Authority, a public realm area at the commercial development block, incorporating public artwork, shall be provided, in accordance with details approved in writing by the Planning Authority.

### *Equipped Play Area*

- (13) Prior to completion of the 250<sup>th</sup> residential unit, the proposed equipped play area shall be fully completed in accordance with details approved in writing by the Planning Authority in respect of the type of play equipment, seating, fences and walls, litter bins and surface finishes.

### *Surface Water Drainage*

- (14) The proposed surface water drainage scheme shall be designed to accommodate 1 in 100 storm events.
- (15) Surface water discharge to watercourses shall be limited to 3.2 litres/second/hectare unless otherwise agreed in writing by the Planning Authority.

### *Core Path*

- (16) The existing Core Path located within the application site shall be protected during construction works or temporarily diverted, in accordance with details approved in writing by the Planning Authority, and shall be reinstated to its original position unless a request for a formal diversion is approved.
- (17) In the event of a request for formal diversion of the Core Path being approved, a footpath shall be provided along the east side of Station Road, to link the Core Path across Station Road, in accordance with details and a timescale for implementation approved in writing by the Planning Authority.

### *Transportation*

- (18) The proposed western and eastern access junctions shall be designed and constructed in accordance with the Design Manual for Road and Bridges and the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.
- (19) Within one month of the opening of the western and eastern access junctions, a Stage 3 Road Safety Audit shall be submitted for the written approval of the Planning Authority.
- (20) Prior to the completion of the first dwellinghouse, the proposed pedestrian crossing of the A803 shall be completed in accordance with details approved in writing by the Planning Authority in respect of the exact design and location.
- (21) The primary road shall be designed in order to accommodate bus use, and shall incorporate stopping points and shelter facilities, in accordance with details and approved in writing by the Planning Authority.
- (22) Prior to the completion of the first dwellinghouse, the existing bus stops on the A803 shall be upgraded or relocated in accordance with details approved in writing by the Planning Authority.



- (23) Prior to the occupancy of the first dwellinghouse, an on-road cycle route shall be marked on Glasgow Road/Bonnybridge Road, at the location indicated on Figure 4 of the Updated Transport Assessment, dated December 2010, in accordance with details approved in writing by the Planning Authority.
- (24) Prior to the completion of the first dwellinghouse, the approved upgrade works to the M80/A80 slip road junctions on the A803 shall be fully completed, unless otherwise agreed in writing by the Planning Authority.
- (25) The proposed signage in respect of the surrounding road network and the footpath/cycle route network shall be submitted for the written approval of this Planning Authority and shall be erected prior to the completion of the first dwellinghouse, unless otherwise agreed in writing by the Planning Authority.

*Roads*

- (26) The maximum gradient of the proposed primary road shall accord with the maximum gradient specified for a local distributor road in the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, unless otherwise agreed in writing by the Planning Authority.
- (27) The maximum gradients of the proposed secondary and tertiary roads and the provision of visibility splays shall accord with the relevant standards as specified in the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, unless otherwise agreed in writing by the Planning Authority.
- (28) All roads and associated infrastructure shall be designed and constructed in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, unless otherwise agreed in writing by the Planning Authority.
- (29) Upon request by the Planning Authority, autotrack layouts shall be submitted for the approval in writing by the Planning Authority, to demonstrate the effective operation of the road layout.
- (30) Vehicle and cycle parking shall be provided in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.

*Implementation of Approved Details*

- (31) The proposed development shall be implemented in full accordance with the details approved within the terms of the conditions of this permission and in accordance with agreed timescales unless a non-material change has been approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with Paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.

- (2-3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4-5) To enable the respective matters to be considered in detail at the appropriate time following grant of planning permission in principle.
- (6-8) To protect and mitigate potential impacts on natural heritage and protected species interests.
- (9-10) To ensure that archaeological remains are safeguarded.
- (11-13) To secure the delivery of new facilities in accordance with appropriate timescales.
- (14-15) To mitigate the potential for flood risk to an acceptable level.
- (16-17) To safeguard the local Core Path Network.
- (18-19) To safeguard the interests of the users of the highway.
- (20-23) To provide appropriate infrastructure in the interests of transport alternatives to the private car.
- (24-25) To secure the delivery of the necessary infrastructure in accordance with appropriate timescales.
- (26-29) To safeguard the interests of the users of the highway.
- (30) To ensure that adequate parking is provided.
- (31) To ensure that the development is carried out in accordance with the approved details and appropriate timescales.

Informative:-

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

**P216. CHANGE OF USE OF PUBLIC HOUSE TO (CLASS 1) RETAIL UNITS AT THE PINES, 5 FLEMING COURT, DENNY FK6 5HA FOR MR STEPHEN CARR – P/10/0869/FUL**

There was submitted Report (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the change of use of a public house to three (Class 1) retail units including internal alterations to sub-divide the building and external alterations to remove existing windows on the west elevation, replacing existing windows on the east elevation to form glazed doors, removing windows on the south elevation and forming new access ramps to the proposed units at the Pines, 5 Fleming Court, Denny.

**AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

In accordance with his declaration of interest in the following item of business, Councillor Buchanan left the meeting and took no part in the consideration or discussion thereon. In Councillor Buchanan's absence as Convener, Councillor McLuckie assumed the Chair.

**P217. ERECTION OF AGRICULTURAL WORKERS DWELLINGHOUSE AT HOUSEHILL FARM, LARBERT FK5 4RZ FOR JOHN POLLOCK AND SONS LTD - P/08/0874/OUT**

With reference to Minute of Meeting of the Planning Committee held on 17 June 2009 (Paragraph P46 refers), Committee gave further consideration to Report (circulated) dated 10 June 2009 by the Director of Development Services and an additional Report (circulated) dated 15 March 2011 by the said Director on an application for planning permission in principle (formerly outline planning permission) for the erection of an agricultural workers dwellinghouse at Househill Farm, Larbert.

The Committee on 17 June 2009 was minded to grant outline planning permission, subject to the satisfactory conclusion of a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, restricting the occupation of the dwellinghouse to that of an agricultural worker and to remit thereafter to the Director of Development Services to grant planning permission subject also to appropriate conditions including that, prior to commencement of works an archaeological survey should be undertaken.

**AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.



**FALKIRK COUNCIL**

**MINUTE of MEETING of the PLANNING COMMITTEE held ON SITE on MONDAY 4 APRIL 2011 commencing at 9.30 a.m.**

**PRESENT:** Councillors Buchanan, Lemetti (for application P/10/0869/FUL); McLuckie, A MacDonald (for application P/10/0848/FUL); McNeill, Mahoney and Oliver (for application P/10/0849/FUL).

**CONVENER:** Councillor Buchanan.

**APOLOGIES:** Councillors Carleschi, Nicol and Oliver.

**ATTENDING:** Development Management Co-ordinator (B Whittle); Roads Development Co-ordinator; Senior Planning Officer (A Finlayson) (for application P/10/0197/FUL); Planning Officer (K Brown) (for application P/10/0848/FUL); Assistant Planning Officer (K Hope) (for application P/10/0849/FUL); Solicitor (K Quin); and Committee Officer (A Sobieraj).

**DECLARATIONS**

**OF INTEREST:** None

**P1. CHANGE OF USE OF PUBLIC HOUSE TO (CLASS 1) RETAIL UNITS AT THE PINES, 5 FLEMING COURT, DENNY FK6 5HA FOR MR STEPHEN CARR – P/10/0869/FUL**

With reference to Minutes of Meetings of the Planning Committee held on 23 March 2011 (Paragraph P216 refers), Committee gave further consideration to Report (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the change of use of a public house to three (Class 1) retail units including internal alterations to sub-divide the building and external alterations to remove existing windows on the west elevation, replacing existing windows on the east elevation to form glazed doors, removing windows on the south elevation and forming new access ramps to the proposed units at the Pines, 5 Fleming Court, Denny.

The Convener introduced the parties present.

The Development Management Co-ordinator (B Whittle) outlined the nature of the application.

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

Mr Paterson, an associate of the applicant, was heard in relation to the application.

The supporter was not present at the site visit.

Mr Herd, an objector, was heard in relation to the application.

Mr Mowatt, an objector, was heard in relation to the application.

Mr Stewart, an objector, was heard in relation to the application.

Ms Gassa, an objector, was heard in relation to the application.

Ms Mackenzie, an objector, was heard in relation to the application.

Mr Mackenzie, an objector, was heard in relation to the application.

Ms Convery, an objector, was heard in relation to the application.

The objectors highlighted the following issues:-

- The loss of a community facility and entertainment venue with no other adequate facilities in the area;
- The overprovision of shops, direct competition with existing shops and vandalism of resultant derelict shops;
- The lack of additional employment from the proposed retail units;
- The visual amenity and concerns about delivery movements and the storage of refuse;
- The lack of parking and an increase in traffic (particularly at school drop off and pick up times) leading to road safety issues;
- The excessive noise levels from refrigeration units and deliveries 7 days per week including during unsocial hours;
- The likely selling of hot food and alcohol from the premises, litter problems and youth anti social behaviour;
- The overlooking and effect on privacy of neighbouring residential properties/gardens and clients of existing shops;
- That no neighbour notification took place for 24 or 26 Ochil View; and
- The devaluing of neighbouring residential properties.

Questions were then asked by Members of the Committee.

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

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

Members thereafter visited the side of the building which faced the existing shop units and the neighbouring residential properties.

The Convener concluded by thanking the parties for their attendance and advised that the matter would be determined by the Planning Committee on 20 April 2011.

The following application site was not visited by the Committee On Site as the applicant had withdrawn the application prior to the scheduled visit.

**P2. ERECTION OF AGRICULTURAL WORKERS DWELLINGHOUSE AT HOUSEHILL FARM, LARBERT FK5 4RZ FOR JOHN POLLOCK AND SONS LTD - P/08/0874/OUT**

**P3. DEVELOPMENT OF LAND AS ANIMAL SANCTUARY, (INCORPORATING SHELTERS, STABLES AND STORES) AND SITING OF TEMPORARY RESIDENTIAL ACCOMMODATION (PART RETROSPECTIVE) ON LAND TO THE SOUTH WEST OF AN CALA, CALIFORNIA ROAD, MADDISTON FOR MR PAUL BORG GRECH - P/10/0197/FUL**

With reference to Minutes of Meetings of the Planning Committee held on 23 March 2011 (Paragraph P214 refers), Committee gave further consideration to Reports (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the change of use for the development of land as an animal sanctuary (incorporating shelters, stables and stores) and siting of temporary residential accommodation (part in retrospect) on a site to the west of Greenwells Farm, Rumford and accessed from the C66 California Road into a loose surface access and parking area on land to the south west of An Cala, California Road, Maddiston.

The Convener introduced the parties present.

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

Mr Borg Grech, the applicant, was heard in relation to the application.

The two supporters were not present at the site visit.

Questions were then asked by Members of the Committee.

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

Members thereafter walked around the site.

The Convener concluded by thanking the parties for their attendance and advised that the matter would be determined by the Planning Committee on 20 April 2011.

**P4. USE OF LAND FOR BUS PARKING AND INSTALLATION OF PLANT AND MACHINERY FOR REFUELLING AND WASHING DEPOT AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS EH51 9SF FOR FIRST SCOTLAND EAST LTD – P/10/0848/FUL**

With reference to Minutes of Meetings of the Planning Committee held on 23 March 2011 (Paragraph P213 refers), Committee gave further consideration to Reports (circulated) dated 15 March 2011 by the Director of Development Services on an application for full planning permission for the use of an existing industrial yard for bus parking including the erection of plant and machinery for refuelling and washing on a site located on the north side of Bridgeness Road, Bo'ness and within an established D J Manning Auctioneers site behind an existing office block building and car park.

The Convener, prior to the commencement of business, intimated the Committee's regret at the death of Councillor Constable, a longstanding member of the Committee and local member for Bo'ness and Blackness. Councillor Constable's commitment to his role within the Council and the local community was acknowledged and the Committee's respect was expressed.

The Convener introduced the parties present.

The Planning Officer (K Brown) outlined the nature of the application.

Mr McCafferty, the applicant's agent, was heard in relation to the application.

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

Mr Smith, an objector, was heard in relation to the application.

Ms Wilson, an objector, was heard in relation to the application.

Mr Lauder, an objector, was heard in relation to the application.

Ms McInnes, an objector, was heard in relation to the application.

Mr Holmes, an objector, was heard in relation to the application.

Mr Sargent, on behalf of Bo'ness Community Council, an objector, was heard in relation to the application.

Mr Holmes, an objector, was heard in relation to the application.

Mr Miller, an objector, was heard in relation to the application.

Ms Holmes, an objector, was heard in relation to the application.

Mr McClundy, an objector, was heard in relation to the application.

Mr Caie, an objector, was heard in relation to the application.



Ms Hunt, an objector, was heard in relation to the application.

The objectors highlighted the following issues:-

- That exacerbation of traffic noise and volume including the major problems associated with heavy traffic, chosen traffic route onto Carriden Brae and disturbance through the town centre;
- The significant road safety issues including the narrowness and quality of pavements;
- The existing and future parking problems;
- The noise from the cleaning of vehicles on the site;
- The inadequacy of the roads to sustain the current and increased level of traffic including problems with the road surfaces;
- The traffic movements during the evenings;
- The effect and vibration of residential properties from increased heavy traffic;
- The diesel spills, pollution and litter from the vehicles;
- That the area was historically residential; and
- That there were better sites elsewhere in Bo'ness and surrounding areas and these should be fully examined.

Questions were then asked by Members of the Committee.

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

The Convener concluded by thanking the parties for their attendance and advised that the matter would be determined by the Planning Committee on 20 April 2011.



**FALKIRK COUNCIL**

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

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

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

**Community Council:** Maddiston

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

**UPDATE REPORT FOLLOWING SITE VISIT**

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

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

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

**12. RECOMMENDATION**

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

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

**Informative(s):-**

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

.....  
Pp Director of Development Services

Date: 12 April 2011

### **LIST OF BACKGROUND PAPERS**

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

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

**FALKIRK COUNCIL**

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

**Meeting:** PLANNING COMMITTEE  
**Date:** 23 March 2011  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

**Community Council:** Maddiston

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

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

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

**2. REASON FOR COMMITTEE CONSIDERATION**

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

### **3. SITE HISTORY**

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

### **4. CONSULTATIONS**

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

### **5. COMMUNITY COUNCIL**

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

### **6. PUBLIC REPRESENTATION**

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

### **7. DETAILED APPRAISAL**

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



Accordingly,

## **7a The Development Plan**

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

### ***Falkirk Council Structure Plan***

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

### ***Falkirk Council Local Plan***

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

7a.4 Policy EQ4 - 'Landscape Design' states:

*“Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:*

- (1) Be informed by the surrounding landscape;*
- (2) Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*
- (5) Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7a.5 Policy EQ24 - 'Ecological Sites And Features' states;

- “(1) Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions; and there are imperative reasons of overriding public interest, including those of a social or economic nature. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*

- (2) *Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- (3) *Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) *Development likely to have an adverse affect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted.*
- (5) *Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site's natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required along with provision for its future Management.*
- (6) *The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.”*

7a.6 Policy EQ25 - ‘Biodiversity’ states:

*“The Council will promote the biodiversity of the Council area and ensure that the aims and objectives of the Falkirk Area Biodiversity Action Plan are promoted through the planning process. Accordingly:*

- (1) *Developments which would have an adverse effect on the national and local priority habitats and species identified in the Falkirk Area Biodiversity Action Plan will not be permitted unless it can be demonstrated that there are overriding national or local circumstances;*
- (2) *The safeguarding, enhancement and extension of the broad and key habitats and the species of conservation concern identified in ‘The Biodiversity of Falkirk’ will be given particular attention in the consideration of development proposals;*
- (3) *Development proposals should incorporate measures to promote, enhance and add to biodiversity, through overall site planning, and infrastructure, landscape and building design, having reference to the Supplementary Planning Guidance Note on ‘Biodiversity and Development’; and*
- (4) *Priority will be given to securing appropriate access to and interpretation of areas of local nature conservation interest. The designation of Local Nature Reserves, in consultation with communities, local wildlife groups and statutory bodies will be pursued.”*

7a.7 Policy EQ26 - ‘Trees, Woodland And Hedgerows’ states:

*“The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- (1) *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*

- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.”*

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

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

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

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

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

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

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

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

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

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

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

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

## **7b Material Considerations**

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

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

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

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

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

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

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

### ***Representations Received***

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

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

### **7c Conclusion**

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

## **8. RECOMMENDATION**

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

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

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

**Informative(s):-**

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

.....  
**Pp Director of Development Services**

**Date:** 15 March 2011

**LIST OF BACKGROUND PAPERS**

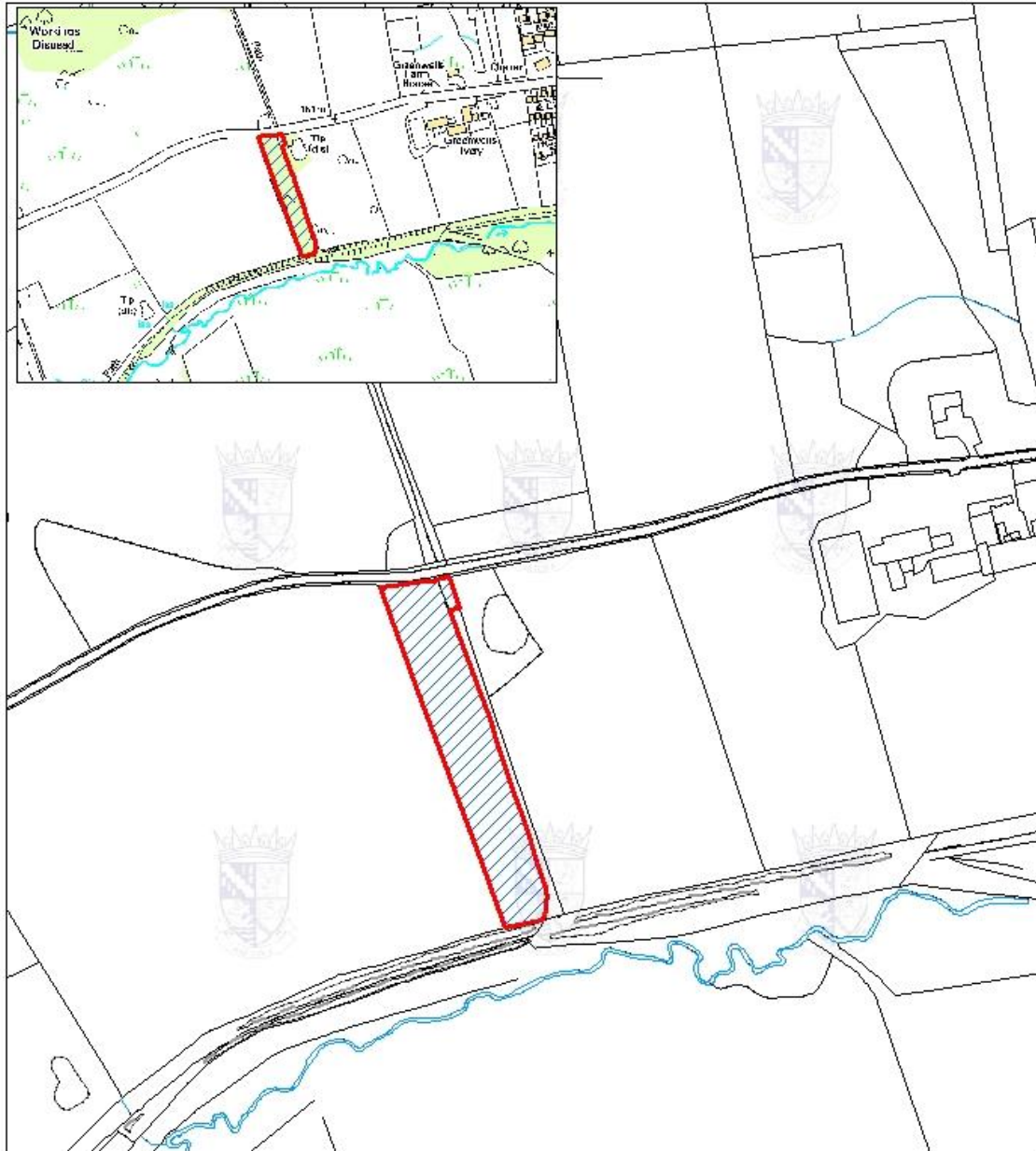
- 1. Falkirk Council Structure Plan.
- 2. Falkirk Council Local Plan.
- 3. Letter of Support from Mr Scott Jaffray, 4 MacArthur Crescent, Maddiston, Falkirk, FK2 0NL received on 22 February 2011.
- 4. Letter of Support from Robin and Elizabeth Todd, Hilton Farm Cottage, Cowie, Stirling, FK7 7DN received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

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

# Planning Committee

## Planning Application Location Plan P/10/0197/FUL

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



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**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR BUS PARKING AND INSTALLATION OF PLANT AND MACHINERY FOR REFUELLING AND WASHING DEPOT AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS EH51 9SF FOR FIRST SCOTLAND EAST LTD - P/10/0848/FUL

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

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

**Community Council:** Bo'ness

**Case Officer:** Kevin Brown (Planning Officer), Ext. 4701

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall this application was originally considered at the meeting of the Planning Committee on 23 March 2011 (copy of the previous report appended), when it was agreed to continue the application and to undertake a site visit. This site visit took place on 4 April 2011.
2. At the site meeting the applicants confirmed that there would be a maximum of 42 traffic movements to and from the site in any one 24 hour period and that all buses exiting the site would turn right onto the A904 Bridgeness Road instead of using Carriden Brae. The applicants also confirmed that the earliest and latest traffic movements at the site would be at approximately 05.30 am and 12.30am and that there would be one fuel delivery per week during daytime hours.
3. Contributors were heard in objection to the proposed development. It is worth noting that the number of representations received has now increased to 35 as opposed to the 19 detailed in the previous report. This increase was reflected in a large attendance from concerned residents on site. The concerns expressed reiterated those outlined in the previous report and focused on the issues of potential noise and traffic volumes likely to be generated. A number of contributors offered anecdotal evidence of congestion issues and noise concerns and many expressed that they felt the area has already been overdeveloped by business and industrial uses.
4. It can be advised that Transport Planning have been monitoring traffic flows in this area for some time. A verbal update on the results of this work will be given to the Planning Committee.

5. Members of the Committee requested clarification on the possibility of restricting hours of operation and direction of traffic movements from the site by way of planning conditions. It is considered that a condition relating to hours of operation is possible and indeed the applicant is agreeable to a condition limiting operating hours. However, in limiting the hours of operation, First Bus have confirmed that this would have a knock-on effect for bus services in the area. It is also advised that a condition restricting traffic movements outwith the site are not enforceable and are therefore advised against in this instance.
6. With regard to noise issues raised by objectors, members of the Planning Committee and local members, the applicant has confirmed that they are currently undertaking noise survey work. It has been confirmed that this work will not be completed until after the committee meeting on 20 April 2011. The applicant has therefore requested that the application be continued to allow noise issues to be considered. It is anticipated that this information should be available to enable an update report being brought back to the Planning Committee in May. Given the fundamental nature of this issue, it is recommended that this is an appropriate request.

## 7. RECOMMENDATION

- 7.1 This planning application is continued pending the submission and analysis of a noise survey assessment.

.....  
**Pp Director of Development Services**

**Date:** 2011

### LIST OF BACKGROUND PAPERS

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

	Name	Address	Received
3.	Letter of Representation from Mr Jim Wadell	Session Clerk, Carriden Parish Church C/o Robert_stuart@btopenworld.com	16 March 2011
4.	Letter of Objection from Verity & Ian Smith	7 Hope Cottages Bo'ness EH51 9SU	7 March 2011
5.	Letter of Objection from Mrs P Lyon	Riversdale Carriden Brae Bo'ness EH51 9SL	7 March 2011
6.	Letter of Objection from John Lyon	Riversdale Carriden Brae Bo'ness EH51 9SL	7 March 2011
7.	Letter of Objection from Harry & Brenda Holmes	Library House Acre Road Bo'ness EH51 9SX	7 March 2011
8.	Letter of Objection from Maurice & Ann Mitchell	Ashgrove Carriden Brae Bo'ness EH51 9SL	2 March 2011
9.	Letter of Objection from M K Lawrie	Grange Lodge Carriden Brae Bo'ness EH51 9SL	2 March 2011
10.	Letter of Objection from	Carriden Brae Bo'ness EH51 9SL	2 March 2011

	Owner/Occupier		
11.	Letter of Objection from E S Marshall	Bruan Carriden Brae Bo'ness EH51 9SL	2 March 2011
12.	Letter of Objection from Joyce Hastie	Aviemore Carriden Brae Bo'ness West Lothian	2 March 2011
13.	Letter of Objection from Owner/Occupier	No Address Given	2 March 2011
14.	Letter of Objection from Mr Jeff Adams	1 Carriden Glade Bo'ness EH51 9LU	24 February 2011
15.	Letter of Objection from Mrs Pamela Mullen	4 Carriden Glade Carriden Bo'ness EH51 9LU	12 February 2011
16.	Letter of Support from Miss Marie McDonald	25 Stevenson Court Falkirk FK2 7PX	1 April 2011
17.	Letter of Objection from Mrs Elaine Allan	1 Foredale Terrace Boness EH51 9LW	27 February 2011
18.	Letter of Objection from Mr and Mrs C Wilson	Grangepark Bridgeness Road Bo'ness EH51 9LR	
19.	Letter of Objection from Mr Rob Hill	3a Links Road boness eh519aN	29 March 2011
20.	Letter of Objection from Miss Nicola Rhind-Mullen	4 Carriden Glade Bo'ness EH51 9LU	29 March 2011
21.	Letter of Objection from Yvonne McBlaine	Old Schoolhouse Bridgeness Road Bo'ness EH51 9LR	
22.	Letter of Objection from R W Christie	No Address Given	
23.	Letter of Objection from Pamela & Stuart Millar and Reid	Flat 5 2 Birdland Avenue Bo'ness EH51 9LX	31 March 2011
24.	Letter of Support from Miss Lisa Alexander	2c Grangemouth Road Bo'ness EH51 0PT	1 April 2011
25.	Letter of Objection from Lt. Col. I. B. Lauder	Bridgeness Cottage 13 Bridgeness Lane Bo'ness EH51 9LQ	
26.	Letter of Objection from Bo'ness Community Council	FAO: Tom Sargent, Secretary Darrach Mohr 16 Grahamsdyke Road Bo'ness	29 March 2011
27.	Letter of Objection from Miss Dawn Murray	19 Glenburn Way Bo'ness EH51 0NJ	28 March 2011
28.	Letter of Objection from Mr John Mullen	4 Carriden Glade Bo'ness EH51 9LU	13 February 2011
29.	Letter of Objection from Mr James Hunt	5 Carriden Glade Bo'ness West Lothian EH51 9LU	28 March 2011
30.	Letter of Objection from Mrs Lisa Hunt	5 Carriden Glade Bo'ness EH51 9LU	28 March 2011
31.	Letter of Objection from Avril McInnes	Old School House Carriden Brae Bo'ness	9 March 2011
32.	Letter of Objection from Mr Peter Cunningham	6 gauze place bo'ness eh51 9jq	30 March 2011
33.	Letter of Objection from Mandy McDonald	West Villa Bridgeness Road Bo'ness EH51 9LR	31 March 2011
34.	Letter of Support from	C/O DJ Manning Bo'ness EH51 9SF	1 April 2011

- Mr David Morgan
- |     |   |   |               |
|-----|---|---|---------------|
| 35. | Letter of Objection from<br>Mrs Lisa Stewart      | 8 Drumacre Road Bo'ness EH51 9QR                                  | 28 March 2011 |
| 36. | Letter of Objection from<br>Mrs. Madelene Hunt    | 28 Crosshill Drive Bo'ness EH51 9JB                               | 28 March 2011 |
| 37. | Letter of Objection from<br>Mr and Mrs R & N Caie | Cairndhu Carriden Brae Bo'ness EH51 9SL                           | 4 March 2011  |
| 38. | Letter of Objection from<br>Mr E Tooley           | Muirhouses Amenity Association Red Tiles<br>Carriden Brae Bo'ness |               |

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR BUS PARKING AND INSTALLATION OF PLANT AND MACHINERY FOR REFUELLING AND WASHING DEPOT AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS EH51 9SF FOR FIRST SCOTLAND EAST LTD – P/10/0848/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 23 March 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness  
Councillor John Constable  
Councillor Ann Ritchie  
Councillor Adrian Mahoney

**Community Council:** Bo'ness

**Case Officer:** Kevin Brown (Planning Officer), Ext. 4701

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application for full planning permission proposes the use of an existing industrial yard for bus parking including the erection of plant and machinery for refueling and washing. The site is located on the north side of Bridgeness Road, Bo'ness within the established DJ Manning auctioneers site and is located behind an existing office building and car park.
- 2.2 The limited size of the site means an approximate capacity of around 15 buses can be stored at any one time. The proposal includes the installation of new gates on the existing security fencing and installation of 3 no 10 metre high lighting columns and 4 no 6 metre high CCTV columns.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application was called in by Councillor John Constable.

**3. SITE HISTORY**

- 3.1 The application site has historically always been part of the yard area for wider uses within the DJ Manning site and has recently been used for caravan storage. It is not considered that there is any planning history on the site relevant to the assessment of this application.

#### **4. CONSULTATIONS**

- 4.1 SEPA has no objection to the proposal in terms of flooding or surface water drainage.
- 4.2 The Environmental Protection Unit has no objection to the proposed development but a request for a noise survey has been made to establish the effect of the development on residential properties within the vicinity of the site. Given the existing industrial nature of the site, distance to residential properties and the limited scale of the proposals, it is considered that this can be adequately covered by way of a condition attached to any consent given.
- 4.3 The Roads Development Unit has no objection to the proposal in terms of road safety and access design. The applicants have submitted supporting information demonstrating that the site will operate with vehicles entering and exiting the site in a forward gear negating the need for difficult reversing manoeuvres to be carried out.

#### **5. COMMUNITY COUNCIL**

- 5.1 The Bo'ness Community Council has not commented on this proposal.

#### **6. PUBLIC REPRESENTATION**

- 6.1 At the time of writing this report 19 letters of representation have been received objecting to the proposed development. Issues raised include:-
- Traffic noise
  - Traffic volume
  - Better sites elsewhere in Bo'ness
  - Diesel spills
  - Existing parking problems
  - Historically a residential area
  - Traffic movements during the night

#### **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 policies in the Structure Plan that relate to the proposal and therefore no strategic issues require to be assessed.

### ***Falkirk Council Local Plan***

7a.2 Policy EP2 - 'Land For Business And Industrial Use' states:

*"In order to maintain the business and industrial land supply and the employment role of existing business and industrial areas:*

- (1) The sites for new business and industrial development identified on the Proposals Map will be safeguarded for the employment use specified for each site; and*
- (2) The areas for retention in business and industrial use identified on the Proposals Map will be retained and reserved for Class 4, 5 or 6 uses, except for the established business parks of Callendar Park and Gateway Business Park, Grangemouth which will be reserved for Class 4 uses only.*

*Other ancillary employment uses may be permitted within these areas where they are compatible with the principal business / industrial use of the site, will not result in a significant reduction in the availability of business land or property, and are consistent with other Local Plan policies."*

7a.3 The proposed development is located within an area safeguarded for business and industrial use. Whilst the proposed development does not fit neatly into one specific use class and is therefore considered to be a sui generis use, the proposed use of the site is closely related to use class 6 – Storage and Distribution and use class 5 – General Industrial, by virtue of the proposed washing and refueling installations at the site. The proposals are considered to be broadly compatible with the principal business and industrial use of the wider area and would not result in a significant loss of business land. The proposal complies with Policy EP2.

7a.4 The proposal is considered to accord with the terms of the Falkirk Council Local Plan.

7a.5 Accordingly, the proposal accords with the terms of the Development Plan.

## **7b Material Considerations**

7b.1 The material planning considerations to be addressed are the representations received in so far as they relate to material planning considerations.

### ***Representations Received***

7b.2 As outlined in section 4.3 of this report, the Roads Development Unit has assessed the proposals and is satisfied that no adverse road safety impacts would come about as a result of this proposal.

7b.3 Parking for employees would be accommodated within the site boundaries and would therefore not exacerbate existing parking issues in the surrounding area.

- 7b.4 The staggered nature of bus operating times and the limited site capacity in terms of bus numbers is considered to ensure that impact on residential amenity would be minimal. The site is within an established industrial area where traffic movements, including HGVs, could intensify at any given time without the need for planning permission. It is not considered that concerns in relation to traffic movements, both during the day and during the night, are significant enough to warrant a refusal of planning permission in this instance.
- 7b.5 Diesel spills are not material planning considerations.
- 7b.6 Concerns relating to the historical residential nature of the area are noted. However, the industrial use of this site is now well established and is protected within the recently adopted Falkirk Council Local Plan.
- 7b.7 References to suggested better sites elsewhere in Bo'ness are noted, but these cannot be assessed as part of this application.

## 7c Conclusion

- 7c.1 The proposed development is considered to be in accordance with the terms of the Development Plan and there are no material considerations that warrant a refusal of planning permission in this instance.

## 8. RECOMMENDATION

### 8.1 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) Development shall not begin until a scheme for protecting residential properties from noise from the proposed development and associated plant and machinery has been submitted to and approved in writing by the Planning Authority. The development shall not be brought into use until the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.

#### Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that the occupants of adjacent premises are protected 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) 01 to 04 inclusive.



- (2) 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) The applicants should be aware that this site is within the area covered by the SEPA indicative flood maps and is therefore identified as being potentially at risk of flooding. Mitigation in the form of the recently constructed Bo'ness flood prevention scheme should provide some degree of comfort in this regard however the responsibility for operational resilience remains the applicants' responsibility.

.....  
**Pp Director of Development Services**

**Date:** 15 March 2011

#### LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Objection from Owner/Occupier Carriden Brae Bo'ness EH51 9SL received on 2 March 2011.
4. Letter of Objection from Mr Jeff Adams 1 Carriden Glade Bo'ness EH51 9LU received on 24 February 2011.
5. Letter of Objection from Mrs Elaine Allan 1 Foredale Terrace Boness EH51 9LW received on 27 February 2011.
6. Letter of Objection from Mr and Mrs R & N Caie Cairndhu Carriden Brae Bo'ness EH51 9SL received on 4 March 2011.
7. Letter of Objection from Joyce Hastie Aviemore Carriden Brae Bo'ness West Lothian received on 2 March 2011.
8. Letter of Objection from Harry & Brenda Holmes Library House Acre Road Bo'ness EH51 9SX received on 7 March 2011.
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12. Letter of Objection from John Lyon Riversdale Carriden Brae Bo'ness EH51 9SL received on 7 March 2011.
13. Letter of Objection from E S Marshall Bruan Carriden Brae Bo'ness EH51 9SL received on 2 March 2011.
14. Letter of Objection from Yvonne McBlaine Old Schoolhouse Bridgeness Road Bo'ness EH51

9LR received on 9 February 2011.

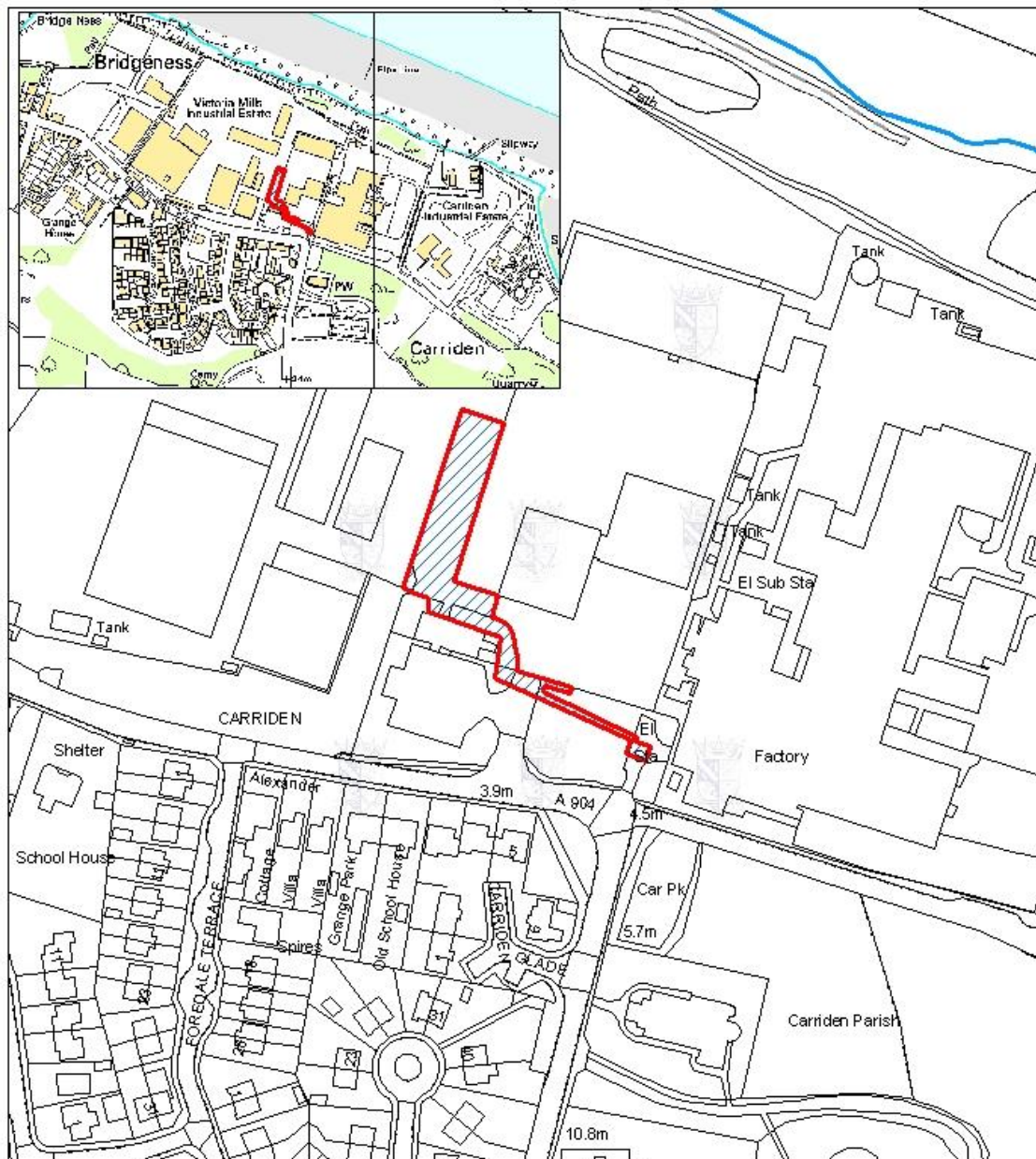
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20. Letter of Objection from Verity & Ian Smith 7 Hope Cottages Bo'ness EH51 9SU received on 7 March 2011.
21. Letter of Objection from Mr E Tooey Muirhouses Amenity Association Red Tiles Carriden Brae Bo'ness received on 4 March 2011.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

# Planning Committee

## Planning Application Location Plan P/10/0848/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:** CHANGE OF USE OF PUBLIC HOUSE TO (CLASS 1) RETAIL UNITS AT THE PINES, 5 FLEMING COURT, DENNY FK6 5HA FOR MR STEPHEN CARR - P/10/0869/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock  
Councillor Jim Blackwood  
Councillor John McNally  
Councillor Martin David Oliver  
Councillor Alexander John Waddell

**Community Council:** Denny and District

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was considered at the meeting of the Planning Committee on 23 March 2011 when it was agreed to continue consideration to allow a site visit to be carried out by Members. This visit took place on Monday 4 April 2011.
2. Following a factual summary by the case officer, at the site inspection, members viewed the property which is the subject of this planning application.
3. The applicant's representative spoke in the applicant's absence in support of the application and emphasized that Mr Carr (applicant) has made every effort to hear the views from the local community and take on board the points raised by attending local meetings. An example of a change arising from those meetings is that the proposed access for deliveries is now located at the front of the property, instead of the rear of the property.
4. Objectors were heard on issues including:- additional noise pollution, deliveries at unsociable hours, increased traffic and parking concerns, competition for other existing retail units leading to derelict building, invasion of privacy, amenity of neighbouring residents, neon signage, anti-social behaviour and litter.
5. A representative of the Community Council was present at the site visit and advised that the Community Council had considered the proposal but the Community Council did not wish to make representation.

6. The Roads Officer advised that the assessment of parking is based on the change of use of the property. The existing turning area and parking facilities are considered acceptable, as there is a lower parking need for retail units than for a public house within the Roads Development Guidelines. Indiscriminate parking would be a matter for the police to address if this issue arises.
7. The case officer stated that some points raised by the representatives were not material planning considerations and some issues are not covered by planning legislation. This application does not propose the selling of hot food on the premises. Extraction fans, external flues and any hot foot outlet would require separate planning permission. This application also has no windows proposed on the rear elevation.
8. The distance between the proposed full length window on the south elevation and No 28 Ochil View, Denny is well in excess of 30 metres. Given the relationship of the properties concerned and the distance, it is not considered that the need for opaque glazing is justified in this instance.
9. One further letter of support has been received since the application went to the Planning Committee meeting on 23 March 2011.
10. No matters were raised which would amend the original recommendation to grant planning permission.

## **11. RECOMMENDATION**

### **11.1 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) The proposed turning area as indicated on drawing 03A, shall be retained and maintained unless otherwise agreed in writing by the planning authority.**
- (3) Before any works start on site details of the specification and colour of all proposed external finishes 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) In the interests of road safety.**
- (3) In the interest of visual orientate to ensure that external finishing materials are appropriate to the character 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) 01A, 02, 03A and 05A.
- (2) For the avoidance of doubt this planning permission does not grant permission for advertisements shown on the above mentioned plans. A separate formal Advertisement Consent may also be required for any signs associated with the development. It is the applicant's responsibility to obtain this before signs are displayed on site.
- (3) For the avoidance of doubt this planning permission does not grant permission for external extraction fans or flues or material change of use of the premises for the sale of hot food for consumption off the premises. These may be the subject of a separate planning application to Falkirk Council.
- (4) The applicant shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

- (5) 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.

**Pp**

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**Director of Development Services**

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Council Supplementary Guidance – Shopfronts

4. Letter of Objection from Mr David Stokes, 34 Ochil View Denny FK6 5NQ on 1 February 2011
5. Letter of Objection from Joyce Herd, 32 Ochil View Denny FK6 5NQ on 1 February 2011
6. Letter of Objection from Miss Jacqueline Kennedy, 101 Sutherland Drive Denny FK6 5EP on 18 January 2011
7. Letter of Support from Mrs Penny Davidson, 6 Ochil View Denny FK6 5NQ on 22 January 2011
8. Letter of Objection from Mr Stuart Malcolm, 27 Ochil View Denny FK6 5NQ on 10 January 2011
9. Letter of Objection from K A'Hara, 20 Ochil View Denny FK6 5NQ on 2 February 2011
10. Letter of Objection from Mr Scott Hamilton, 56 Ochil View Denny FK6 5NH on 2 February 2011
11. Letter of Objection from Pauline McVicar, 81 Ochil View Denny FK6 5NJ on 2 February 2011
12. Letter of Objection from Elaine McKenzie, Greg McKenzie and David Hall, 24 Ochil View Denny FK6 5NQ on 2 February 2011
13. Letter of Objection from John and Mary Geddes, 22 Ochil View Denny FK6 5NQ on 2 February 2011
14. Letter of Objection from Gwen Gallagher, 40 Ochil View Denny FK6 5NQ on 2 February 2011
15. Letter of Objection from B Henderson, 55 Braes View Denny FK6 5NG on 2 February 2011
16. Letter of Objection from Mr John Wright, 25 Paris Avenue Denny FK6 5AD on 2 February 2011
17. Letter of Objection from Mrs N Speirs, 9 Braes View Denny FK6 5NG on 2 February 2011
18. Letter of Objection from Mr Anthony Green, 45 Blaufaulds Crescent Denny FK6 5EL on 2 February 2011
19. Letter of Objection from Anne Gilfillan, 99 Little Denny Road Denny FK6 5AU on 2 February 2011
20. Letter of Objection from Marie Lavery, 84 Ochil View Denny FK6 5NH on 2 February 2011
21. Letter of Objection from L Gray, 76 Ochil View Denny FK6 5NH on 2 February 2011
22. Letter of Objection from W McLuckie, 28 Ochil View Denny FK6 5NQ on 2 February 2011
23. Letter of Objection from Mr Ricky Dunn, 78 Torwood Avenue Grangemouth FK3 0DP on 2 February 2011
24. Letter of Objection from Mr Ken Jarvie, 24 Woodland Way Denny FK6 5NZ on 2 February 2011
25. Letter of Objection from Mr Alan Brown, 5 Glenyards Road Greenhill Bonnybridge FK4 2EA on 2 February 2011
26. Letter of Objection from Mr Kevin Kennedy, 44 Braes View Denny FK6 5ND on 2 February 2011
27. Letter of Objection from G Burns, 49 Blaufaulds Crescent Denny FK6 5EJ on 2 February 2011
28. Letter of Objection from Mr Gordon Herd, 32 Ochil View Denny FK6 5NQ on 2 February 2011
29. Letter of Objection from Shirley Wilson, 190 Braes View Denny FK6 5NE on 2 February 2011
30. Letter of Objection from Mr Stuart Malcolm, 27 Ochil View Denny FK6 5NQ on 2 February 2011
31. Letter of Objection from L Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 2 February 2011
32. Letter of Objection from Mr James Millar, 21 Glen Terrace Denny FK6 5DE on 2 February 2011
33. Letter of Objection from Jacqui Allan, 75 Reedlands Drive Denny FK6 5NX on 2 February 2011



34. Letter of Objection from Mr Craig Kennedy, 33 Reedlands Drive Denny FK6 5NX on 2 February 2011
35. Letter of Objection from Mr Adrian McInnes, 68 Blaefaulds Crescent Denny FK6 5EJ on 2 February 2011
36. Letter of Objection from Mr Fraser Johnston, 100 Glasgow Road Denny FK6 5DN on 2 February 2011
37. Letter of Objection from W Christie, 20 Sutherland Drive Denny FK6 5ER on 2 February 2011
38. Letter of Objection from Margaret Elrick, 12 Laxdale Drive Head of Muir Denny FK6 5PR on 2 February 2011
39. Letter of Objection from Mr Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 2 February 2011
40. Letter of Objection from P Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 2 February 2011
41. Letter of Objection from N Adams, 178 Braes View Denny FK6 5NE on 2 February 2011
42. Letter of Objection from Mr John Johnston, 8 Randolph Gardens Netherfaulds Drive Denny FK6 5DB on 2 February 2011
43. Letter of Objection from P Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 1 February 2011
44. Letter of Objection from Mr Gordon McKenzie, 53 Lithgow Place Denny FK6 5BF on 1 February 2011
45. Letter of Objection from Mr Keith Belbin, 35 Ochil View Denny FK6 5NQ on 1 February 2011
46. Letter of Objection from Michelle Murphy, 53 Lithgow Place Denny FK6 5BF on 1 February 2011
47. Letter of Objection from Evonne McColl, 50 Reedlands Drive Denny FK6 5NL on 1 February 2011
48. Letter of Objection from Mr Michael Traynor, 17 Sutherland Drive Denny FK6 5ER on 1 February 2011
49. Letter of Objection from M C Gowdie, 12 Annfield Gardens Stirling FK8 2BJ on 1 February 2011
50. Letter of Objection from N Gowdie, 12 Annfield Gardens Stirling FK8 2BJ on 1 February 2011
51. Letter of Objection from M Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 1 February 2011
52. Letter of Objection from Alexandra Harrison, 106 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
53. Letter of Objection from S Cummings, 8 Dundaff Court Denny FK6 5BZ on 1 February 2011
54. Letter of Objection from Margaret Elrick, 14 Laxdale Drive Head Of Muir Denny FK6 5PR on 1 February 2011
55. Letter of Objection from Mr Robert Gardiner, 18 Garvald Lane Denny FK6 5DA on 1 February 2011
56. Letter of Objection from Mr Thomas Allan, 75 Reedlands Drive Denny FK6 5NX on 1 February 2011
57. Letter of Objection from Paula Marshall, 12 Sutherland Drive Denny FK6 5ER on 1 February 2011
58. Letter of Objection from T McNeil, 29 Hazel Crescent Dunipace Denny FK6 6LN on 1 February 2011
59. Letter of Objection from Ms Michelle Murphy, 4 Fleming Court Denny FK6 5HB on 30 December 2010

60. Letter of Objection from Mr. Gordon. Herd, 32 Ochilview. Denny FK6 5NQ on 8 January 2011
61. Letter of Objection from Mr David Mitchell, 41 Kilbirnie Terrace Denny FK6 6JJ on 9 January 2011
62. Letter of Objection from Mr David Stokes, 34 Ochil View Denny FK6 5NQ on 9 January 2011
63. Letter of Objection from Mr Muhammad Afzal, 2 Nicolton Court Maddiston Falkirk FK2 0LB on 8 January 2011
64. Letter of Objection from Mr David Hall, 24 Ochilview Denny FK6 5NQ on 10 January 2011
65. Letter of Objection from Mr Andy Crème, 46 Wallace Crescent Denny FK6 6PQ on 30 January 2011
66. Letter of Objection from Miss Dawna Allan, 26 Bulloch Crescent Denny FK6 5AL on 9 January 2011
67. Letter of Objection from Miss Dawna Grierson, 31 Hunter Gardens Denny FK6 6PP on 9 January 2011
68. Letter of Objection from Owner/Occupier, 50 Laxdale Drive Head of Muir Denny FK6 5PR
69. Letter of Objection from Mr Thomas Wilson, 234 Braes View Denny FK6 5NF on 1 February 2011
70. Letter of Objection from Ricky Dornion, 89A Duke Street Denny FK6 6NS on 1 February 2011
71. Letter of Objection from Mr Craig Dewar, 35 Glebe Street Denny FK6 6AA on 1 February 2011
72. Letter of Objection from Mr Bobby MacLean, 87 Ochil View Denny FK6 5NJ on 1 February 2011
73. Letter of Objection from Mr Gregor Taylor, 36 Herbertshire Street Denny FK6 6HD on 1 February 2011
74. Letter of Objection from Charlene MacLean, 87 Ochil View Denny FK6 5NJ on 1 February 2011
75. Letter of Objection from R McLean, 33 Braes View Denny FK6 5NG on 1 February 2011
76. Letter of Objection from Mr Barry McLean, 136 Bulloch Crescent Denny FK6 5AN on 1 February 2011
77. Letter of Objection from Margaret Hislop, 62 Reedlands Drive Denny FK6 5NL on 1 February 2011
78. Letter of Objection from Anne Marie Maley, 45 Braes View Denny FK6 5NG on 1 February 2011
79. Letter of Objection from Owner/Occupier, 11 Braes View Denny FK6 5NG on 1 February 2011
80. Letter of Objection from Owner/Occupier, 75 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
81. Letter of Objection from Mr Richard Burrowes, 29 Brewster Place Denny FK6 6PS on 1 February 2011
82. Letter of Objection from Mr Thomas Hislop, 62 Reedlands Drive Denny FK6 5NL on 1 February 2011
83. Letter of Objection from Mr Martyn Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
84. Letter of Objection from Megan Miller, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
85. Letter of Objection from Fiona Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
86. Letter of Objection from Ryan Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011

87. Letter of Objection from Zoe Johnson, 78 Ure Crescent Bonnybridge FK4 1NB on 1 February 2011
88. Letter of Objection from Darren Mcateer, 3 Timmons Place Denny FK6 5AH on 1 February 2011
89. Letter of Objection from Mr Iain Moffat, 48 Glasgow Road Denny FK6 5DW on 1 February 2011
90. Letter of Objection from Mr Graeme Norris, Helenbank 45 Herbertshire Street Denny FK6 6HF on 1 February 2011
91. Letter of Objection from Mr Craig McIntosh, 6 Ferguson Drive Denny FK6 5AE on 1 February 2011
92. Letter of Objection from Mr Gary Stainton, 17 Paris Avenue Denny FK6 5AB on 1 February 2011
93. Letter of Objection from Mr Greg McKenzie, 24 Ochil View Denny FK6 5NQ on 1 February 2011
94. Letter of Objection from Mr Davie Gordon, 64 Anderson Drive Denny FK6 5DY on 1 February 2011
95. Letter of Objection from Mr Billy Sinclair, 28 Reedlands Drive Denny FK6 5NL on 1 February 2011
96. Letter of Objection from L Stewart, 28 Ochil View Denny FK6 5NQ on 1 February 2011
97. Letter of Objection from Janice McGibbon, 41 Sutherland Drive Denny FK6 5ER on 1 February 2011
98. Letter of Objection from Catherine Hunter, 91 Ochil View Denny FK6 5NJ on 1 February 2011
99. Letter of Objection from Sandra Torrance, 64 Blaeaulds Crescent Denny FK6 5EJ on 1 February 2011
100. Letter of Objection from Nicole Smith, 102 Ochil View Denny FK6 5NJ on 1 February 2011
101. Letter of Objection from Mr Ross O'Raw, 59 Wheatlands Avenue Bonnybridge FK4 1PL on 1 February 2011
102. Letter of Objection from Mr Jamie Callaghan, 42 Anderson Drive Denny FK6 5DY on 1 February 2011
103. Letter of Objection from Mr Alan Wilson, 7 Tarduff Place Stoneywood Denny FK6 5HT on 1 February 2011
104. Letter of Objection from Mr Sean Kennedy, 96 Overton Crescent Denny FK6 5AZ on 1 February 2011
105. Letter of Objection from Denise Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011
106. Letter of Objection from Mr Stephen Grant, 130 Ochil View Denny FK6 5NJ on 1 February 2011
107. Letter of Objection from Mr Daniel Doherty, 124 Ochil View Denny FK6 5NJ on 1 February 2011
108. Letter of Objection from Dawn Kelly, 50 Blaeaulds Crescent Denny FK6 5EJ on 1 February 2011
109. Letter of Objection from Mr Scott Morrison, 33 Blaeaulds Crescent Denny FK6 5EL on 1 February 2011
110. Letter of Objection from Mary Sturgess, 66 Ochil View Denny FK6 5NH on 1 February 2011
111. Letter of Objection from Mr Alan Adams, 178 Braes View Denny FK6 5NE on 1 February 2011
112. Letter of Objection from Jane O'Donnell, 20 Sutherland Drive Denny FK6 5ER on 1 February 2011
113. Letter of Objection from Mr Ian Wallace, 21 Blaeaulds Crescent Denny FK6 5EL on 1 February 2011

114. Letter of Objection from Yvonne Burns, 8 Godfrey Avenue Denny FK6 5BU on 1 February 2011
115. Letter of Objection from Mr Derek McAllister, 31 Ochil View Denny FK6 5NQ on 1 February 2011
116. Letter of Objection from Claire Gillespie, 66 Braes View Denny FK6 5ND on 1 February 2011
117. Letter of Objection from Mr John O'Donnell, 15 Ochil View Denny FK6 5NQ on 1 February 2011
118. Letter of Objection from Miss Pauline Cullen, 82 Blaeaulds Crescent Denny FK6 5EJ on 1 February 2011
119. Letter of Objection from Mrs Marie Irvine, 208 Braes View Denny FK6 5NF on 1 February 2011
120. Letter of Objection from Mr Thomas Reddy, 23 Brewster Place Denny FK6 6PS on 1 February 2011
121. Letter of Objection from Jonathan Greer, 108 Ochil View Denny FK6 5NJ on 1 February 2011
122. Letter of Objection from Mr Barry Chalmers, 122 Ochil View Denny FK6 5NJ on 1 February 2011
123. Letter of Objection from Mr Richard Milne, 55 Blaeaulds Crescent Denny FK6 5EJ on 1 February 2011
124. Letter of Objection from Karen Binnie, 52 Blaeaulds Crescent Denny FK6 5EJ on 1 February 2011
125. Letter of Objection from Mr Donald MacDonald, 28 Ochil View Denny FK6 5NQ on 1 February 2011
126. Letter of Objection from Mr Bob Gardiner, 17 Sutherland Drive Denny FK6 5ER on 1 February 2011
127. Letter of Objection from Mr Philip Lynch, 100 Ochil View Denny FK6 5NJ on 2 February 2011
128. Letter of Objection from Mrs Nicola Henderson, 55 Braes View Denny FK6 5NG on 2 February 2011
129. Letter of Objection from Owner/Occupier, 53 Avon Street Dunipace Denny FK6 6LB on 2 February 2011
130. Letter of Objection from J Todd, 18 Souillac Drive Denny FK6 5HE on 2 February 2011
131. Letter of Objection from Tariq Sattar, 5 Blaeaulds Crescent Denny FK6 5EL on 2 February 2011
132. Letter of Objection from Angela McCabe, 87 Braes View Denny FK6 5NG on 2 February 2011
133. Letter of Objection from Senga Barr, 33 Blaeaulds Crescent Denny FK6 5EL on 2 February 2011
134. Letter of Objection from Margaret Gray, 176 Braes View Denny FK6 5NE on 2 February 2011
135. Letter of Objection from Midge Singh, 92 Ochil View Denny FK6 5NH on 2 February 2011
136. Letter of Objection from Sandra Rankin, 14 Woodland Way Denny FK6 5NZ on 2 February 2011
137. Letter of Objection from Mr Robert Morgan, 32 Braes View Denny FK6 5ND on 2 February 2011
138. Letter of Objection from Elizabeth Smart, 40 Braes View Denny FK6 5ND on 2 February 2011
139. Letter of Objection from Jackie B Allan, 58 Ochil View Denny FK6 5NH on 2 February 2011
140. Letter of Objection from Owner/Occupier, 19 Braes View Denny FK6 5NG on 2 February 2011
141. Letter of Objection from R Robertson, 248 Braes View Denny FK6 5NF on 2 February 2011

142. Letter of Objection from Hazel McMullan, 26 Windsor Drive Dunipace Denny FK6 6NL on 2 February 2011
143. Letter of Objection from Mr Michael Thompson, 31 Auchincloch Drive Banknock Bonnybridge FK4 1LA on 2 February 2011
144. Letter of Objection from Owner/Occupier, 56 Blaefaulds Crescent Denny FK6 5EJ on 2 February 2011
145. Letter of Objection from John McCartney, 73 Blaefaulds Crescent Denny FK6 5EJ on 2 February 2011
146. Letter of Objection from H Beveridge, 36 Reedlands Drive Denny FK6 5NL on 2 February 2011
147. Letter of Objection from J Leckie, 57 Glenbo Drive Head Of Muir Denny FK6 5PQ on 2 February 2011
148. Letter of Objection from Martyn Rankin, 14 Woodland Way Denny FK6 5NZ on 2 February 2011
149. Letter of Objection from E Hardie, 12 MacLachlan Avenue Denny FK6 5HF on 2 February 2011
150. Letter of Objection from P Thompson, 5 Lithgow Place Denny FK6 5BF on 2 February 2011
151. Letter of Objection from Anthony, Carole and Anton Mowatt, 38 Ochil View Denny FK6 5NQ on 2 February 2011
152. Letter of Objection from Mrs M Gentles, 1 Langhill Place Denny FK6 5BY on 2 February 2011
153. Letter of Objection from G Manuel, 7 Laxdale Drive Head of Muir Denny FK6 5PL on 2 February 2011
154. Letter of Objection from S O'Hare, 36 Souillac Drive Denny FK6 5HE on 2 February 2011
155. Letter of Objection from G Fullard, 5 Laxdale Drive Head of Muir Denny FK6 5PL on 2 February 2011
156. Letter of Objection from F Burrowes, 6 Argyll Path Denny FK6 5EN on 2 February 2011
157. Letter of Objection from Mr David Reid, 71 Reedlands Drive Denny FK6 5NX on 2 February 2011
158. Letter of Objection from Sheree McGuckin, 59 Lithgow Place Denny FK6 5BF on 2 February 2011
159. Letter of Objection from L Skinner, 202 Braes View Denny FK6 5NF on 2 February 2011
160. Letter of Objection from Mr Darren Kerr, 96 Braes View Denny FK6 5ND on 2 February 2011
161. Letter of Objection from Mr Jonathan Hird, 94 Ochil View Denny FK6 5NH on 2 February 2011
162. Letter of Objection from Owner/Occupier, 20 Loney Crescent Denny FK6 5EG on 2 February 2011
163. Letter of Objection from Mr John Henderson, 21 Braes View Denny FK6 5NG on 2 February 2011
164. Letter of Objection from Mr Ramond Gibb, 47 Ochilview Denny FK6 5NH on 10 January 2011
165. Letter of Objection from Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 11 January 2011
166. Letter of Objection from Mr Peter O'Donnell, 5 Milton Close Dunipace Denny FK6 6HR on 11 February 2011
167. Letter of Objection from Mrs Carole Mowatt, 38 Ochil View Denny FK6 5NQ on 12 January 2011
168. Letter of Objection from Mrs Christine Horner, 20 Slandersburn Road Denny FK6 5LP on 13 January 2011
169. Letter of Representation from Mr Mark Paterson, 30, Ochilview Denny FK6 5NQ on 10 January 2011

170. Letter of Objection from Miss Maria-Claire Paterson, 14 Lithgow Place Denny FK6 5BF on 9 January 2011
171. Letter of Objection from Miss Deborah Cathcart, 41 Braes View Denny FK6 5NG on 11 January 2011
172. Letter of Objection from Mr Alan Brown, 5 Glenyards Road Bonnybridge Fk4 2EA on 16 January 2011
173. Letter of Objection from Mr Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 9 January 2011
174. Letter of Objection from Miss Kirsty Hamilton, 56 Ochilview Denny FK6 5NH on 9 January 2011
175. Letter of Objection from Miss Jodie Mowatt, 38 Ochil View Denny FK6 5NQ on 10 January 2011
176. Letter of Objection from Mr William Allen, 11 Sinclair Crescent Denny FK6 5BT on 1 February 2011
177. Letter of Objection from Fiona Clark, 5 Bridge Crescent Denny FK6 6PB on 1 February 2011
178. Letter of Objection from Lisa McClare, 3 Rosemary Court Denny FK6 6NX on 1 February 2011
179. Letter of Objection from Mr David Smith, 29 Argyll Path Denny FK6 5EW on 1 February 2011
180. Letter of Objection from Rita Burrowes, 6 Argyll Path Denny FK6 5EN on 1 February 2011
181. Letter of Objection from F Burrowes, 6 Argyll Path Denny FK6 5EN on 1 February 2011
182. Letter of Objection from Zoe Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011
183. Letter of Objection from Mr Stevan Millar, 50 Reedlands Drive Denny FK6 5NL on 1 February 2011
184. Letter of Objection from Mr Kenneth Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011
185. Letter of Objection from Owner/Occupier, 10 Johnston Place Denny FK6 5HD on 1 February 2011
186. Letter of support from Anonymous on 7 March 2011
187. Petition with 145 signatories on 28 January 2011
188. Petition with 197 signatories on 28 January 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE OF PUBLIC HOUSE TO (CLASS 1) RETAIL UNITS AT THE PINES, 5 FLEMING COURT, DENNY FK6 5HA FOR MR STEPHEN CARR – P/10/0869/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 23 March 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Denny and Banknock  
Councillor Jim Blackwood  
Councillor John McNally  
Councillor Martin David Oliver  
Councillor Alexander John Waddell

**Community Council:** Denny and District

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks full planning permission to change the use of The Pines public house into three retail units. The proposal includes internal alterations to subdivide the building and external alterations to remove existing windows on the west elevation, replace existing windows on the east elevation to form glazed doors, remove windows on the south elevation and form new access ramps to the proposed units.
- 1.2 The application site forms part of a small neighbourhood centre at Fleming Court, Denny. To the south of the site there is an existing convenience store, a hair and beauty salon and a hot food takeaway. The Little Denny Burn lies to the north of the site and there are residential properties to the west. To the east there is a shared parking area and turning head which serves the public house and other uses within this neighbourhood centre.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Martin Oliver.

**3. SITE HISTORY**

- 3.1 There is no relevant planning history.

#### **4. CONSULTATIONS**

4.1 The Roads Development Unit does not object to the proposed development.

4.2 The Environmental Protection Unit has raised no objection to the proposal.

#### **5. COMMUNITY COUNCIL**

5.1 The Denny and District Community Council has not commented on the application.

#### **6. PUBLIC REPRESENTATION**

6.1 185 letters of objection have been received from 182 contributors. Two petitions of objection with a total of 342 signatures have also been received.

6.2 The grounds of objection can be summarised as follows:-

- Loss of a community facility and entertainment venue as there are no other adequate facilities in the area.
- Over provision of shops within the area.
- Competition with existing shops in the area which may lead to vandalism of derelict shops.
- No creation of additional employment.
- Visual amenity and concerns about delivery movements and the storage of refuse.
- Lack of parking and an increase in traffic (particularly at school drop off and pick up times) leading to concerns about road safety.
- Noise levels from refrigeration units and deliveries 7 days a week.
- Hot food being sold from premises, knock on affect of rubbish in area and youths hanging around the area.
- No neighbour notification received at 24 Ochil View or 26 Ochil View, Denny.
- De-value residential properties.

6.3 One letter of support has been received. The issues raised can be summarised as follows:-

- Unsociable disruption with noise from public house.



## 7. DETAILED APPRAISAL

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

Accordingly,

### 7a The Development Plan

#### ***Falkirk Council Structure Plan***

7a.1 Policy ECON. 5 ‘Location of New Retail and Commercial Leisure Development’ states:

*“The scale of new retail development will be commensurate with maintaining the hierarchy of shopping centres shown in Schedule ECON 5 and enhancing them. Proposals for significant new retail and commercial leisure development should accord with the following principles:*

1. *Non food retailing will be directed to Falkirk Town Centre and the District Centres. In addition, provision will be made for bulky household goods retailing at Middlefield/Westfield Strategic Development Opportunity (up to 25,000 sq m gross), and for limited specialist retailing at the Falkirk Canal Interchange Strategic Development Opportunity, as set out in Schedule ECON.1 and subject to the criteria in Policy ECON.2;*
2. *Priority will be given to the provision of new food retail floorspace in Grangemouth, Larbert/Stenhousemuir, the Polmont area, Denny and Bonnybridge/Bankenock, of a scale commensurate with the local catchment. New food retail floorspace will be directed to the District Centres and other established local centres, and only to new local centres where they meet the criteria set out in Policy ECON.6;*
3. *New food retail floorspace in Falkirk will be restricted to existing commitments, neighbourhood stores of less than 1,000 sq. m. gross floorspace, and limited extensions to existing stores; and*
4. *Commercial leisure developments will be directed to Falkirk Town Centre, the District Centres and those other Strategic Development Opportunities for which such uses are specified in Schedule ECON.1.”*

7a.2 The proposed retail units are not considered to be significant. This development would be located in an existing local neighbourhood centre and, taking into account the state and location of the development, it is not considered that this proposal would detrimentally impact on the vitality of the Denny District centre. The proposal complies with Policy ECON. 5.

#### ***Falkirk Council Local Plan***

7a.3 Policy EP7 - ‘New Retail Development’ states:

- “(1) New retail development in excess of 250 sq.m. gross will be permitted where it is consistent with Policies ECON.5 and ECON.6 of the Structure Plan, and specific policies for individual centres in the Settlement Statements.*
- (2) Retail developments smaller than 250 sq.m. serving neighbourhood needs will be permitted within the urban area, subject to other Local Plan policies.*

- (3) *Retail development must demonstrate a high level of design quality, compatibility with adjacent land uses and an ability to integrate functionally and visually with any centre of which it is to form part.*”

7a.4 The proposal would create approximately 469m<sup>2</sup> gross retail floor area but is consistent with relevant Structure Plan policy. It is considered that the units would serve the neighbourhood and local requirements. The design and scale of the proposal is considered to be compatible with the neighbourhood centre, which it would form. Accordingly, the proposal complies with Policy EP7.

7a.5 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 a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.*”

7a.6 The proposed external alterations to the property are considered to be well proportioned and the design is sympathetic to the character of the area and existing building. The existing entrance on the south elevation would remain and the two proposed entrances on the east elevation facing onto Nethermain Road are considered to be sympathetic in terms of scale and surroundings. There are no security measures proposed. Accordingly, the proposal complies with Policy EQ11.

7a.7 Policy SC10 - ‘Existing Community Facilities’ states:

*“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 The public house is a facility that some of the community can use, however a retail unit can be fully utilised by all members of the community and would be more accessible for all age groups. It is considered that the proposed use would retain a community facility in this area, albeit of a different type. Accordingly, the proposal does not conflict with Policy SC10.

7a.9 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations are the Falkirk Council Supplementary Guidance, consultation responses and the public representations.

### ***Falkirk Council Supplementary Guidance - Shopfronts***

7b.2 The proposed shop units are considered to be well designed and are sympathetic to the existing property and the surrounding area. The alterations to the building are considered to be appropriate and the external finishes are acceptable. It is therefore considered that the proposal accords with the Falkirk Council’s Supplementary Guidance Note on Shopfronts.

### ***Consultation Responses***

- 7b.3 The Roads Development Unit do not object to the proposed development. It is not considered the proposed use would generate a greater demand for parking than the existing public house. There is considered to be sufficient parking and manoeuvring space to serve the proposed retail development and existing retail uses adjacent to the application site.
- 7b.4 The Environmental Protection Unit has raised no objection to the proposal but recommended that if planning permission is granted informatives be attached with regard to ground conditions, hours of construction work and noise.

### ***Assessment of Public Representations***

- 7b.5 The proposal is not considered to be detrimental to the community, in terms of an existing community facility, for the reasons set out in paragraph 7a.8.
- 7b.6 Competition with other existing shops is not a material planning consideration.
- 7b.7 Employment cannot be controlled by this application and is not a material planning consideration.
- 7b.8 Amended drawings were provided and indicate that deliveries will be accessed via the front of the building to lessen the impact on nearby residents. The refuse collection would remain where it is as existing.
- 7b.9 The Roads Development Unit has expressed no concerns in relation to parking provision and there are no concerns in relation to the interests of highway safety.
- 7b.10 The Environmental Protection Unit has raised no concern in relation to noise and have advised that if a noise complaint were received this would be investigated by the Environmental Protection Unit.
- 7b.11 The application does not propose the selling of hot food on the premises.
- 7b.12 The attraction of customers and clientele cannot be controlled by this planning application.
- 7b.13 There is no requirement for the Council to notify numbers 24 and 26 Ochil View, Denny because both properties fall outwith the statutory consultation area. However, the application has been advertised in the local press and the occupants of both properties are aware of the application and have made representations.
- 7b.14 Vandalism and valuation of properties nearby are not material planning considerations, and cannot be controlled by this application.

### **7c Conclusion**

- 7c.1 This application has been assessed as according with the Development Plan and the Falkirk Council's Supplementary Planning Guidance. There are no material considerations which would merit refusal of this application.

**8. RECOMMENDATION**

**8.1 It is recommended that Planning 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) The proposed turning area as indicated on drawing 03A, shall be retained and maintained unless otherwise agreed in writing by the Planning Authority.**
- (3) Before any works start on site details of the specification and colour of all proposed external finishes 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) In the interests of road safety.**
- (3) In the interest of visual orientate to ensure that external finishing material are appropriate to the character 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) 01A, 02, 03A and 05A.**
- (2) For the avoidance of doubt this planning permission does not grant permission for advertisements shown on the above mentioned plans. The advertisements are the subject of a separate application to Falkirk Council.**
- (3) The builder shall ensure that noisy work which is audible at the site boundary shall only be conducted between the following hours:-**

<b>Monday to Friday</b>	<b>08:00 – 18:00 hours</b>
<b>Saturday</b>	<b>09:00 – 17:00 hours</b>
<b>Sunday/Bank Holidays</b>	<b>10:00 – 16:00 hours</b>

**Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.**

- (4) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall close. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary recommendation works. Development shall not recommence without the prior approval of the Planning Authority.

.....  
**Pp Director of Development Services**

**Date:** 15 March 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Council Supplementary Guidance
4. Letter of Objection from Mr David Stokes, 34 Ochil View Denny FK6 5NQ on 1 February 2011
5. Letter of Objection from Joyce Herd, 32 Ochil View Denny FK6 5NQ on 1 February 2011
6. Letter of Objection from Miss Jacqueline Kennedy, 101 Sutherland Drive Denny FK6 5EP on 18 January 2011
7. Letter of Support from Mrs Penny Davidson, 6 Ochil View Denny FK6 5NQ on 22 January 2011
8. Letter of Objection from Mr Stuart Malcolm, 27 Ochil View Denny FK6 5NQ on 10 January 2011
9. Letter of Objection from K A'Hara, 20 Ochil View Denny FK6 5NQ on 2 February 2011
10. Letter of Objection from Mr Scott Hamilton, 56 Ochil View Denny FK6 5NH on 2 February 2011
11. Letter of Objection from Pauline McVicar, 81 Ochil View Denny FK6 5NJ on 2 February 2011
12. Letter of Objection from Elaine McKenzie, Greg McKenzie and David Hall, 24 Ochil View Denny FK6 5NQ on 2 February 2011
13. Letter of Objection from John and Mary Geddes, 22 Ochil View Denny FK6 5NQ on 2 February 2011
14. Letter of Objection from Gwen Gallagher, 40 Ochil View Denny FK6 5NQ on 2 February 2011
15. Letter of Objection from B Henderson, 55 Braes View Denny FK6 5NG on 2 February 2011
16. Letter of Objection from Mr John Wright, 25 Paris Avenue Denny FK6 5AD on 2 February 2011
17. Letter of Objection from Mrs N Speirs, 9 Braes View Denny FK6 5NG on 2 February 2011
18. Letter of Objection from Mr Anthony Green, 45 Blaefaulds Crescent Denny FK6 5EL on 2 February 2011
19. Letter of Objection from Anne Gilfillan, 99 Little Denny Road Denny FK6 5AU on 2 February 2011
20. Letter of Objection from Marie Lavery, 84 Ochil View Denny FK6 5NH on 2 February 2011

21. Letter of Objection from L Gray, 76 Ochil View Denny FK6 5NH on 2 February 2011
22. Letter of Objection from W McLuckie, 28 Ochil View Denny FK6 5NQ on 2 February 2011
23. Letter of Objection from Mr Ricky Dunn, 78 Torwood Avenue Grangemouth FK3 0DP on 2 February 2011
24. Letter of Objection from Mr Ken Jarvie, 24 Woodland Way Denny FK6 5NZ on 2 February 2011
25. Letter of Objection from Mr Alan Brown, 5 Glenyards Road Greenhill Bonnybridge FK4 2EA on 2 February 2011
26. Letter of Objection from Mr Kevin Kennedy, 44 Braes View Denny FK6 5ND on 2 February 2011
27. Letter of Objection from G Burns, 49 Blaufaulds Crescent Denny FK6 5EJ on 2 February 2011
28. Letter of Objection from Mr Gordon Herd, 32 Ochil View Denny FK6 5NQ on 2 February 2011
29. Letter of Objection from Shirley Wilson, 190 Braes View Denny FK6 5NE on 2 February 2011
30. Letter of Objection from Mr Suart Malcolm, 27 Ochil View Denny FK6 5NQ on 2 February 2011
31. Letter of Objection from L Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 2 February 2011
32. Letter of Objection from Mr James Millar, 21 Glen Terrace Denny FK6 5DE on 2 February 2011
33. Letter of Objection from Jacqui Allan, 75 Reedlands Drive Denny FK6 5NX on 2 February 2011
34. Letter of Objection from Mr Craig Kennedy, 33 Reedlands Drive Denny FK6 5NX on 2 February 2011
35. Letter of Objection from Mr Adrian McInnes, 68 Blaufaulds Crescent Denny FK6 5EJ on 2 February 2011
36. Letter of Objection from Mr Fraser Johnston, 100 Glasgow Road Denny FK6 5DN on 2 February 2011
37. Letter of Objection from W Christie, 20 Sutherland Drive Denny FK6 5ER on 2 February 2011
38. Letter of Objection from Margaret Elrick, 12 Laxdale Drive Head of Muir Denny FK6 5PR on 2 February 2011
39. Letter of Objection from Mr Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 2 February 2011
40. Letter of Objection from P Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 2 February 2011
41. Letter of Objection from N Adams, 178 Braes View Denny FK6 5NE on 2 February 2011
42. Letter of Objection from Mr John Johnston, 8 Randolph Gardens Netherfaulds Drive Denny FK6 5DB on 2 February 2011
43. Letter of Objection from P Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 1 February 2011
44. Letter of Objection from Mr Gordon McKenzie, 53 Lithgow Place Denny FK6 5BF on 1 February 2011
45. Letter of Objection from Mr Keith Belbin, 35 Ochil View Denny FK6 5NQ on 1 February 2011
46. Letter of Objection from Michelle Murphy, 53 Lithgow Place Denny FK6 5BF on 1 February 2011
47. Letter of Objection from Evonne McColl, 50 Reedlands Drive Denny FK6 5NL on 1 February 2011

48. Letter of Objection from Mr Michael Traynor, 17 Sutherland Drive Denny FK6 5ER on 1 February 2011
49. Letter of Objection from M C Gowdie, 12 Annfield Gardens Stirling FK8 2BJ on 1 February 2011
50. Letter of Objection from N Gowdie, 12 Annfield Gardens Stirling FK8 2BJ on 1 February 2011
51. Letter of Objection from M Gourdie, 77 Bulloch Crescent Denny FK6 5AW on 1 February 2011
52. Letter of Objection from Alexandra Harrison, 106 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
53. Letter of Objection from S Cummings, 8 Dundaff Court Denny FK6 5BZ on 1 February 2011
54. Letter of Objection from Margaret Elrick, 14 Laxdale Drive Head Of Muir Denny FK6 5PR on 1 February 2011
55. Letter of Objection from Mr Robert Gardiner, 18 Garvald Lane Denny FK6 5DA on 1 February 2011
56. Letter of Objection from Mr Thomas Allan, 75 Reedlands Drive Denny FK6 5NX on 1 February 2011
57. Letter of Objection from Paula Marshall, 12 Sutherland Drive Denny FK6 5ER on 1 February 2011
58. Letter of Objection from T McNeil, 29 Hazel Crescent Dunipace Denny FK6 6LN on 1 February 2011
59. Letter of Objection from Ms Michelle Murphy, 4 Fleming Court Denny FK6 5HB on 30 December 2010
60. Letter of Objection from Mr. Gordon. Herd, 32 Ochilview. Denny FK6 5NQ on 8 January 2011
61. Letter of Objection from Mr David Mitchell, 41 Kilbirnie Terrace Denny FK6 6JJ on 9 January 2011
62. Letter of Objection from Mr David Stokes, 34 Ochil View Denny FK6 5NQ on 9 January 2011
63. Letter of Objection from Mr Muhammad Afzal, 2 Nicolton Court Maddiston Falkirk FK2 0LB on 8 January 2011
64. Letter of Objection from Mr David Hall, 24 Ochilview Denny FK6 5NQ on 10 January 2011
65. Letter of Objection from Mr Andy Crème, 46 Wallace Crescent Denny FK6 6PQ on 30 January 2011
66. Letter of Objection from Miss Dawna Allan, 26 Bulloch Crescent Denny FK6 5AL on 9 January 2011
67. Letter of Objection from Miss Dawna Grierson, 31 Hunter Gardens Denny FK6 6PP on 9 January 2011
68. Letter of Objection from Owner/Occupier, 50 Laxdale Drive Head of Muir Denny FK6 5PR
69. Letter of Objection from Mr Thomas Wilson, 234 Braes View Denny FK6 5NF on 1 February 2011
70. Letter of Objection from Ricky Dornion, 89A Duke Street Denny FK6 6NS on 1 February 2011
71. Letter of Objection from Mr Craig Dewar, 35 Glebe Street Denny FK6 6AA on 1 February 2011
72. Letter of Objection from Mr Bobby MacLean, 87 Ochil View Denny FK6 5NJ on 1 February 2011
73. Letter of Objection from Mr Gregor Taylor, 36 Herbertshire Street Denny FK6 6HD on 1 February 2011
74. Letter of Objection from Charlene MacLean, 87 Ochil View Denny FK6 5NJ on 1 February 2011

75. Letter of Objection from R McLean, 33 Braes View Denny FK6 5NG on 1 February 2011
76. Letter of Objection from Mr Barry McLean, 136 Bulloch Crescent Denny FK6 5AN on 1 February 2011
77. Letter of Objection from Margaret Hislop, 62 Reedlands Drive Denny FK6 5NL on 1 February 2011
78. Letter of Objection from Anne Marie Maley, 45 Braes View Denny FK6 5NG on 1 February 2011
79. Letter of Objection from Owner/Occupier, 11 Braes View Denny FK6 5NG on 1 February 2011
80. Letter of Objection from Owner/Occupier, 75 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
81. Letter of Objection from Mr Richard Burrowes, 29 Brewster Place Denny FK6 6PS on 1 February 2011
82. Letter of Objection from Mr Thomas Hislop, 62 Reedlands Drive Denny FK6 5NL on 1 February 2011
83. Letter of Objection from Mr Martyn Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
84. Letter of Objection from Megan Miller, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
85. Letter of Objection from Fiona Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
86. Letter of Objection from Ryan Hamilton, 6 Sinclair Crescent Denny FK6 5BT on 1 February 2011
87. Letter of Objection from Zoe Johnson, 78 Ure Crescent Bonnybridge FK4 1NB on 1 February 2011
88. Letter of Objection from Darren Mcateer, 3 Timmons Place Denny FK6 5AH on 1 February 2011
89. Letter of Objection from Mr Iain Moffat, 48 Glasgow Road Denny FK6 5DW on 1 February 2011
90. Letter of Objection from Mr Graeme Norris, Helenbank 45 Herbertshire Street Denny FK6 6HF on 1 February 2011
91. Letter of Objection from Mr Craig McIntosh, 6 Ferguson Drive Denny FK6 5AE on 1 February 2011
92. Letter of Objection from Mr Gary Stainton, 17 Paris Avenue Denny FK6 5AB on 1 February 2011
93. Letter of Objection from Mr Greg McKenzie, 24 Ochil View Denny FK6 5NQ on 1 February 2011
94. Letter of Objection from Mr Davie Gordon, 64 Anderson Drive Denny FK6 5DY on 1 February 2011
95. Letter of Objection from Mr Billy Sinclair, 28 Reedlands Drive Denny FK6 5NL on 1 February 2011
96. Letter of Objection from L Stewart, 28 Ochil View Denny FK6 5NQ on 1 February 2011
97. Letter of Objection from Janice McGibbon, 41 Sutherland Drive Denny FK6 5ER on 1 February 2011
98. Letter of Objection from Catherine Hunter, 91 Ochil View Denny FK6 5NJ on 1 February 2011
99. Letter of Objection from Sandra Torrance, 64 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
100. Letter of Objection from Nicole Smith, 102 Ochil View Denny FK6 5NJ on 1 February 2011
101. Letter of Objection from Mr Ross O'Raw, 59 Wheatlands Avenue Bonnybridge FK4 1PL on 1 February 2011



102. Letter of Objection from Mr Jamie Callaghan, 42 Anderson Drive Denny FK6 5DY on 1 February 2011
103. Letter of Objection from Mr Alan Wilson, 7 Tarduff Place Stoneywood Denny FK6 5HT on 1 February 2011
104. Letter of Objection from Mr Sean Kennedy, 96 Overton Crescent Denny FK6 5AZ on 1 February 2011
105. Letter of Objection from Denise Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011
106. Letter of Objection from Mr Stephen Grant, 130 Ochil View Denny FK6 5NJ on 1 February 2011
107. Letter of Objection from Mr Daniel Doherty, 124 Ochil View Denny FK6 5NJ on 1 February 2011
108. Letter of Objection from Dawn Kelly, 50 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
109. Letter of Objection from Mr Scott Morrison, 33 Blaefaulds Crescent Denny FK6 5EL on 1 February 2011
110. Letter of Objection from Mary Sturgess, 66 Ochil View Denny FK6 5NH on 1 February 2011
111. Letter of Objection from Mr Alan Adams, 178 Braes View Denny FK6 5NE on 1 February 2011
112. Letter of Objection from Jane O'Donnell, 20 Sutherland Drive Denny FK6 5ER on 1 February 2011
113. Letter of Objection from Mr Ian Wallace, 21 Blaefaulds Crescent Denny FK6 5EL on 1 February 2011
114. Letter of Objection from Yvonne Burns, 8 Godfrey Avenue Denny FK6 5BU on 1 February 2011
115. Letter of Objection from Mr Derek McAllister, 31 Ochil View Denny FK6 5NQ on 1 February 2011
116. Letter of Objection from Claire Gillespie, 66 Braes View Denny FK6 5ND on 1 February 2011
117. Letter of Objection from Mr John O'Donnell, 15 Ochil View Denny FK6 5NQ on 1 February 2011
118. Letter of Objection from Miss Pauline Cullen, 82 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
119. Letter of Objection from Mrs Marie Irvine, 208 Braes View Denny FK6 5NF on 1 February 2011
120. Letter of Objection from Mr Thomas Reddy, 23 Brewster Place Denny FK6 6PS on 1 February 2011
121. Letter of Objection from Jonathan Greer, 108 Ochil View Denny FK6 5NJ on 1 February 2011
122. Letter of Objection from Mr Barry Chalmers, 122 Ochil View Denny FK6 5NJ on 1 February 2011
123. Letter of Objection from Mr Richard Milne, 55 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
124. Letter of Objection from Karen Binnie, 52 Blaefaulds Crescent Denny FK6 5EJ on 1 February 2011
125. Letter of Objection from Mr Donald MacDonald, 28 Ochil View Denny FK6 5NQ on 1 February 2011
126. Letter of Objection from Mr Bob Gardiner, 17 Sutherland Drive Denny FK6 5ER on 1 February 2011
127. Letter of Objection from Mr Philip Lynch, 100 Ochil View Denny FK6 5NJ on 2 February 2011

128. Letter of Objection from Mrs Nicola Henderson, 55 Braes View Denny FK6 5NG on 2 February 2011
129. Letter of Objection from Owner/Occupier, 53 Avon Street Dunipace Denny FK6 6LB on 2 February 2011
130. Letter of Objection from J Todd, 18 Souillac Drive Denny FK6 5HE on 2 February 2011
131. Letter of Objection from Tariq Sattar, 5 Blaeaulds Crescent Denny FK6 5EL on 2 February 2011
132. Letter of Objection from Angela McCabe, 87 Braes View Denny FK6 5NG on 2 February 2011
133. Letter of Objection from Senga Barr, 33 Blaeaulds Crescent Denny FK6 5EL on 2 February 2011
134. Letter of Objection from Margaret Gray, 176 Braes View Denny FK6 5NE on 2 February 2011
135. Letter of Objection from Midge Singh, 92 Ochil View Denny FK6 5NH on 2 February 2011
136. Letter of Objection from Sandra Rankin, 14 Woodland Way Denny FK6 5NZ on 2 February 2011
137. Letter of Objection from Mr Robert Morgan, 32 Braes View Denny FK6 5ND on 2 February 2011
138. Letter of Objection from Elizabeth Smart, 40 Braes View Denny FK6 5ND on 2 February 2011
139. Letter of Objection from Jackie B Allan, 58 Ochil View Denny FK6 5NH on 2 February 2011
140. Letter of Objection from Owner/Occupier, 19 Braes View Denny FK6 5NG on 2 February 2011
141. Letter of Objection from R Robertson, 248 Braes View Denny FK6 5NF on 2 February 2011
142. Letter of Objection from Hazel McMullan, 26 Windsor Drive Dunipace Denny FK6 6NL on 2 February 2011
143. Letter of Objection from Mr Michael Thompson, 31 Auchincloch Drive Banknock Bonnybridge FK4 1LA on 2 February 2011
144. Letter of Objection from Owner/Occupier, 56 Blaeaulds Crescent Denny FK6 5EJ on 2 February 2011
145. Letter of Objection from John McCartney, 73 Blaeaulds Crescent Denny FK6 5EJ on 2 February 2011
146. Letter of Objection from H Beveridge, 36 Reedlands Drive Denny FK6 5NL on 2 February 2011
147. Letter of Objection from J Leckie, 57 Glenbo Drive Head Of Muir Denny FK6 5PQ on 2 February 2011
148. Letter of Objection from Martyn Rankin, 14 Woodland Way Denny FK6 5NZ on 2 February 2011
149. Letter of Objection from E Hardie, 12 MacLachlan Avenue Denny FK6 5HF on 2 February 2011
150. Letter of Objection from P Thompson, 5 Lithgow Place Denny FK6 5BF on 2 February 2011
151. Letter of Objection from Anthony, Carole and Anton Mowatt, 38 Ochil View Denny FK6 5NQ on 2 February 2011
152. Letter of Objection from Mrs M Gentles, 1 Langhill Place Denny FK6 5BY on 2 February 2011
153. Letter of Objection from G Manuel, 7 Laxdale Drive Head of Muir Denny FK6 5PL on 2 February 2011
154. Letter of Objection from S O'Hare, 36 Souillac Drive Denny FK6 5HE on 2 February 2011
155. Letter of Objection from G Fullard, 5 Laxdale Drive Head of Muir Denny FK6 5PL on 2 February 2011
156. Letter of Objection from F Burrowes, 6 Argyll Path Denny FK6 5EN on 2 February 2011

157. Letter of Objection from Mr David Reid, 71 Reedlands Drive Denny FK6 5NX on 2 February 2011
158. Letter of Objection from Sheree McGuckin, 59 Lithgow Place Denny FK6 5BF on 2 February 2011
159. Letter of Objection from L Skinner, 202 Braes View Denny FK6 5NF on 2 February 2011
160. Letter of Objection from Mr Darren Kerr, 96 Braes View Denny FK6 5ND on 2 February 2011
161. Letter of Objection from Mr Jonathan Hird, 94 Ochil View Denny FK6 5NH on 2 February 2011
162. Letter of Objection from Owner/Occupier, 20 Loney Crescent Denny FK6 5EG on 2 February 2011
163. Letter of Objection from Mr John Henderson, 21 Braes View Denny FK6 5NG on 2 February 2011
164. Letter of Objection from Mr Ramond Gibb, 47 Ochilview Denny FK6 5NH on 10 January 2011
165. Letter of Objection from Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 11 January 2011
166. Letter of Objection from Mr Peter O'Donnell, 5 Milton Close Dunipace Denny FK6 6HR on 11 February 2011
167. Letter of Objection from Mrs Carole Mowatt, 38 Ochil View Denny FK6 5NQ on 12 January 2011
168. Letter of Objection from Mrs Christine Horner, 20 Slandersburn Road Denny FK6 5LP on 13 January 2011
169. Letter of Representation from Mr Mark Paterson, 30, Ochilview Denny FK6 5NQ on 10 January 2011
170. Letter of Objection from Miss Maria-Claire Paterson, 14 Lithgow Place Denny FK6 5BF on 9 January 2011
171. Letter of Objection from Miss Deborah Cathcart, 41 Braes View Denny FK6 5NG on 11 January 2011
172. Letter of Objection from Mr Alan Brown, 5 Glenyards Road Bonnybridge Fk4 2EA on 16 January 2011
173. Letter of Objection from Mr Kevin Mowatt, 26 Ochil View Denny FK6 5NQ on 9 January 2011
174. Letter of Objection from Miss Kirsty Hamilton, 56 Ochilview Denny FK6 5NH on 9 January 2011
175. Letter of Objection from Miss Jodie Mowatt, 38 Ochil View Denny FK6 5NQ on 10 January 2011
176. Letter of Objection from Mr William Allen, 11 Sinclair Crescent Denny FK6 5BT on 1 February 2011
177. Letter of Objection from Fiona Clark, 5 Bridge Crescent Denny FK6 6PB on 1 February 2011
178. Letter of Objection from Lisa McClare, 3 Rosemary Court Denny FK6 6NX on 1 February 2011
179. Letter of Objection from Mr David Smith, 29 Argyll Path Denny FK6 5EW on 1 February 2011
180. Letter of Objection from Rita Burrowes, 6 Argyll Path Denny FK6 5EN on 1 February 2011
181. Letter of Objection from F Burrowes, 6 Argyll Path Denny FK6 5EN on 1 February 2011
182. Letter of Objection from Zoe Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011
183. Letter of Objection from Mr Stevan Millar, 50 Reedlands Drive Denny FK6 5NL on 1 February 2011
184. Letter of Objection from Mr Kenneth Brown, 34 Woodland Way Denny FK6 5NZ on 1 February 2011

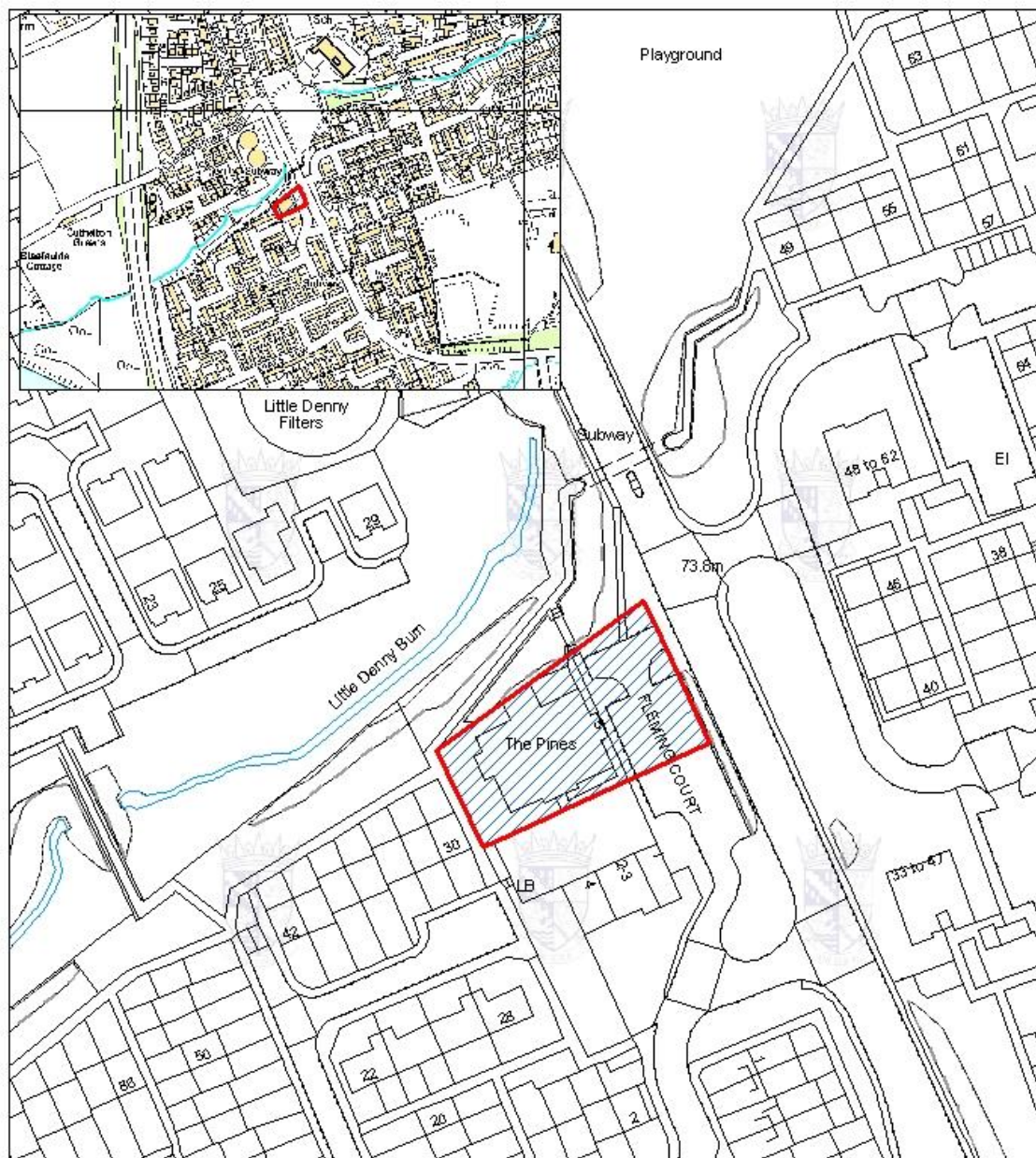
185. Letter of Objection from Owner/Occupier, 10 Johnston Place Denny FK6 5HD on 1 February 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan P/10/0869/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:** OPERATIONS YARD/WASTE RECYCLING/TRANSFER FACILITY AT SABIC INNOVATIVE PLASTICS, BO'NESS ROAD, GRANGEMOUTH FK3 9XF FOR MASTERTON – P/10/0423/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Grangemouth  
Depute Provost Allyson Black  
Councillor Angus MacDonald  
Councillor Alistair McNeill  
Councillor Robert Spears

**Community Council:** Grangemouth

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

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This detailed planning application is for a local development and seeks detailed planning permission for an operations yard, waste recycling and transfer facility at the former Sabic Innovative Plastics site, Grangemouth.
- 1.2 The application site is accessed off the A904 Bo'ness Road. The site is bounded by industrial and petrochemical development, extending to approximately 6.2 hectares. The closest residential property is located approximately 80 metres north west of the application site, at the Powdrake Roundabout.
- 1.3 The use of the site would involve the processing, recycling and storage of inert material, arising from demolition, construction and excavation operations. The types of material likely to be processed and recycled include brickwork, concrete, stone, timber, steelwork, soil and sub-soil. The material would be delivered to the site, separated, crushed and screened where appropriate, stored and made available for either sale or further disposal.
- 1.4 The operator (JR Masterton and Son (Demolitions) Ltd) has its offices and yard at Boyd Street, Falkirk, and an operations site at High Bonnybridge. The applicant has advised that it is looking to relocate and operate fully from the application site. Refurbishment of the existing office buildings on the north east of the application site, to accommodate the applicant's offices, formed a separate planning application, granted planning permission on 31 November 2010 (see site history).

## **2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application has been called in by Councillor Angus MacDonald and Councillor Alistair McNeill.

## **3. SITE HISTORY**

3.1 The application site is subject to a number of historic planning applications relating to its industrial use, being formerly occupied by Sabic Innovative Plastics.

3.2 The most relevant is P/10/0701/FUL – formation of pitched roof and cladding exterior – granted on 31 November 2010.

## **4. CONSULTATIONS**

4.1 The Roads Development Unit do not object to the application and advise of conditions relating to drainage.

4.2 The Transport Planning Unit has no objection to the application.

4.3 The Environmental Protection Unit advise of conditions relating to contamination. The Unit advise that the proposal would be subject to licensing by the Scottish Environment Protection Agency (SEPA) in terms of the Waste Management regime. Accordingly, complaints of dust, noise, and smells attributable to the premises would fall within the remit of SEPA for investigation.

4.4 SEPA has no objection to the application.

4.5 The Health and Safety Executive (HSE) does not advise, on safety grounds, against the granting of planning permission.

4.6 Scottish Water has no objection to the application.

4.7 Shell UK has no comment to make on the application.

4.8 BP have no objection to the application and advise that the BP Forties Pipeline would be unaffected by the proposal.

4.9 The Emergency Planning Unit note the proposal but have no observations.

## **5. COMMUNITY COUNCIL**

5.1 The Grangemouth Community Council object to the proposal on the following grounds:

- Visual impact as a result of the open storage of materials;
- Concerns in relation to the management of dust arising from open storage, processing and a lack of robust procedures to deal with dust;



- The proposal would exceed World Health Organisation guidelines for residential areas;
- Reversing alarms and excavator, including night movements, would cause noise nuisance for nearby residents;
- The Pollution Prevention and Control permit issued by SEPA should form part of the application;
- There are no guarantees that the waste will be inert. Masterton offer an asbestos removal service;
- The proposal would represent a significant increase in traffic volumes on an already busy road;
- The increased vehicle movements would be detrimental to the objectives of the Air Quality Management Area (AQMA);
- The proposal may result in contamination of surrounding roads; and
- The proposal is not the Best Practical Environmental Option (BPEO) or sustainable for the community of Grangemouth.

## **6. PUBLIC REPRESENTATION**

6.1 One letter of objection was received from Calor Gas Limited, who operate from a site in close proximity to the application site, on the following grounds:

- HSE should be a consultee for the application;
- The proposal could result in fire or explosion and pose a risk to the adjacent plant where large quantities of Liquefied Petroleum Gas (LPG) are stored;
- The proposal would have an unacceptable impact on the road network; and
- The proposal would result in dust and odours.

## **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**

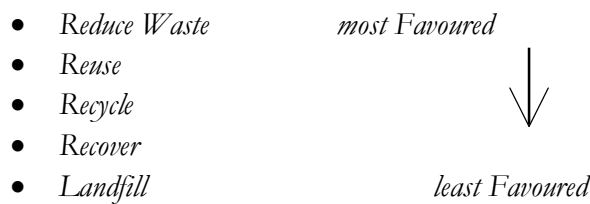
*Approved Falkirk Council Structure Plan*

7a.1 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.2 The proposal is considered to support the National Waste Strategy as it involves the re-use, recycling and recovery of materials and supports the aims of the Waste Hierarchy to shift the emphasis away from landfill. The site lies within an identified industrial area, and is not located in close proximity to residential properties on the A904, Bo’ness Road. The application site is within an industrial area and in close proximity to an existing Material Recycling Faculty MRF, located on the opposite site of the A904 Bo’ness Road at 1-5 Abbotsinch Road, Grangemouth. The application accords with policy ENV.11.

**Falkirk Council Local Plan**

7a.3 Policy EP2 - ‘Land For Business And Industrial Use’ states:

*“In order to maintain the business and industrial land supply and the employment role of existing business and industrial areas:*

- (1) *The sites for new business and industrial development identified on the Proposals Map will be safeguarded for the employment use specified for each site; and*
- (2) *The areas for retention in business and industrial use identified on the Proposals Map will be retained and reserved for Class 4, 5 or 6 uses, except for the established business parks of Callendar Park and Gateway Business Park, Grangemouth which will be reserved for Class 4 uses only.*

*Other ancillary employment uses may be permitted within these areas where they are compatible with the principal business / industrial use of the site, will not result in a significant reduction in the availability of business land or property, and are consistent with other Local Plan policies.”*

7a.4 The application site is located within an area for the retention of business and industry. Whilst it is accepted that the proposal does not fall within a class 4, 5 or 6 use the proposal is considered compatible within the existing industrial use of the site and wider industrial and petrochemical development area and as such the application accords with policy EP2.

7a.5 Policy EP18 - ‘Major Hazards’ states:

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

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

7a.6 The application site is located within multiple hazard consultation zones and has been considered using PADHI+, HSE’s planning advice software tool. HSE does not advise, on safety grounds, against the granting of planning permission. It is considered the proposal would not significantly increase the number of people exposed to risk in the area, the application accords with policy EP18.

7a.7 Policy ST18 - ‘Waste Management Facilities’ states:

*“Proposals for large scale waste management facilities will be directed to locations within or adjacent to existing waste management facilities and general industrial areas as indicated by Policy EP2. Any proposal must demonstrate that the impact on the environment and local communities is acceptable and comply with the other policies of the Local Plan”*

7a.8 The application site is within an established industrial and petrochemical development area and is in close proximity to an existing Materials Recycling Facility (MRF) operated by ‘Oran’. It is considered that the application site provides an ideal location for the proposed operations yard, waste recycling and transfer facility and is remote enough from existing residential properties so as not to impact on the local community. The application accords with policy ST18.

7a.9 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.10 The application site is at risk of flooding, though not significantly. The applicant has submitted a flood risk assessment demonstrating that any flood risks can be adequately managed within and outwith the site. The application accords with policy ST12.

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

## **7b Material Considerations**

7b.1 The material planning considerations in respect of the application are National Planning Policy and Guidance, the planning history for the site and related sites, the consultation responses, third party representation and impacts on amenity.

### ***National Planning Policy and Guidance***

7b.2 Scottish Planning Policy states that the Scottish Government has adopted zero waste as a goal. Toward that end, the reuse and recycling of material is promoted, in accordance with the Waste Hierarchy. Scottish Planning Policy recognises that a significant increase in the number, range and type of waste management installations will be required. It states that the 'proximity principle' requires waste to be dealt with as close as possible to where it is produced. The proposal is considered to be broadly supported by Scottish Planning Policy as it provides for recycling and reuse and therefore reduces the need for landfill.

7b.3 Scottish Planning Policy indicates that a 100 metre buffer may be appropriate between new facilities such as recycling facilities and sensitive receptors (for example, housing), whilst recognising that appropriate buffer zones will depend on the specific characteristics of the site. In this instance, the application site lies approximately 80 metres to the south east of housing on the A904 Bo'ness Road. In addition to the distance of housing to the proposal, the intervening road and surrounding industrial and petrochemical development provides a context within which to consider the potential impact on amenity (discussed in section 7b.7).

### ***Planning History***

7b.4 Within the Falkirk Council area the applicant currently operates from two premises, at Boyd Street, Falkirk and Hillview Road, High Bonnybridge. Planning permission was refused on 18 August 2010 at the applicant's High Bonnybridge site for the following reasons:

- The development is contrary to the terms of the Development Plan and there are no material considerations which would outweigh the provisions of the Development Plan;
- The development would have an adverse impact on the amenity of neighbouring properties.

7b.5 It is noted that the applicant intends to relocate operations from both of its sites into one facility at the application site. This would include office accommodation, currently situated at Boyd Street and its operations yard at Hillview Road. The refurbishment of existing offices within the application site was recently granted planning permission under a separate planning application (Ref: P/10/0701/FUL).

### ***Consultation Responses***

7b.6 The consultation responses are summarised in Section 4 of this report and it is considered that matters raised could be the subject of conditions of any grant of permission.

### ***Impact on Amenity***

- 7b.7 It has been recognised in this report that the proposal is to be located within an existing heavy industrial and petrochemical development area, however it is acknowledged that residential properties are located approximately 80 metres from the application site. It should be noted that the nearest properties to the application site are located adjacent to office facilities associated with the adjacent petrochemicals development and directly opposite several industrial units, most notably 'Oran' MRF. The residential properties are also located on a busy distributor road, the A904 Bo'ness Road and adjacent to the Powdrake Roundabout. Within this backdrop it is considered that any impact on the amenity of these residents would not be significant. The previous use of the site was for the manufacturing of plastics.
- 7b.8 Visually the proposed stockpile and segregation area would be screened from residential properties by the proposed open container / skip area and the effluent treatment plant to be retained on site. Whilst it is accepted that the stockpiles differ in character from the industrial buildings, plant and petrochemical plant typical of the wider area, the application site is set back from Bo'ness Road and partially screened by planting on the wide verge area between Bo'ness Road and the service road. Subject to a restriction on the height of the stockpiles, the visual impact of the proposal can be adequately mitigated. It is considered that a 6 metre height restriction should apply. The overall development does not break the skyline and is no higher than other development, buildings and plant in the immediate area.
- 7b.9 Activities such as screening, crushing and separation of demolition debris and other aggregates have the potential to cause dust nuisance. The applicant would carry out regular dust monitoring and dust suppressing sprays would be used on all crushing and screening equipment. Further monitoring and additional water spraying would be employed should unacceptable levels of dust be generated. In relation to noise the proposal would be operational 24 hours a day, seven days a week, although not all activities would be undertaken at all time periods. Lorry movements and excavators would be in operation 24 hours a day with screening and crushing operation only undertaken during 12 hours day shifts. The applicant has submitted a dust impact assessment, noise impact assessment, traffic movement statement and operations statement. No major concerns have been raised by consultees in relation to information submitted in support of the application.

### ***Representations Received***

- 7b.10 In relation to objection received through third parties, Grangemouth Community Council and Calor Gas Limited, the following comments are considered relevant. It should be noted that the applicant responded in writing to the third parties, who maintain their objections.
- Concerns in relation to visual impact, noise, dust and hours of operation have been discussed in detail in this report.
  - The Roads Development Unit and Transport Planning Unit has not raised any concerns regarding traffic impacts based on the information submitted with the application.
  - The Environmental Protection Unit have not raised any concerns in relation to the AQMA.

- The applicant has made a separate application to SEPA for a Waste Management License, currently pending. This application relates to concrete, brick, scrap metal, mixed industrial waste and timber and does not include asbestos.
- The proposal is considered acceptable within the heavy industrial and petrochemical area and is in close proximity to an existing material recycling facility.
- The application has been considered using PADHI+, HSE's planning advice software tool. HSE does not advise, on safety grounds, against the granting of planning permission.
- The proposal relates to the processing of inert materials and as such it is considered that the proposal would cause no more risk of fire or explosion than any other surrounding industrial or petrochemical uses.

## **7c Conclusion**

7c.1 This application, for an operations yard, waste recycling and transfer facility accords with the terms of the Development Plan, for the reasons detailed in this report. The site lies within an industrial and petrochemicals area and its proposed use is considered appropriate.

## **8. RECOMMENDATION**

**8.1 It is recommended that the Planning 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) 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.**
- (3) 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.**
- (4) 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.**

- (5) 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.
- (6) Prior to the use of the site as an operations yard, waste recycling and transfer facility commencing, vehicular parking, as shown on the approved masterplan (our online reference 12C), shall be constructed and available for use.
- (7) Development shall not commence on site until the Development Impact Assessment (DIA) response from Scottish Water is submitted to the Council. Thereafter development shall not commence on site until the detailed drainage design is submitted to and agreed in writing by the Council.
- (8) The development hereby approved shall be implemented in accordance with the approved plans and there shall be no stockpiling of materials out with the stockpiling and segregation area hatched orange on the approved masterplan (our online reference 12C).
- (9) All vehicles entering and leaving the site shall be closed or sheeted and properly trimmed so as to avoid the depositing of materials onto the public highway or giving rise to airborne dust particles.
- (10) Unless otherwise agreed in writing by the Council no screening or crushing shall take place on site between the hours of 1930 and 0730.
- (11) Development shall not commence on site until a scheme for protecting near by residential properties from operational noise has been submitted to and approved in writing by the Council. The development shall not be brought into use until the measures in the approved noise prevention scheme operate to the satisfaction of the Council.
- (12) Development shall not commence on site until a comprehensive dust management program is submitted to and approved in writing by the Council. Thereafter the development shall commence in accordance with the approved program.
- (13) Development shall not commence on site until details of wheel washing facilities are submitted to and approved in writing by the Council. Thereafter the approved wheel washing facilities shall be provided within the site in accordance with the approved details and must be used by vehicles leaving the site to ensure that the public road is kept clean and free from mud and dirt.

**Reason(s):**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-5). To ensure the ground is suitable for the proposed development.
- (6). To ensure that adequate car parking is provided.
- (7). To ensure that adequate drainage is provided.
- (8) To protect the visual amenity of the area.
- (9, 12) To protect the surrounding area from dust pollution.
- (10, 11) To safeguard the residential amenity of nearby residential properties.
- (13) To safeguard the interests of the users of the highway.

**Informative(s):**

- (1). For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 - 11, 12C, 13 - 16 and supporting documents.

.....  
pp Director of Development Services

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Planning Policy
4. Letter of objection from Calor Gas Ltd, Athena House Athena Drive Tachbrook Park Warwick on 27 July 2010.

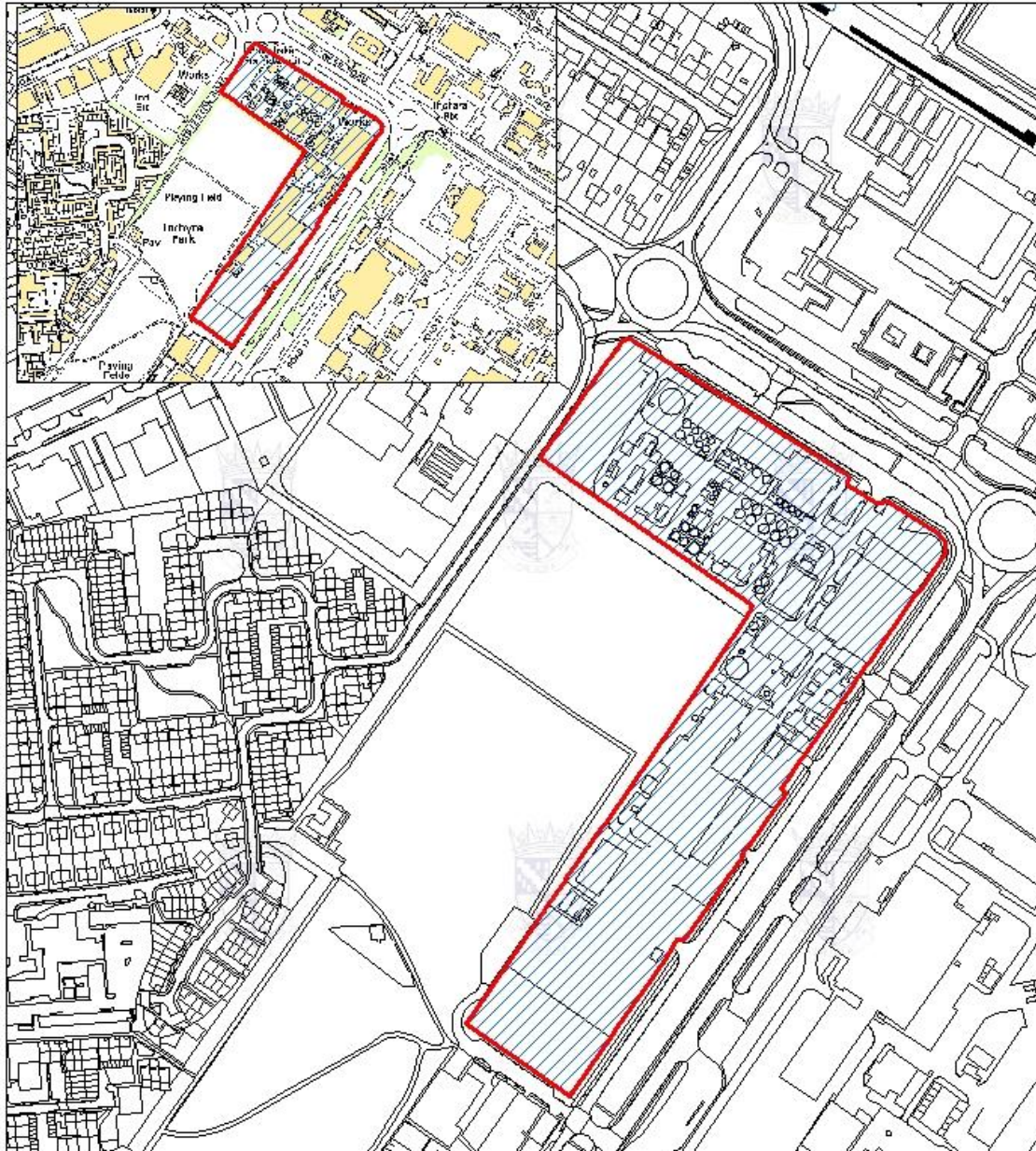
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.



# Planning Committee

## Planning Application Location Plan P/10/0423/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:** CHANGE OF USE FROM BETTING SHOP (CLASS 2) TO HOT FOOD TAKEAWAY AND INSTALLATION OF FLUE AT 11 MAIN STREET, SHIELDHILL, FALKIRK FK1 2DZ FOR MR COLIN MCMILLAN – P/10/0757/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

**Community Council:** Shieldhill and California

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

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application relates to the change of use from an existing betting shop to a hot food take away and the installation of a flue at 11 Main Street, Sheildhill.
- 1.2 The application site is located within an established residential area and sits directly opposite the junction of Main Street and Anderson Crescent. Residential properties are located to the east and south, and a public house, 'the Clachan Bar' is located to the west.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to the Planning Committee by Councillor John McLuckie and Councillor Gordon Hughes.

**3. SITE HISTORY**

- 3.1 06/0756/FUL – use of premises for class 2 office (betting office) use (amendment to planning permission F/2001/0387) reducing the development to a single unit and reducing the number of car parking spaces to 6 – granted on 19 August 2006.
- 3.2 F/2000/0333 – erection of hot food takeaway and bookmakers – withdrawn on 10 April 2001.
- 3.3 F/2001/0387 – erection of class 1 and class 2 building – granted on 26 November 2001.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit comment that the available parking for the unit is acceptable and advise of conditions relating to the delineation of vehicular parking spaces.
- 4.2 The Environmental Protection Unit advise that the proposed cooking odour extraction system is satisfactory.

#### **5. COMMUNITY COUNCIL**

- 5.1 The Reddingmuirhead and Wallacestone Community Council object to the proposal for the following reasons:-

- The proposed change of use would result in increased pressure for on street parking, compromising road safety and leading to congestion;
- The car park is also used as a smoking and storage area for the Clachan Bar;
- Litter accumulation and odour nuisance as a result of the proposed change of use; and
- A hot food takeaway was refused at the application site in the past.

- 5.2 The Shieldhill and California Community Council object to the proposal for the following reasons:-

- Increase in traffic at an already congested intersection at peak periods;
- Insufficient parking to accommodate staff and customers for the Clachan Bar and proposed hot food takeaway;
- Access to main junction would have to reverse into a number of blind spots;
- Immediately adjacent to residential properties with potential for noise and congestion;
- A hot food shop was refused at the application site; and
- There is a similar use within the village with adequate safe car parking.

#### **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application, 11 objectors submitted letters to the Council. The salient issues are summarised as follows:

- Increased traffic as a result of the proposal resulting in a road safety hazard;
- There is not enough parking to serve the existing betting shop and public house;

- No provision for delivery vehicles;
- The proposal is adjacent to a busy staggered cross road;
- Patrons of the existing betting shop and public house park on the pavement causing pedestrians to walk on the road. The proposal will further exasperate existing road safety concerns;
- The school bus drops children opposite the application site and the proposed use could distract the children and cause a road safety hazard, contrary to the policy on safe routes to school;
- The proposal would increase the amount of people hanging about and would lead to noise nuisance and disturbance to adjacent dwellings;
- Drainage to Anderson Crescent;
- The village already has a fast food shop and local convenience store;
- Impact on residential amenity as a result of noise, odour and litter; and
- Where would rubbish bins be stored.

## 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 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.3 Policy SC7 - 'Established Residential Areas' states:

*"Within established residential areas, there will be a general presumption against the introduction of uses which would be incompatible with the residential character and amenity of the area. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided."*

7a.4 Policy EP9 'Food and Drink' and SC7 'Established Residential Areas' seek to protect residential areas and ensure there is no detriment to local residents through noise disturbance, traffic generation or parking. The application site relates to an existing betting shop and is adjacent to a public house. It is considered that the change of use from the betting shop to a hot food takeaway would not result in a significant impact on the amenity of adjacent residents, or the surrounding area. The Roads Development Unit have confirmed that the existing car park is acceptable to accommodate the required parking provision for the proposed use. Similarly the Environmental Protection Unit advise that the proposed cooking odour filtration system is acceptable. It is considered that the proposed use is complementary to the adjacent public house use and accords with policies EP9 and SC7.

7a.5 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be considered are the assessment of public representations and the comments of the Shieldhill and California, and Reddingmuirhead and Wallacestone Community Council.

### ***Assessment of Public Representations and Community Council Comments***

7b.2 The Roads Development Unit have not raised any road safety concerns and advise that there is adequate parking for the proposed use.

7b.3 It is considered there is adequate room, within the application site, for the storage of refuse bins.

7b.4 Vehicles parking on the pavement surrounding the application site is enforceable by the police.

7b.5 The comments in relation to school children and the school bus drop off points are noted, but it is not considered that the proposed change of use would lead to a significant road safety hazard.

7b.6 Policy ST5 'Managing Travel to School' is not relevant to the assessment of the proposal.

7b.7 The provision of an existing fast food shop and local convenience shop in the town are not relevant to the assessment of this application.

- 7b.8 It is not considered that the proposed change of use would impact on drainage for Anderson Crescent.
- 7b.9 It is considered that the proposed change of use to a hot food takeaway would harmonise with the adjacent public house use and make use of an existing building and parking area. The Roads Development Unit are satisfied with the level of parking available and the Environmental Protection Unit are satisfied with the proposed flue and cooking odour extraction system to be located away from residential properties, adjacent to the existing car park.
- 7b.10 Planning permission for a hot food takeaway on the site has not previously been refused. An application for the erection of a hot food takeaway and bookmakers was submitted in 2000 but was withdrawn.

### **7c Conclusion**

- 7c.1 The application has been assessed as being in accordance with the Development Plan. The consultation response and the comments of third parties are noted and addressed in the body of this report. The application is recommended for approval of planning permission.

## **8. RECOMMENDATION**

- 8.1 **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) Prior to the use as a hot food takeaway commencing 5 parking spaces, a minimum of 5 metres long by 2.5 metres wide, shall be formally marked out on site with white paint.**
- (3) Prior to the use as a hot food takeaway commencing, the proposed cooking odour filtration system and flue shall be installed and operational in accordance with the approved plans and specification.**

### **Reason(s):-**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.**
- (2) To ensure that adequate car parking is provided.**
- (3) To ensure that adequate ventilation is provided.**

**Informative(s):-**

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

**Pp**

.....  
**Director of Development Services**

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Local Plan.
2. Letter of Representation from Jim and Christine Shaw, Prospectview California Road Shieldhill Falkirk on 9 November 2010
3. Letter of Objection from Mr Victor Williamson, 9 Main Street Shieldhill Falkirk FK1 2DZ on 9 November 2010
4. Letter of Objection from Dr Helen Young, Coltswood 5 Main Street Shieldhill Falkirk on 9 November 2010
5. Letter of Objection from Mr. Alexander Whyte, 9 Nobel View Reddingmuirhead Falkirk FK2 0EF on 6 November 2010
6. Letter of Objection from Mr Danny Callaghan, 2 Nobel View Reddingmuirhead Falkirk FK2 0EF on 8 November 2010
7. Letter of Objection from Mrs Angela Oliver, Braehead, 1 Main Street Shieldhill Falkirk FK1 2DZ on 9 November 2010
8. Letter of Objection from Mr Stuart Young, Coltswood 5 Main Street Shieldhill FK1 2DZ on 9 November 2010
9. Letter of Objection from Maria Montinaro and Jit Singh, Greenacre, 56 Belmont Avenue, Shieldhill, Falkirk FK1 2BS on 10 November 2010.
10. Letter of Objection from Thomas Nimmo, Herdhill 3 Main Street Shieldhill Falkirk on 16 November 2010
11. Letter of Objection from Ms Michele Ironside, 69 Anderson Crescent Shieldhill Falkirk FK1 2ED on 9 November 2010
12. Letter of Objection from Ms Gail Hayworth, 67 Anderson Crescent Shieldhill Falkirk FK1 2ED on 9 November 2010
13. Letter of Objection from Reddingmuirhead & Wallacestone Community Council on 18 November 2010

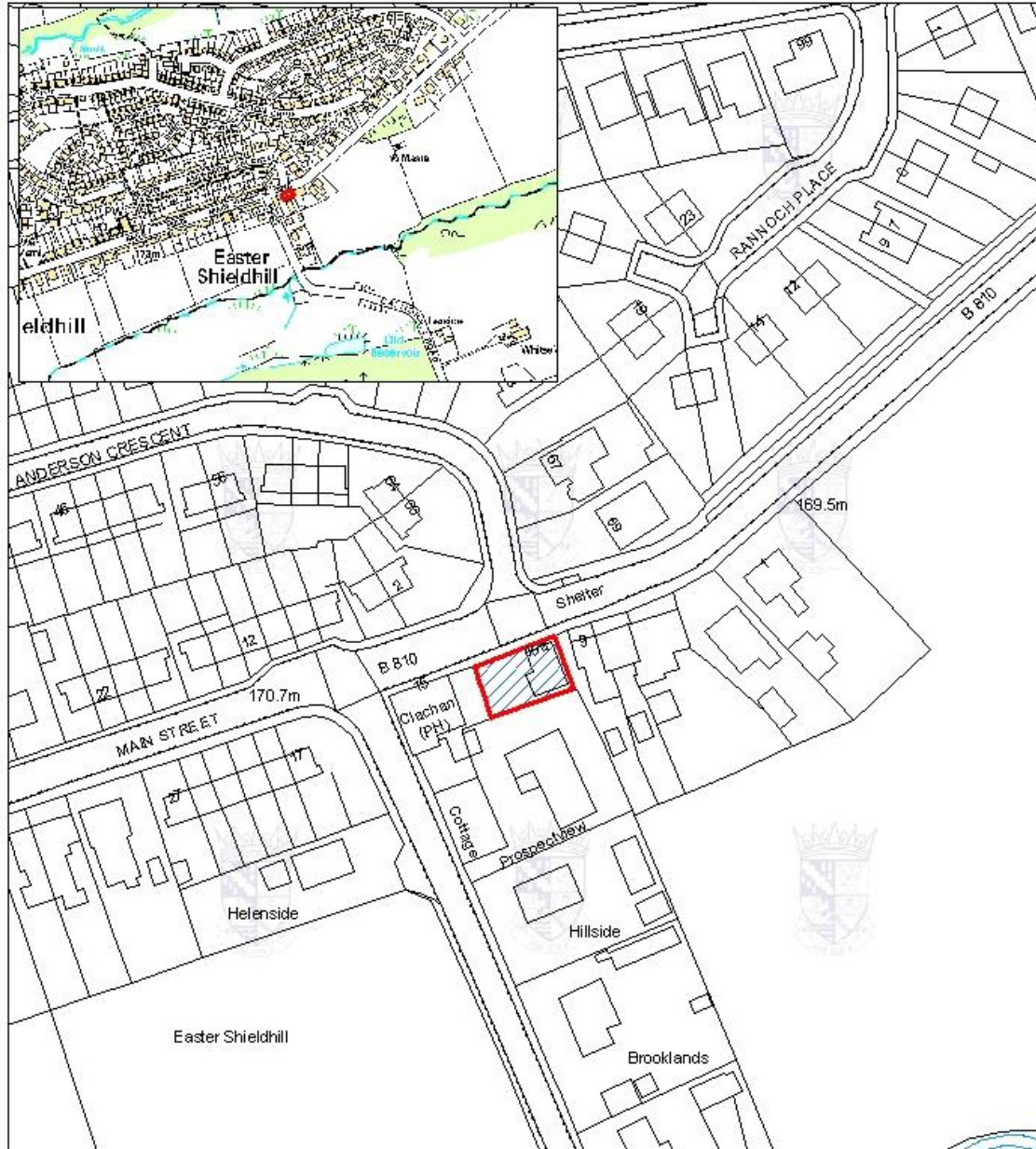
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.



# Planning Committee

## Planning Application Location Plan P/10/0757/FUL

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**FALKIRK COUNCIL**

**Subject:** EXTENSION TO DWELLINGHOUSE (DORMERS) AT 6  
HAINING PLACE, GRANGEMOUTH, FK3 9DR FOR MR AND  
MRS FOTHERINGHAM - P/11/0012/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Grangemouth  
Depute Provost Allyson Black  
Councillor Angus MacDonald  
Councillor Alistair McNeill  
Councillor Robert Spears

**Community Council:** Grangemouth

**Case Officer:** Kirsty Hope, (Assistant Planning Officer), Ext. 4705

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks full planning permission for the extension to the existing roof by the erection of two blank dormers. The proposed extension would offer the applicant more space within the existing bathroom and bedrooms on the upper level.
- 1.2 The property is a detached, one and a half storey dwelling that is located within an existing residential housing estate.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Angus McDonald.

**3. SITE HISTORY**

- 3.1 There is no relevant planning history.

**4. CONSULTATIONS**

- 4.1 The Environmental Protection Unit has raised no objection to the proposal.

## 5. COMMUNITY COUNCIL

5.1 The Grangemouth Community Council has not commented on the application.

## 6. PUBLIC REPRESENTATION

6.1 During the consideration of the application, one letter of objection was received. The comments raised can be summarised as follows:-

- Privacy - if windows were placed in the proposed dormer facing onto the neighbouring property.

## 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 SC9 - 'Extensions And Alterations To Residential Properties' states:

*"Extensions and alterations to residential properties will be permitted where:*

- (1) the scale, design and materials are sympathetic to the existing building;*
- (2) the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*
- (3) it will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, or the unacceptable loss of off-street parking."*

7a.3 The proposed dormer extensions are considered to be unacceptable in terms of scale, design and relationship with the existing roofplane. The proposal, by means of the overlarge blank boxed design, appears oversized for the roof and is not sympathetic to the existing dwelling. The proposal would not significantly affect the neighbouring properties in terms of amenity and privacy but the proposed dormer extensions are considered to be detrimental to the character of the existing dwelling as well as the streetscape by setting an unsightly precedent with the residential estate.

7a.4 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations of this application are the Falkirk Council Supplementary Guidance, consultation responses and the public representations.

### ***Falkirk Council Supplementary Guidance – House Extensions and Alterations***

7b.2 Paragraph 2.7 of the approved Supplementary Guidance states that generally dormer extensions should be mainly glazed, be vertically proportioned above existing window openings, have concealed water goods, be no greater in proportion than 3 metres wide by 2 metres high and positioned no less than 500mm below the ridge, 1 metre from the gable wall and 500mm from the eaves. The proposed dormers are set down from the ridge and up from the eaves in accordance with the guidance. However, there are no windows in the dormers and they are not set in from the gable. Therefore the proposal does not accord with the guidance as set out in the Council's approved guidance.

### ***Consultation Responses***

7b.3 The Environmental Protection Unit has raised no objection to the proposal but has recommended that if planning permission is granted informatives be attached with regards to ground conditions and hours of construction work noise.

### ***Assessment of Public Representations***

7b.4 The proposal does not include any windows in either proposed dormer extension, therefore privacy would not be a concern in this instance.

## **7c Conclusion**

7c.1 It is considered that the proposal is an unacceptable form of development and is contrary to the terms of the Falkirk Council Local Plan and the Supplementary Planning Guidance Note on House Extensions and Alterations. There are no other material planning considerations that would warrant an approval of planning permission in these circumstances.

## **8. RECOMMENDATION**

8.1 It is therefore recommended that planning permission be refused for the following reason(s):

- (1) **The scale and design of the proposed dormers would not be sympathetic to the existing dwelling and surrounding area and consequently would have an adverse effect on the visual amenity of the property and the residential area. As a result, the proposed extension would be contrary to Policy SC9 'Extensions and Alterations to Residential Properties' of the Falkirk Council Local Plan and the Falkirk Council Supplementary Guidance – House Extensions and Alterations.**

**Informative(s):**

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

.....  
pp Director of Development Services

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

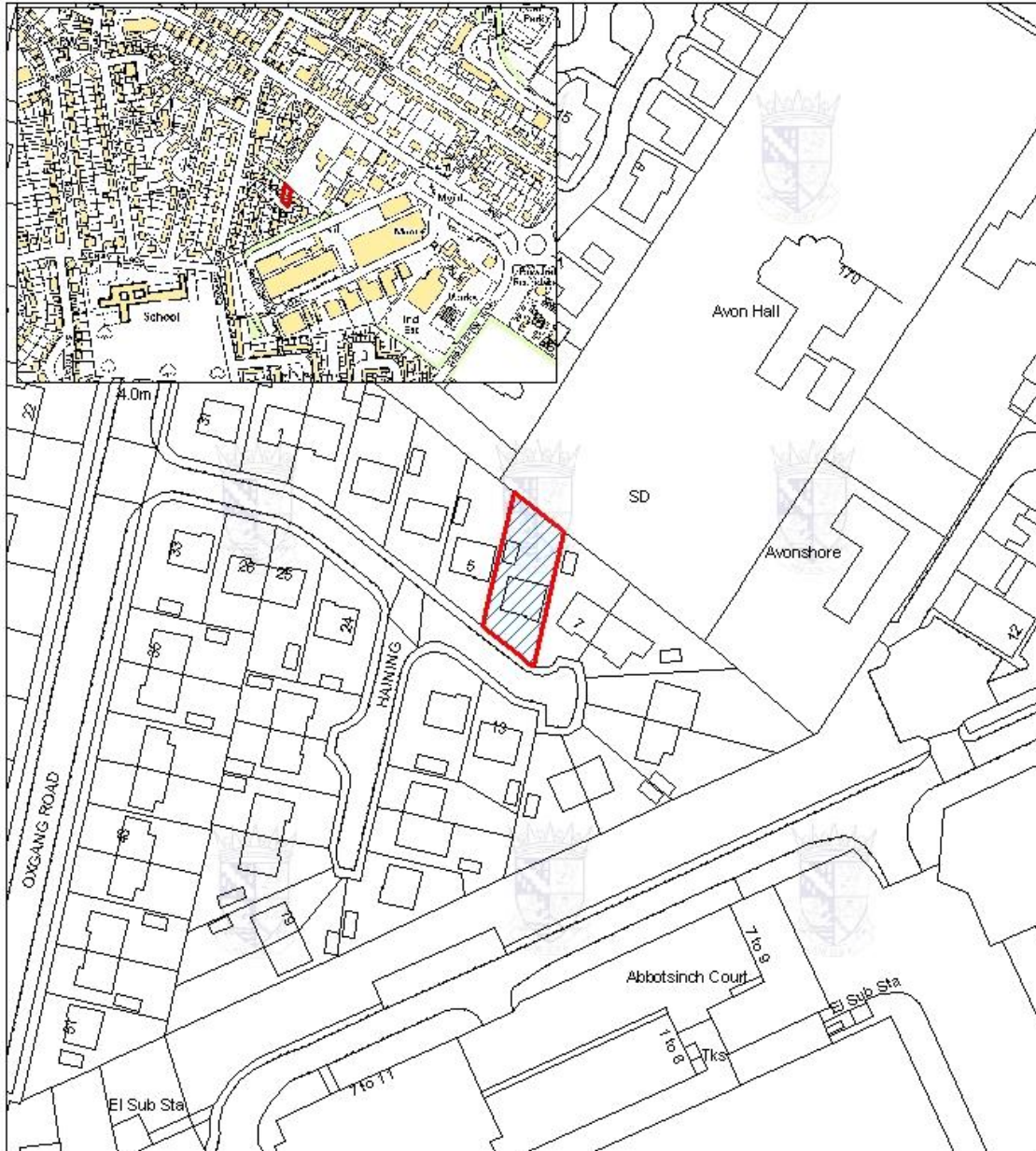
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Guidance Note on House Extension and Alterations.
4. Letter of Objection from Mrs M Hutcheon, 8 Dunster Road, Stirling FK9 5JJ received on 21 February 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan P/11/0012/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:** ERECTION OF 6 DWELLINGHOUSES (RENEWAL OF PLANNING PERMISSION 05/1166/FUL), AT LAND TO THE NORTH OF 34 SEAFORTH ROAD, SEAFORTH ROAD, FALKIRK FOR MR GEORGE NEELY – P/11/0087/FUL

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

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

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

**Case Officer:** Gavin Clark, (Assistant Planning Officer) Ext. 4704

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks permission for the erection of 6 terraced dwellinghouses on a vacant site. The application is for the renewal of previous permission Ref: 05/1066/FUL
- 1.2 The application site is located next to an existing shop unit, and is surrounded by dwellinghouses on all other sides. Parking facilities would be accessed from the private road to the rear of the site and the proposed dwellings would front onto Seaforth Road.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Cecil Meiklejohn and Councillor Craig R Martin.

**3. SITE HISTORY**

- 3.1 Planning application 05/1066/FUL was granted detailed planning permission on 21 February 2006 for the erection of 6 dwellinghouses on the same site. This current application was validated on 18 February 2011 and as such the application should be assessed as being for a renewal of planning permission.
- 3.2 Planning application F/95/0094 was granted detailed planning permission on 21 December 1995 for the erection of two flatted dwellings.

- 3.3 Planning application F/97/0927/FUL for the erection of 12 flatted dwellings was withdrawn on 12 May 1998.
- 3.4 Planning application F/99/0369/FUL was granted detailed planning permission for partial demolition of building on 23 July 1999.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit advises of conditions relating to parking provision and have provided advice in relation to drainage.
- 4.2 Scottish Water have no objection to the application, but have advised that a separate drainage system will be required for the development. A condition has been added to the planning consent in this regard.
- 4.3 Education Services have no objection to the proposal.
- 4.4 The Transport Planning Unit have no objection to the proposal.
- 4.5 No response has been received from Central Scotland Police.
- 4.6 The Environmental Health Unit have requested a condition in relation to contaminated land due to the presence of a former industrial factory, made ground and potentially other contaminative activities within 250m of the site.

#### **5. COMMUNITY COUNCIL**

- 5.1 Langlees, Bainsford and New Carron Community Council have not made representation.

#### **6. PUBLIC REPRESENTATION**

- 6.1 No letters of representation have been 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 Structure Plan***

7a.1 There are no policies relevant to the proposal in the Structure Plan.

### ***Falkirk Council Local Plan***

7a.2 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, water supply, sewage capacity 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.3 The proposal is considered to be compatible with the uses in the surrounding area, is considered to have good transportation links and good capacity levels to local infrastructure. There are also no conflicts with other local plan policies. It is considered that the application accords with Policy SC2 of the Falkirk Council Local Plan.

7a.4 Policy SC8 ‘Infill Development and Subdivision of Plots’ states:

*“Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:*

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies.”*

7a.5 The scale, density, disposition and design of the proposed dwellinghouses is considered to respect the character of the surrounding area. Adequate garden ground would be provided to each property, and adequate privacy would be afforded to the proposed dwellings and those in the surrounding area. The amenity of the area would not be adversely affected and adequate parking provision would be provided. There are no conflicts with other local plan policies. Consequently, it is considered that the application accords with Policy SC8 of the Falkirk Council Local Plan.

## **7b Material Considerations**

### ***Falkirk Council Supplementary Planning Guidance Note***

7b.1 The proposal accords with Falkirk Council's Supplementary Planning Guidance Note on "Housing Layout and Design". There is considered to be a harmonious fit of "new" with existing, as there are a number of terraced and semi-detached dwellings in the surrounding area. The height, scale and design of the terraced dwellings is also considered to be acceptable.

### ***Responses to Consultation***

7b.2 The Roads Development Unit have raised no objections to the planning permission being renewed subject to conditions in respect of parking and drainage.

7b.3 Scottish Water has raised no objections to planning permission being renewed. The developer will however require separate approval from Scottish Water to connect to their infrastructure .

7b.4 Other matters raised by consultations can be addressed by planning conditions.

## **7c Conclusion**

7c.1 The proposal has been assessed as being in accordance with the Development Plan and Supplementary Planning Guidance. The points raised through consultation are addressed elsewhere in this report. Accordingly, the application is recommended for approval.

## **8. RECOMMENDATION**

**8.1 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) Samples of all external materials to be used in the development shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.**
- (3) The existing footpath along the site frontage with Seaforth Road shall be reconstructed in accordance with Falkirk Council Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.**

- (4) All drainage shall be provided to meet the requirements of Scottish Water and evidence of such compliance shall be submitted to the Planning Authority on demand.
- (5) (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.

**Reason(s):**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the visual amenity of the area.
- (3) To safeguard the interests of the users of the highway.
- (4) To ensure that adequate drainage is provided.
- (5) To ensure the ground is suitable for the proposed development.

**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 supporting documents.
- (2) The applicant shall ensure that noisy work which is audible at the site boundary shall ONLY be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

Deviation from these hours of work is not permitted unless in emergency circumstances and with the prior approval of the Environmental Health Manager.

Pp

.....  
Director of Development Services

Date: 12 April 2011

**LIST OF BACKGROUND PAPERS**

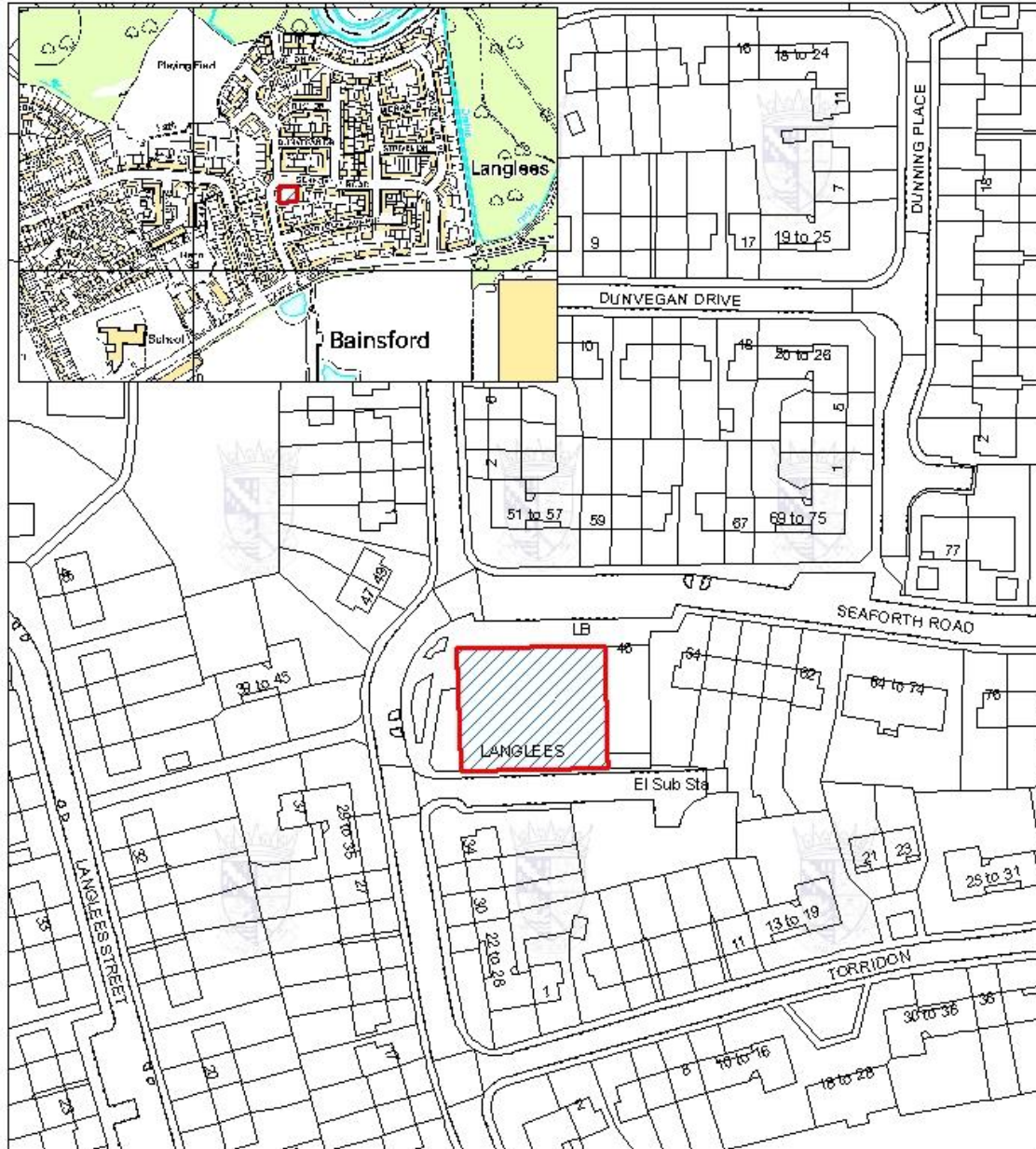
1. Approved Falkirk Structure Plan
2. Adopted Falkirk Council Local Plan
3. Falkirk Council's Supplementary Planning Guidance Note on "Housing Layout and Design"

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Gavin Clark, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan P/11/0087/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:** DEVELOPMENT OF LAND FOR RESIDENTIAL, RETAIL, LEISURE AND BOATING PURPOSES AT LAND TO THE NORTH OF TAMFOURHILL ROAD, TAMFOURHILL ROAD, FALKIRK FOR BRITISH WATERWAYS (SCOTLAND) AND FALKIRK COUNCIL - P/10/0512/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South  
Councillor Gerry Goldie  
Councillor Joe Lemetti  
Councillor John Patrick  
Councillor Georgie Thomson

**Community Council:** No Community Council

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

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application arises as a consequence of an initial design brief generated by Falkirk Council, seeking to secure a high quality layout and the promotion of good design techniques within a site considered suitable for redevelopment. The size of the site required the applicant to carry out Pre-Application Consultation, including public exhibitions explaining the proposals. The application is also subject to an Environmental Impact Assessment, giving additional information relating to the site, the content of which was scoped out prior to formal submission.
- 1.2 Community consultation was developed over 2 stages and promoted through leaflet drops and advertisement;
- Stage 1 - Presentation of project site and regeneration potential, taking the form of an informal drop-in exhibition to offer local residents the chance to meet members of the project team and provide feedback. This was held on 2 and 3 December 2010 at Camelon Education Centre and Tamfourhill Community Hall. Presentation of sketched ideas, responding to comments and ideas, permanently displayed at the Falkirk Wheel.

- Stage 2 - Presentation of sketched ideas, responses to comments and ideas, exhibited to the community at Camelon Education Centre and Tamfourhill Community Hall on 3 and 4 February 2011. Masterplan proposal developed and final presentation on 11 March 2011 at the Falkirk Wheel. All finalised plans left on permanent display at the Falkirk Wheel. The formal submission of the planning application also involved advertisement in the Falkirk Herald.
- 1.3 The application site comprises 58 Hectares of land, lying to the east of the Falkirk Wheel, south of the Forth & Clyde Canal and north of the Antonine Wall. The site consists of a long, linear strip of former industrial land running east to west, parallel with the Forth & Clyde Canal.
- 1.4 Although the application seeks to establish the principle of development, the applicant envisages the site capable of supporting development in the region of 325 houses, 200 flats and an element of commercial uses.
- 1.5 Due to the varying topography, the site represents a mixed setting characterised by 5 principal zones:
1. The Union Inn and adjacent locks
  2. The Antonine wall and Tamfourhill Road to the south.
  3. The Falkirk Wheel and surrounding area.
  4. The industrial park in the centre.
  5. The Forth & Clyde Canal along the north edge.
- 1.6 The applicant has presented a masterplan for the site, showing the area of development extending eastwards from the industrial park towards the Union Inn. According to the applicant, the potential development strategy would see the proposed development area split up into zones that would have three distinctive urban 'personalities' in response to the characteristics of their immediate context and intended relationship to the overall masterplan.
- The first zone, adjacent to Union Inn, is potentially the most dense and would create a mix of facilities acting as a community focus. It is envisaged that the development of new waterspace, in addition to the conservation of existing heritage in the form of the Union Inn and original canal basin, would help to form a vibrant, interesting zone, attracting new businesses, residents and visitors.
  - The intermediate development zone, zone 2, is proposed to be lower in density, with the introduction of more family housing and open space. An important aspect of the development, is a design that reflects modern lifestyles and aspirations; one which balances private space with usable communal areas, using courtyards over private gardens and using landscaped areas between streets, a design that acknowledges the use of the car, but gives preference to the pedestrian and the cyclist through shared surfaces, landscaped pedestrian streets and discrete parking.
  - The third zone is proposed to be low density with housing nestled in the landscape. This area would be more traditional in character, with private houses and private gardens. In this way it is hoped to cater for a variety of tenures across the site. Finishing the development with a low density zone would produce a soft edge to the site as the development area stretches toward the wheel and associated woodland areas.

- A fourth zone, comprising a recreational zone, would be created as a result of the creation of open space and augmentation of existing woodland facilities.

1.7 Within zone 1 would be ‘the hub’, which is a dynamic zone, centred around a marina which would provide a focus for the new development. It would consist of a mix of uses, both commercial and residential. The hub is situated adjacent to the existing transport route between the suburbs of Camelon and Tamfourhill, therefore having an immediate connection to the surrounding context. It is proposed that the hub would be a mixed use area. Commercial units would be situated on the ground floor and would comprise cafes and offices, retail opportunities and a new hotel. Commercial units will be focused onto the new marina and spill out into the sheltered public realm, becoming a place of activity and social interaction. The area in which this zone is proposed is historically significant. It was here that the Union Canal and the Forth & Clyde Canal were connected for the first time in 1822. The walls of the original basin remain in place today, and would continue to be protected through the masterplan. Following the union of the canals, the site, in particular this area, began to develop as a hub for industry. The Portdownie Ironworks were based here until the 1950’s. The other historical feature in this zone is the Union Inn, a place of refreshment for past industrial workers and the Victorian travellers who passed by. The landmark would remain in place and form one of the key focal points of the development. Through the masterplan and proposed hub zone it is intended to restore the historical density of this area and to revive the vitality of the waterway through the creation of a new marina.

1.8 A vital part of the masterplan is the inclusion of open space and planned landscaped areas to enhance the existing landscape and acknowledges the need to create a high quality environment which is safe, welcoming and sustainable. The site is naturally divided into two halves by the burn which separates the wilder, steeper, western half from the gentler terrain of the east. The site topography has dictated the extent of the proposed development which covers the eastern half, allowing the west to become a dedicated recreation zone and managed woodland; improving the environment surrounding The Falkirk Wheel, enhancing the presence of the Antonine Wall and linking with established routes. An approach such as this prevents the west from becoming merely an access route to The Falkirk Wheel but allows it to become a recreational destination in its own right. With careful woodland management and appropriate long term planning it would be possible to exploit structured walks between The Falkirk Wheel, Antonine Wall and commercial hub, along with opportunities for sculptures and local events. At the heart of the proposal is the ambition to regenerate the existing waterspace in order to transform Portdownie into a destination and stimulate a renewed sense of place. The role played by open space and landscape is vital in the creation of character. Through the creation of open vistas and connections through the site, individual developments become part of a greater mass with the single purpose of emphasizing location, views and setting. This would be aided by the use of indigenous plants and materials, including, the reuse of local resources, such as the cobbles and sets which currently mark the historic entrance to past industrial sites. The development area is designed as a formal sequence of spaces which can be grouped into several categories:

### **Secluded Public Space**

1.9 These areas of public space are woven through each of the three development zones. They act as a focus for each neighbourhood and provide a local link to the canal. Open, landscaped spaces between developments also contribute to a sustainable design approach, as a part of a Sustainable Urban Drainage System (SUDS), enhancing biodiversity, quality of space and reducing fear of crime.

## **Landscaped Access Road**

- 1.10 The proposed access road is the main route into the site, used by both residents and those commuting to the hub zone. It is important that this major route does not form a barrier, but be a high quality area which maintains links across the site whilst allowing access through it.

## **Green Public Space**

- 1.11 Green public space separates the three development zones and forms the major access routes across the site to the canal, linking the existing suburb of Tamfourhill back to its historic roots. Connectivity is important in achieving a sustainable site strategy, encouraging pedestrian movement and fostering social interaction. The spaces also form large recreational areas and enhance the quality of the built environment.

## **Tow Path**

- 1.12 The tow path is essential in the masterplan proposal and would be key in regenerating the canal. It is vital the tow path is a safe and accessible area, linking development zones and forming a vibrant recreational area.

## **Basins**

- 1.13 The proposed basins form part of the core waterspace strategy and are the focus of the commercial hub. A high quality public area would enhance commercial viability and attract business from outwith the development site.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 By virtue of the site area, the application represents a major application as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and Falkirk Council is part applicant and part owner of the land subject of the application. The application is not considered to be contrary to the Development Plan and it is therefore not considered that the application requires to be referred to Scottish Ministers.

## **3. SITE HISTORY**

- 3.1 No site history relevant to the application.

## **4. CONSULTATIONS**

- 4.1 Falkirk Council's Environmental Protection Unit advise that, in terms of Noise Assessment, full details on protecting residential properties from traffic noise are required. In terms of air quality, further details need to be submitted and, while the conclusions are subject to the projected opening date of 2019, any earlier date of opening would require a re-run of the modeling methodology. Regarding contaminated land, a planning condition is requested to be imposed.

- 4.2 Historic Scotland are content with the principle of the proposed development and are content that there are unlikely to be any significant adverse impacts on the historic environment. However, Scheduled Monument consent would be required for the works affecting the scheduled area of the Forth and Clyde Canal.
- 4.3 The Scottish Environment Protection Agency have no objection to the application but request that planning conditions be imposed regarding flood risks, including modifications to the layout of houses nearest the canal and an unnamed watercourse, consideration of finished ground floor levels, the use of water resistant materials and maintenance of the unnamed watercourse.
- 4.4 Falkirk Council's Education Services consider that the application falls within the catchments for Bantaskin Primary School, St Francis Xavier's Roman Catholic Primary School, Falkirk High School and St. Mungo's Roman Catholic Secondary School. The proposed development would also increase the demand for nursery places. Education Services request that if this application is approved, then it is on the basis that the applicant agrees to fund necessary extension works at Bantaskin Primary School and provide a pro-rata contribution to address anticipated capacity pressures at St. Mungo's RC High School. The contribution requested is as follows:-

Bantaskin Primary School -	£2,150 per house
	£1,250 per flat
St Mungo's RC High School -	£650 per house
	£450 per flat

The extension at Bantaskin Primary School should be operational no later than after 35% of the residential development is completed and the phasing of payments should reflect this. The Pro-rata contribution towards long-term capacity risk at St Mungo's would not be required until the latter stages of development (75% of completion would be acceptable). It should be noted that, while there is an assumption of 325 houses and 200 flats and a total contribution of £1,250,000 expected, the final number of houses and flats may be subject to variation as this application only seeks to establish the principle of development.

- 4.5 Scottish Natural Heritage welcome the redevelopment of the Tamfourhill site, with the creation of green spaces, new woodland and new pathway to link the site into the surrounding areas. However, Scottish Natural Heritage would like to offer advice on good practice for the development site and this would be reflected in planning conditions and informatives attached to any permission.
- 4.6 Scottish Water has no objection to the application but advise that services for the site should be secured by the applicant in agreement with Scottish Water.
- 4.7 Falkirk Council's Keeper of Archaeology/Local History requests that a suspensive planning condition be imposed on the planning permissions, should it be issued, asking for a written scheme of investigation to be centered on the remains for the Union Canal.
- 4.8 Transport Scotland advise that there would be a minimal increase in traffic on the trunk road during the development of the site although authorisation for any abnormal loads should be sought from Transport Scotlands Management Organisation (BEAR).

- 4.9 Falkirk Council's Roads Development Unit requests that suspensive planning conditions be imposed on any issued planning permission relating to flood risk management. In addition, all junctions, access roads and street layouts should be formed in accordance with Falkirk Council guidelines. A full Drainage Assessment will also be required.
- 4.10 Architecture and Design Scotland support the principle objectives for the development and consider that the proposal has huge potential. However, there are some aspects of the masterplan that Architecture and Design Scotland consider would benefit from further investigation and development;-
- Historical Analysis - this should be more specific about how this drives the proposals, particularly in relation to the potential contribution of the Antonine Wall.
  - Landscape - a landscape architect should be appointed to develop a landscape framework
  - Proposed Layout - there is potential for the development to respond more closely to the landscape and a more integrated solution that makes use of the site topography, microclimate/building orientation.
  - Design Guidance/Delivery - sufficient coding be developed in tandem with a robust masterplan to help deliver the aspirations and vision for the project. Not least, a maximum and minimum housing density should be developed.
- 4.11 Falkirk Council's Transport Planning Unit advises that the submitted Transport Impact Assessment is, on the whole, acceptable. However, the submission has highlighted potential queuing issues on the A9 between Rosebank and Merchiston Roundabouts, which would require additional mitigation works. The precise nature of these works, and hence costs, has not been identified at this stage. The A803 Corridor Study highlighted costs for works, and the applicant is expected to address a proportion of these costs, based on trip rate generation. In this instance, a developer contribution of £1,200,000 will be requested.

## **5. COMMUNITY COUNCIL**

- 5.1 There is no Community Council currently operating in this area.

## **6. PUBLIC REPRESENTATION**

- 6.1 One comment received neither supporting nor objecting to the application, where the commentator would like to review the Environmental Impact Assessment screening and scoping opinion.
- 6.2 One letter of objection, where the commentator is concerned regarding the 21 day period for response, the sparsity of information and that the peaceful and green location of her house will be destroyed.

## **7. DETAILED APPRAISAL**

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

Accordingly,

## **7a The Development Plan**

### ***Falkirk Council Structure Plan***

7a.1 Policy ECON.1 ‘Strategic Development Opportunities’ states:

*“The Council will promote the following as strategic locations for major economic development:*

- Town Centres*
- 1 Falkirk Town Centre*
- 2 Grangemouth Docks*
- Gateways*
- 3 Middlefield/Westfield, Falkirk*
- 4 Falkirk Canal Interchange*
- 5 North Larbert / Glenbervie*
- 6 Gilston, Polmont*
- Urban/rural Regeneration Areas*
- 7 Langlees/Bainsford, Falkirk*
- 7a Former Manuel Works, Whitecross*
- Specialist Sites*
- 8 Grangemouth/Kinneil Kerse*

*Site boundaries will be defined or confirmed in Local Plans. The range of acceptable uses at each of these strategic sites is indicated in Schedule ECON.1.”*

7a.2 The Tamfourhill site is one of a series of connected opportunities (including the Falkirk Wheel, Rosebank and Merchiston/Grahamston) which collectively comprise the Falkirk Canal Interchange. The Falkirk Canal Interchange is one of the Structure Plan's nine Strategic Development Opportunities (SDOs) as identified under Policy ECON.1 and Schedule ECON.1, with the proposed uses including leisure/tourism, specialist retail, office and park & ride. The submitted masterplan includes the elements considered essential to the envisaged development.

7a.3 Policy ECON.2 ‘Strategic Development Opportunities - Development Criteria’ states:

*“Development of the strategic development opportunities identified in Policy ECON.1 will be subject to the following conditions:*

- (1) high standards of design will be required through a development brief and masterplan for each opportunity which will be approved by the Council and ensure a comprehensive and sensitive approach to site planning;*
- (2) provision must be made for walking, cycling and public transport infrastructure to allow a high level of access by transport modes other than the private car;*

- (3) *the scale of any residential use must comply with the general housing allocations set out in Chapter 4 and adequate social and physical infrastructure must be in place to serve them;*
- (4) *the scale and nature of out-of-centre retailing and leisure provision must be complementary to provision in Falkirk Town Centre and the District Centres. Accordingly, a Retail/Leisure Impact Assessment will be required to demonstrate this for all retail developments of 2,500 sq. m. gross floorspace or more, and for major commercial leisure developments. Assessment of smaller retail developments (between 1,000 and 2,500 sq.m. gross) may also be required in certain circumstances; and*
- (5) *development at Grangemouth Docks must not prejudice the operation of the port. and should be compatible with the continuing activities of the petrochemical and chemical industries.”*

7a.4 Policy ECON.2 sets a number of criteria that proposals relating to SDOs must be assessed against. In particular, proposals must demonstrate a high standard of design through a brief or masterplan, which should be approved by the Council to ensure a comprehensive and sensitive approach to site planning. Provision must be made for walking, cycling and public transport infrastructure to allow a high level of access by modes of transport other than the car. It is intended that planning conditions and terms within a S75 agreement ensure these elements are developed.

7a.5 Policy ECON. 5 ‘Location of New Retail and Commercial Leisure Development’ states:

*“The scale of new retail development will be commensurate with maintaining the hierarchy of shopping centres shown in Schedule ECON 5 and enhancing them. Proposals for significant new retail and commercial leisure development should accord with the following principles:*

1. *non food retailing will be directed to Falkirk Town Centre and the District Centres. In addition, provision will be made for bulky household goods retailing at Middlefield/Westfield Strategic Development Opportunity (up to 25,000 sq m gross), and for limited specialist retailing at the Falkirk Canal Interchange Strategic Development Opportunity, as set out in Schedule ECON.1 and subject to the criteria in Policy ECON.2;*
2. *priority will be given to the provision of new food retail floorspace in Grangemouth, Larbert/Stenhousemuir, the Polmont area, Denny and Bonnybridge/Banknock, of a scale commensurate with the local catchment. New food retail floorspace will be directed to the District Centres and other established local centres, and only to new local centres where they meet the criteria set out in Policy ECON.6;*
3. *new food retail floorspace in Falkirk will be restricted to existing commitments, neighbourhood stores of less than 1,000 sq. m. gross floorspace, and limited extensions to existing stores; and*
4. *commercial leisure developments will be directed to Falkirk Town Centre, the District Centres and those other Strategic Development Opportunities for which such uses are specified in Schedule ECON.1.”*

7a.6 Policy ECON.5 mentions the potential for limited specialist retailing as part of the Falkirk Canal Interchange SDO. While the details of specialist retailing would become apparent through the submission of further planning application, the broad principle of such matters has been established through the current proposals.



7a.7 Policy ECON.7 ‘Tourism’ states:

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

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

7a.8 Policy ECON.7 identifies the canal as one of the key locations for the development of tourism infrastructure in the Council area. It is intended that this opportunity is fully exploited, and such provision is envisaged through the submitted masterplan.

7a.9 Policy COM.1 ‘Housing Land Allocations’ states:

*“The Council will:*

- 1 support the phased provision of land for new housing as detailed in Schedule COM.1a to which a flexibility allowance of 10% will be added under Policy COM.2;*
- 2 maintain an effective 5 year supply of the housing land set out in Schedule 1a;*
- 3 review the housing calculations and allocations at intervals of no more than 5 years; and*
- 4 In delivering the requirement in Schedule Com.1a the Council will support special initiatives for residential led regeneration at the location listed in Schedule Com.1b, provided that action plans and masterplans/ development frameworks are prepared in accordance with the local plan. In particular these must address phasing, social and physical infrastructure provision, the avoidance of adverse impacts on European sites, the removal of significant restraints and land acquisition as appropriate.”*

7a.10 Policy COM.2 ‘Implementation of Housing Land Requirement’ states:

*“In implementing the housing land requirement set out in Schedule COM.1a, Local Plans will:*

- 1 take into account completions since 30th June 2001 and the current effective and established housing land supply;*
- 2 make an assessment of the likely output from windfall and small sites in arriving at the amount of land to be allocated and add to that amount a 10% flexibility allowance;*
- 3 adopt an approach to site selection whereby priority is given to brownfield sites and to sites which enjoy a high level of accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4 ensure the housing land allocation is based on the phasing guidelines set out in Schedule COM.1a;*
- 5 ensure that there are adequate community facilities and physical infrastructure to accommodate the allocation;*

- 6 *ensure that the location, scale, and design of allocated sites is sympathetic to the character of settlements and that significant land releases are accompanied by the preparation of masterplans; and*
- 7 *take into account the location and firm development proposals of business and industrial premises including chemical and petrochemical facilities.*
- 8 *Local Plans will also identify the site or area of search of the general locations listed in Schedule Com.1b taking into account the avoidance of adverse impact on European sites and specific requirements for new social and physical infrastructure.”*

7a.11 Policy COM.1 and Schedule COM.1a set out strategic housing land requirements for the various settlements throughout the Council area. The site has the potential to contribute significantly to meeting the requirement of 2,100 houses for Falkirk to 2020. The site generally accords with the criteria set out in Policy COM.2 since it is primarily brownfield, and offers good accessibility by public transport, cycling and walking.

7a.12 Policy COM.3 ‘Special Needs and Affordable Housing’ states:

*“The Council will support the provision of affordable and special needs housing, based on housing needs assessments for each community. Local Plans will identify suitable sites and where appropriate, stipulate the proportion of larger housing sites which should be reserved to meet specific housing needs.”*

7a.13 Policy COM.3 states that the provision of affordable and special needs housing will be supported, based on housing needs assessments for each community. Local Plans are to stipulate the proportion of larger housing sites which should be reserved to meet specific housing needs. The element of affordable and special needs housing would be secured through a S75 legal agreement.

7a.14 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.15 Policy COM.5 sets out the requirement for the Council to seek reasonable developer contributions of an appropriate scale and type in respect of environmental enhancement, physical infrastructure and community and recreational facilities. Schedule COM.5 sets out further examples of contributions and circumstances where provision may be required. In this instance, expected commuted payments will be secured through terms included in a S75 legal agreement to include provision for Education, Transport infrastructure and public art.

7a.16 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.17 Policy COM.6 seeks to ensure that a satisfactory distribution of open space and recreational facilities exists across the Council area and sets out requirements in terms of new open space and the loss of existing open space. The levels of open and active space provision would be dependent on the final capacity/density of development of the site. It is envisaged that such matters will be controlled through planning conditions/S75 agreement.

7a.18 Policy COM.7 ‘School Provision’ states:

*“New housing development will not be permitted unless adequate school capacity is available or will be made available.”*

7a.19 Policy COM.7 states that new residential development will not be permitted unless adequate school capacity is available or can be made available. Education Services have been consulted, and a commuted payment relating to phasing of development requested.

7a.20 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.21 Policy ENV.3 sets out the criteria relating to the protection and promotion of nature conservation interests, including identifying opportunities for enhancement of natural heritage, wildlife corridors and habitat creation. While the current application merely seeks the principle of development, nature conservation would be ensured by means of planning conditions, and would be assessed in the determination of any subsequent planning applications on the site.

7a.22 Policy ENV.5 'Built Environment and Heritage' states:

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

- (1) Measures to ensure that assets are maintained in a good state of repair.*
- (2) Promotion of appropriate new uses for buildings.*

- (3) *Promoting sensitive interpretation of heritage assets.*
- (4) *Protection of the assets and their setting from inappropriate development.*
- (5) *Where development would damage, or result in the loss of the asset, that provision is made for adequate recording of the current status of the asset.”*
- (6) *Reviewing the boundaries of areas to ensure their continuing relevance.”*

7a.23 Policy ENV.5 states that important archaeological sites, including Scheduled Ancient Monuments, be protected and enhanced. This would be reflected through planning condition.

7a.24 Policy ENV.6 ‘Enhancement Action’ states:

*“Priority will be attached to the programme of enhancement measures (including wildlife habitat enhancement) identified in Schedule ENV.6 below. Local Plans and other programmes will include detailed proposals for the enhancement of such areas or features, including mechanisms for implementation.”*

7a.25 Policy ENV.6 gives priority to enhancement measures in certain key locations, which are set out in Schedule ENV.6. The canal corridor is identified as one of these locations. The proposals are considered to achieve these aspirations, although the finite detail of enhancement measures would be subject to further review on any subsequent planning applications.

7a.26 Policy ENV.7 ‘Quality of Development’ states:

*“(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been addressed and how quality objectives will be achieved.*

*(2) Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements.”*

7a.27 Policy ENV.7 states that priority is attached to the achievement of high standards of design in all new development, and that where proposals would have a significant visual and physical impact they must be accompanied by a design concept statement. While statements accompany the application promoting good design, such matters would be subject to closer scrutiny on any further planning applications and controlled through planning condition.

7a.28 Policy ENV.16 ‘Contaminated Land’ states:

*“The Council will support the rehabilitation of vacant, derelict and contaminated land through the promotion of redevelopment on specific sites and investment, in partnerships with other agencies, in a prioritised programme of site investigation and remediation measures. Detailed proposals will be incorporated in Local Plans.”*

7a.29 Policy ENV.16 states that the Council will support the rehabilitation of vacant, derelict and contaminated land through the promotion of redevelopment on specific sites. The application site falls within this criteria and would benefit as a result of rehabilitation in terms of land remediation.

7a.30 Policy TRANS.1 'Core Path Networks' states:

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

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

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

7a.31 Policy TRANS.1 outlines the Council's commitment to Core Path Networks. This has been carried forward through the Core Paths Plan and policies in the FCLP provide further guidance. The current application promotes the benefits of core path Networks, and planning condition should ensure such matters are considered further on any subsequent applications on the site.

7a.32 Policy TRANS.3 'Transport Assessment' states:

*"Proposals which could result in a significant increase in travel demand will be required to submit a Transport Assessment and where appropriate a Green Transport Plan. These should demonstrate how the impact of the development on the surrounding traffic network can be minimised and how other modes of travel rather than the car will be encouraged."*

7a.33 Policy TRANS.3 states that proposals resulting in a significant increase in travel demand will require a Transport Assessment and, where appropriate, Green Travel Plan. A submitted Transport Assessment has been received, and appropriate planning conditions/S75 agreement would ensure compliance.

### ***Falkirk Council Local Plan***

7a.34 Economic Development - Proposals and Opportunities

ED.FAL14 Tamfourhill  
Opportunity: Marina/Leisure Development  
Site Area: Unknown  
Agency: Falkirk Council/British Waterways/Private

Comments: Opportunity for development of new waterspace, in conjunction with residential development. Masterplan required, which includes Wheel site and adjacent industrial properties at Portdownie.

#### 7a.35 Economic Development - Proposals and Opportunities

ED.FAL13 Falkirk Wheel  
Opportunity: Leisure/Tourism/Business Development  
Site Area: 18.0 hectares  
Agency: British Waterways/Private  
Comments: Opportunity for appropriate leisure, tourism and business development ancillary to the Falkirk Wheel. Small scale specialist retailing may also be permitted. Overall design objectives include protecting the setting of the Wheel, safeguarding canal-side locations for key uses that require access to water, and capitalizing on the wooded background of the site as a location for ancillary development.

#### 7a.36 Housing - Proposals and Opportunities

H.FAL13 Tamfourhill Road  
Site Area: 11.7 hectares  
Capacity: Unknown  
Status: Opportunity  
Comments: Opportunity for major housing development in conjunction with canal-related commercial development and mooring basin (see ED.FAL14). Feasibility study undertaken looking at constraints and layout options. Masterplan required covering this site and adjacent Portdownie industrial area. PPP application submitted in 2010.

#### 7a.37 Environmental Enhancement - Proposals and Opportunities

EN.FAL03 Lock 16/Union Inn  
Opportunity: Environmental Improvements  
Agency: Private/BW  
Comments: Opportunity to approve the amenity of this existing activity node, including car park enhancement, permanent moorings, landscaping and public art. Tamfourhill regeneration project offers means of achieving these improvements.

7a.38 The proposal, albeit in principle, seeks to conform to the allocated designations in providing major residential and commercial facilities, while promoting pedestrian, vehicular and landscape linkage between the site and the surrounding land. The application recognises the aspirations for environmental improvement and promotes the extensive regeneration of the area, while retaining key landmark structures and features.

7a.39 In addition, the following policies within the Local Plan may be of particular relevance in the assessment of any further applications within the site:-

Policy EQ1 - 'Sustainable Design Principles'  
Policy EQ2 - 'Implementation of Sustainable Design Principles'  
Policy EQ3 - 'Townscape Design'

Policy EQ4 - 'Landscape Design'  
 Policy EQ5 - 'Design and Community Safety'  
 Policy EQ6 - 'Design and Energy Use'  
 Policy EQ7 - 'Area Enhancement Priorities'  
 Policy EQ8 - 'Vacant, Derelict And Contaminated Land'  
 Policy EQ9 - 'Public Art'  
 Policy EQ10 - 'Advertisements'  
 Policy EQ11 - 'Shopfronts'  
 Policy EQ14 - 'Listed Buildings'  
 Policy EQ16 - 'Sites of Archaeological Interest'  
 Policy EQ17 - 'Antonine Wall'  
 Policy EQ21 - 'Falkirk Greenspace '  
 Policy EQ22 - 'Landscape and Visual Assessment'  
 Policy EQ25 - 'Biodiversity'  
 Policy EQ26 - 'Trees, Woodland And Hedgerows'  
 Policy EQ27 - 'Watercourses'  
 Policy EQ29 - 'Outdoor Access'  
 Policy EQ30A - 'Air Quality'  
 Policy SC4 - 'Special Needs and Affordable Housing'  
 Policy SC6 - 'Housing Density And Amenity''  
 Policy SC12 - 'Urban Open Space'  
 Policy SC13 - 'Open Space And Play Provision In New Development'  
 Policy SC14 - 'Education And New Housing Development'  
 Policy SC15 - 'Nursery And Child Care Facilities'  
 Policy EP7 - 'New Retail Development'  
 Policy EP8 - 'Neighbourhood And Rural Shops And Services'  
 Policy EP14 - 'Commercial Leisure Development'  
 Policy EP15 - 'Tourism Development'  
 Policy EP16 - 'Leisure And Tourism Development In The Countryside'  
 Policy EP17 - 'Canals'  
 Policy EP18 - 'Major Hazards'  
 Policy ST1 - 'Core Path Network'  
 Policy ST2 - 'Pedestrian Travel And Cycling'  
 Policy ST3 - 'Bus Travel And New Development'  
 Policy ST5 - 'Managing Travel To School'  
 Policy ST6 - 'Improving The Road Network'  
 Policy ST7 - 'Transport Assessments'  
 Policy ST10 - 'Parking'  
 Policy ST11 - 'Sustainable Urban Drainage'  
 Policy ST12 - 'Flooding'  
 Policy ST12A - 'Sewerage Infrastructure'  
 Policy ST16A 'Light Pollution'  
 Policy ST19 - 'Waste Reduction In New Development'  
 Policy ST20 - 'Renewable Energy Development'  
 Policy ST21 - 'Wind Energy'



## ***Policy Summary***

- 7a.40 The Structure Plan is supportive of the application in so far as it would contribute to the implementation of the Falkirk Canal Interchange which is a Strategic Development Opportunity under Policy ECON.1/Schedule ECON.1; the development of tourist infrastructure along the canal corridor, which is a tourism priority under Policy ECON.7 and the enhancement of the canal corridor, which is a priority under Policy ECON.6. It would also contribute to meeting the substantial housing land requirement for Falkirk in the period up to 2020. Structure Plan policy requirements with regard to developer contributions, affordable housing and natural/built heritage will need to be addressed through changes to the masterplan, or appropriate conditions/Section 75 Agreement.
- 7a.41 The Local Plan supports the principle of a mixed use regeneration of the Portdownie/Tamfourhill area, subject to a confirmed masterplan. Again, there are a number of detailed requirements in various generic policies which will have to be addressed through changes to the masterplan, or appropriate conditions/Section 75 Agreement.
- 7a.42 Accordingly, the proposals accord with the Development Plan.

## **7b Material Considerations**

- 7b.1 The material considerations relating to the application are the appropriateness of the masterplan, points raised through representation, consultation responses and supplementary planning guidance.

## ***Masterplan***

- 7b.2 A Masterplan/design statement has been submitted which provides a summary of the overall design concept. A fair amount of detail has been provided, but in some instances not enough to show how some of the innovative layouts would actually work. In particular, some commentary on the handling of access, parking, amenity space within the street blocks requires clarification.
- 7b.3 **Land Use**

The land use mix proposed is considered acceptable, with commercial uses focused around the new waterspace and the Union Inn, and a good mix of housing types within the residential zones. However, there is no mention of affordable/special needs housing. Under Policy SC4 there is a requirement to provide 15% of units for affordable/special needs. There is also no mention of any provision for community space within the development, although it may be that this can be addressed by the upgrading of existing community facilities within the wider Tamfourhill area. These matters will be appropriately addressed through conditions/Section 75 Agreement.

#### 7b.4 **Design and Layout**

The overall design concept is considered acceptable as an attempt to create a lively, varied canalside quarter. The layout accords generally with the principles set out in the informal planning brief, in terms of orientating development towards the canal; creating activity and vibrancy on the waterfront; use of permeable layouts facilitating east-west movement along the canal corridor, connecting Lock 16 to the Wheel, and north-south movement from Tamfourhill to the canal; and the creation of attractive new civic spaces at the Union Inn, the new mooring basin and along the south bank of the canal.

#### 7b.5 **Zone 1 Urban Hub**

- Sensitivity is required with regard to the various heritage features of the site. The height and design of buildings next to the Union Inn will need to be very carefully considered to ensure that the building's landmark status and presence is not diminished. Although the intention to integrate the rear of this listed building into the marina frontage is acknowledged, an alternative approach might be to move the marina to allow an enclosing frontage which conceals the rear of the building and encloses the private rear space presently existing. Recognition should, if possible, be given to the historic footprint of the old Portdownie basin in the layout of buildings and the design of the open space. The Antonine Wall buffer zone should be kept clear of development and the layout of buildings and design of the open space should be adjusted to emphasise the line of the Wall.
- It is unclear how parking is to be handled in parts of Zone 1, where there are likely to be substantial parking requirements arising from commercial uses. The concern being that public spaces would end up accommodating parking, undermining their civic and aesthetic value. It would be anticipated that the marina, hotel, café and offices would require more parking provision than shown for service vehicles, staff and visitors/shoppers. The rear parking court to the triangulated building (retail/residential above) would need to differentiate resident and other parking and does not appear adequate for both. Whereas the plans for shared rear parking areas for the canalside townhouse/terrace blocks are reasonably self explanatory, provision for the apartment blocks and terraces to the south is more ambiguous with some rear and some street frontage parking and uncertainty about rear servicing areas for Care Home/Nursery and the 4 storey apartment block.
- The massing diagram shows the townhouses and terraces having the same 3 storey height. The adjacent Zone 2 the terraces are 2 storey. The live/work units are also shown at 3 storeys and have rear gardens.

#### 7b.6 **Zone 2/Medium Density Housing**

- Whilst the informal "home zone" approach to the layout is welcomed, greater clarity on access and parking conventions is needed. For the canalside housing, it is assumed that this has a frontage on to the canal, with rear vehicular access. Direct pedestrian access on to the canal towpath should be provided. Vehicular access to apartments on the eastern edge of the zone is unclear.
- The tree avenue and broad landscaped verge along the north side of the spine road would appear to conflict with vehicle access to/from the adjacent housing frontage. This would require a number of crossings of the verge.

- The interface between Zone 2 and Tamfourhill Road is unclear. The preference would be to maintain woodland planting along the boundary.

#### 7b.7 **Zone 3/Low Density Housing**

- The pre-application 3-D image confirms that a walled and garaged frontage is proposed around the site. Whilst from the outside an innovative designer might achieve a picturesque appearance the concern is that it would be blank and forbidding, restricting natural surveillance of the street/vehicle area - an important aspiration of the Housing Layout Supplementary Planning Guidance. Such a layout may struggle to attract the standard volume builder. More clarity is also needed on the intended treatment to the canal frontage. This will be requested through the expected design brief submission.
- Rear gardens behind the main road frontage seem very shallow, even when compared with the Zone 2.
- The development layout shows a service road turning parallel to the spine road, allowing access to properties along the southern edge of the zone. This is not shown on the use/massing/access plans, implying individual properties taking access directly off the spine road. Clarification of this is needed. This will be requested through the expected design brief submission

#### 7b.8 **Landscape and Open Space**

The Landscape/Townscape Visual Impact Statement is thorough and detailed, and its conclusions are accurate. The Masterplan makes provision for a framework of open space and landscaping which is generally well located and integrated into the development. However, in determining the open space and play needs of the development, reference needs to be made to the Open Space Strategy and the full range of open space types that are covered by the Strategy. Issues which require attention are as follows:

- In terms of the Open Space Strategy and the different types of open space provision, civic space, waterspace, amenity, parkland and semi-natural open space are well provided for. However, active open space is not well covered, and the provision of sports pitches, kick-about areas and play facilities should be considered. There may be different options for these types of provision. The provision of a well-equipped play area should be possible within some of the on-site open space, or indeed within, or on the edge of, the woodland. Some of the on-site spaces may also be able to accommodate some limited kick-about. However, the on-site provision of a sports pitch, which appears to be a deficiency in the area, may be more problematic. It may be possible that contributions could be made to off-site upgrading. This will be subject to clarification through the expected S75 legal agreement.
- The use and management of the woodland at the western end of the development is critical. A plan showing how the woodland is to be developed to meet recreational, biodiversity and landscape needs should be developed, along with an indication of how the woodland is to be managed in the long-term. Such a plan should consider access routes and linkages with the Antonine Wall, the Falkirk Wheel, the canal and the development itself.

- The landscape treatment of the new access road to the Wheel should be carefully considered. Within the woodland, the preference would be for broad verges with new native planting, to avoid a narrow cut woodland corridor without visual diversity.
- The retention of a woodland frontage to Tamfourhill Road is important to retain the character of this road, and to provide a functional and robust wildlife corridor running east-west through the site.
- The assumption is made in the submission that SUDs provision will be through underground tanks, rather than surface features. Until this is confirmed, however, a contingency for surface features may have to be retained, and it would be useful to see how these could be integrated into the landscape design.
- The development provides extensive opportunities for public art, which could link into British Waterways' wider strategy for public art along the lowland canals and should be captured in a public art strategy for the site. Apart from on-site potential, the possibility of a floodlighting scheme for the lock flight adjacent to the east of Lock 16 could be reconsidered.

#### 7b.9 **Ecology**

There is some concern at the lack of consideration given to the connectivity of habitats within the site and connecting into the wider environment, particularly bearing in mind that this issue and the Falkirk Integrated Habitat Network/Central Scotland Green Network were highlighted in the EIA scoping opinion. In this regard, the inclusion of an east-west woodlands/grassland corridor along Tamfourhill Road is recommended.

7b.10 The impact assessment has not adequately considered the impact of loss of areas of semi-natural broadleaved woodland and semi-improved neutral grassland, or possible mitigation of such impacts. This is expected to be addressed through further submission.

7b.11 The proposal to produce a habitat management plan for the site is supported. This should be produced at an early stage and identify the habitat to be retained and protected, enhanced and created, and the ongoing management of these areas. It is suggested that this should be broadened out slightly to be a Biodiversity Management Plan which can also include any one off or ongoing management measures that may be required for species (e.g. bats or barn owls).

7b.12 There is a great crested newt breeding pond within 900 metres of the site, to the south.

#### 7b.13 **Outdoor Access**

Legislation/procedures relating to Land Reform (Scotland) Act 2003 must be adhered to. At detailed design stage, it would be useful to see a detailed plan of public access across the site (existing, during construction and upon completion) for the approval of the Council as planning Authority showing:

- Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;

- All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc (including proposed specifications for these); and
- Any diversions of paths - temporary or permanent - proposed for the purposes of the development.

7b.14 There appear to be good connections within the proposed development. These should all be safe and overlooked, with direct path links suitable for cycle and pedestrian use between housing, community and leisure facilities, particularly linking with the canal and the marina/basin area.

7b.15 Improved off-site pedestrian linkages from Tamfourhill through the development to the canal should be considered. This may require new upgraded footpaths and crossing points to mitigate the severance caused by Tamfourhill Road. Key connecting routes linking the site with wider countryside should be suitable for cycle, pedestrian and horse use.

7b.16 All core paths within the site should be protected and enhanced.

7b.17 **Sustainable Design**

There is a lack of coverage of sustainable design issues in the submission. This is mentioned only very briefly in the Masterplan document. There is no consideration, for example, of the potential for on-site renewables. The EIA scoping opinion specifically highlighted energy use and waste management as omissions from the scoping report. A condition should be imposed requiring suitable documentation (e.g. sustainability framework or similar) to be prepared in early course.

7b.18 **Delivery**

As noted previously, the Masterplan lacks information on phasing and delivery. In particular, information is needed on how, when and by whom the various key elements of physical and social infrastructure (e.g. Wheel access, off-site road improvements, landscaping/open space, affordable housing, waterspace, woodland management, public art) and any developer contributions (e.g. education, community facilities, off-site open space upgrading) will be delivered, either linked with the development of particular phases and with thresholds of numbers of residential units. This will be built into the Section 75 Agreement/conditions.

7b.19 In terms of securing design quality and sustainability this generally needs to be taken forward through more detailed documentation, the content and timing of which needs to be specified appropriately. An inventory of such documentation needs to be prepared, but it is likely to include the design documents previously referred to, the sustainability framework, and biodiversity documents such as the Site Biodiversity Management Plan.

***Response to Representations***

7b.20 With regard to the availability of information, the applicant has carried out numerous public exhibitions relating to the proposals, as required through the Pre-Application Consultation process, accompanying the submission of a Proposal of Application Notice some 12 weeks prior to the formal submission of application. In addition, the information in support of the application has been available through the Falkirk Council website.

7b.21 While the application seeks the principle of development, it is unclear as to what perceived injury to amenity may occur to individual households adjoining the site. However, more detailed planning applications may, in the future, allow further consideration of these matters.

### ***Response to Consultations***

7b.22 The points raised by consultees have been noted and reflected in the proposed planning conditions and/or terms of the proposed Section 75 Agreement. However, many of the points raised may be evaluated on receipt of further planning applications relating to the detailed aspects of the development or matters subject to conditions.

### ***Supplementary Planning Guidelines***

7b.23 Supplementary Planning Guidelines are available on a number of topics, including:-

- Housing Layout and Design
- Biodiversity and Development
- Design Statements
- Sustainable Design and Construction
- Trees and Development
- Contaminated Land
- Shopfront Design
- Flooding and Sustainable urban Drainage Systems
- Public Art Strategy and Action Plan
- Education and New Housing Development

While the application seeks to accord with the guidelines proposed, more detailed appraisal of individual topics will occur on further submitted applications.

## **7c Conclusion**

7c.1 In terms of outlining the development strategy for the site, the current planning application sufficiently identifies the skeletal framework for development, including the identification of uses, density, access and open space provision, along with an emphasis on strong linkages throughout the site with adjoining land and established provision.

7c.2 The principle of development is strongly supported in terms of its regeneration benefits for the canal and surrounding area, as well as augmenting existing leisure/tourism attracted to the Falkirk Wheel.

7c.3 The proposal accords with the Structure Plan and adopted Falkirk Council Local Plan, although there are a number of aspects which need to be reviewed in detail - these matters are safeguarded through planning condition and/or S75 legal agreement.

## 8. RECOMMENDATION

8.1 It is recommended that Falkirk Council be minded to grant the application subject to planning conditions and the completion to the satisfaction of the Director of Development Services of an agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of those matters referred to in the report and summarised as follows:-

(a) A financial contribution to Education Services on a pro-rata basis of:-

Bantaskin Primary School	-	£2,150 per house
	-	£1,250 per flat
St Mungo's RC High School	-	£650 per house
	-	£450 per flat

A satisfactory scheme of phasing of payments shall reflect the proposed extension at Bantaskin Primary School being operational no later than after 35% of the residential development completed. The pro-rata contribution towards long term capacity risk at St Mungo's will not be required until the latter stages of development (75% of completion may be acceptable). It is envisaged that the phasing of payments be secured through a combination of units built and fixed timescales to allow a payment programme to be concluded. The financial contribution shall be index linked to the construction price indices from the date of the Planning Committee decision.

(b) A financial contribution of £1,097,282, index linked to the construction price indices from the date of the Planning Committee decision, will be required to address a proportion of works to the A803 road corridor and other junctions in the vicinity of the site. A satisfactory scheme of phased payments will be required to be concluded. In addition, revised survey implications for the A9 roadway between Rosebank and Merchiston roundabouts requires to be submitted and evaluated, where the precise nature of any works and hence costs has not yet been identified.

(c) A financial contribution towards public art or an alternative scheme of art installations by the applicant is required, the terms to be agreed in writing by the Planning Authority.

(d) A satisfactory scheme to provide 15% of the residential capacity of the site for sheltered/affordable housing shall be concluded.

(e) A satisfactory scheme in respect of measures to promote travel to the proposed development by modes of transport other than the private car, namely;

- (i) The preparation of a Travel Plan Framework to be annexed to the Section 75 Agreement; the focus being to identify the objectives, mechanisms and facilities to reduce the need for occupants to travel to/from the site by car.
- (f) A satisfactory scheme in respect of housing density, in-curtilage provision, architectural design, materials and open space/recreational space, all to be adhered to in the execution of development phasing and with due regard to Falkirk Council's Supplementary Planning Guidance.
- (g) A satisfactory habitat management plan and Biodiversity Management Plan.
- (h) A satisfactory Sustainability Framework Document.

8.2 And thereafter, on the conclusion of the foregoing matters, remit to the Director of Development Services to grant planning permission subject to the following conditions:-

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
  - (a) the siting, size, height, design & external appearance of the proposed development;
  - (b) details of the access arrangements;
  - (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
  - (a) the expiration of 5 years from the date of the grant of planning permission in principle; or
  - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
  - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 5 year period mentioned in sub-paragraph (a) above.

- (3) That the development to which this permission relates must be begun not later than whichever is the later of the following dates:
  - (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or



- (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (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 any dwellinghouse/commercial unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (5) As part of any application for approval of Matters Specified by Conditions, 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.
- (6) All road and footway construction shall be carried out in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
- (7) Provision shall be made for the parking of bicycles in appropriate racks to the satisfaction of the Planning Authority. Details, including number and location, shall be submitted to and approved by the Planning Authority prior to the commencement of works. Thereafter the facilities approved will be provided before the use of the premises commences.
- (8) As part of any application for approval of Matters Specified by Conditions, full details of protecting residential properties from traffic noise will be required and approved in writing by the Planning Authority.
- (9) As part of any application for approval of Matters Specified by Conditions, further details regarding air quality will be required and approved in writing by the Planning Authority. For the avoidance of doubt, an earlier development date of 2019 will require a re-run of the current modelling methodology.
- (10) As part of any application for approval of Matters Specified by Conditions, a Flood Risk Assessment will require to be submitted to and approved in writing by the Planning Authority.

- (11) As part of any application for approval of Matters Specified by Conditions, a full Drainage Assessment will require to be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, any discharges that will enter watercourses will be limited to 3.2 l/s/ha, due to the flood sensitive nature of the surrounding area.
- (12) For the avoidance of doubt, the road geometry and all visibility splays shall be in accordance with Falkirk Council guidelines, including the horizontal curves, and appropriate traffic management measures shall be installed along the access roads.
- (13) As part of any application for approval of Matters Specified by Conditions, a scheme detailing the proposals for flood management shall be submitted for the written approval of the Planning Authority, in consultation with SEPA and all work shall be carried out in accordance with the approved scheme. The flood management shall include engineering a structure (e.g a channel) to provide a formal overland flow path from the culvert on the unnamed watercourse to the Canal. The channel shall be of an appropriate size to accept significant overland flood flow and protected and maintained for the lifetime of the development for flood risk reasons.
- (14) As part of any application for approval of Matters Specified by Conditions, further information shall be submitted to and approved, in writing, by the Planning Authority that any houses closest to the canal and unnamed watercourse (i.e. to the north east of the culvert) are protected from the residual risk of flooding from overland flow. Alternatively, a scheme for an alternative use e.g. amenity space may be considered.
- (15) For the avoidance of doubt, buildings identified at risk from flood shall have finished ground floor levels raised to an appropriate level (between 500 to 600mm) above surrounding ground levels, water resistant and resilient materials to be used within the building, with electrical wiring and sockets raised above the minimum floor level. In addition, finished ground levels should be sloping away from the houses to ensure that surface water is shed away from the outside walls of vulnerable buildings.
- (16) As part of any application for approval of Matters Specified by Conditions, a comprehensive landscape strategy (including species, mix, phasing and maintenance/management arrangements) shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, the retention of existing trees shall be encouraged.
- (17) As part of any application for approval of Matters Specified by Conditions, updated ecological surveys may be required, the scope and extent to be agreed with the Planning Authority in Consultation with Scottish Natural Heritage. For the avoidance of doubt, the provision of bat roost and bird nest boxes across the site should form part of any appropriate habitat management plan.

- (18) As part of any application for approval of Matters Specified by Conditions, an archaeological scheme of investigation shall be submitted to and approved in writing by the Planning Authority examining the area centred on the remains of the Union Canal, with emphasis on the location of service pipes.
- (19) As part of any application for approval of Matters Specified by Conditions, further information shall be submitted to and approved in writing by the Planning Authority as to the use of sustainable construction and inclusion of micro-renewable energy provision within the development.
- (20) As part of any application for approval of Matters Specified by Conditions, a detailed plan of public access to the site (existing, during construction and upon completion) shall be submitted to and approved in writing by the Planning Authority.

**Reason(s):-**

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2-3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4) To ensure the ground is suitable for the proposed development.
- (5,7,19,20) To enable the Planning Authority to consider this/these aspect(s) in detail.
- (6,12) To safeguard the interests of the users of the highway.
- (8) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.
- (9,17) To safeguard the environmental amenity of the area.
- (10) To understand the flood risk to the site up to a 1 in 200 year event, with an allowance for climate change.
- (11) To ensure that adequate drainage is provided.
- (13) To provide the development with flood risk mitigation.
- (14,15) To ensure flood risk mitigation.
- (16) To ensure an integrated habitat network, green space and recreational framework.
- (18) To ensure that any archaeological remains are safeguarded.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01-07.
- (2) Listed Building Consent may be required for works.
- (3) Scheduled Ancient Monument Consent may be required for works.
- (4) Confirmation is requested as to who is responsible for the maintenance of the unnamed watercourse, culvert and overland flow channel during the lifetime of the proposed development. In particular, if the proposed development is flooded as a consequence of any blockage or failure of any structure.
- (5) The applicant should follow good practice in respect of the ecology present on site, with the adoption of appropriate mitigation measures for the site from pre-construction through to completion. This should include measures such as escape routes from trenches, capping pipes over-night and so on. Scottish Natural Heritage should be contacted for further advice.
- (6) Separate consent may be required from Scottish Water for certain aspects of this development.
- (7) The applicant should consult with Development Services Roads Unit to obtain Roads Construction Consent before any potentially adoptable road or addition to an existing road is constructed.
- (8) All drainage shall comply with the requirements of the Scottish Environment Protection Agency and Scottish Water and evidence of such compliance shall be exhibited to the Planning Authority on demand.
- (9) 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.
- (10) The applicant is advised to liaise with the Planning Authority during the preparation of the submission for approval of reserved matters.
- (11) The applicant is advised that the proposals must comply with legislation/procedures relating to Land Reform (Scotland) Act 2003.

**Pp**

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**Director of Development Services**

**Date:** 12 April 2011

### **LIST OF BACKGROUND PAPERS**

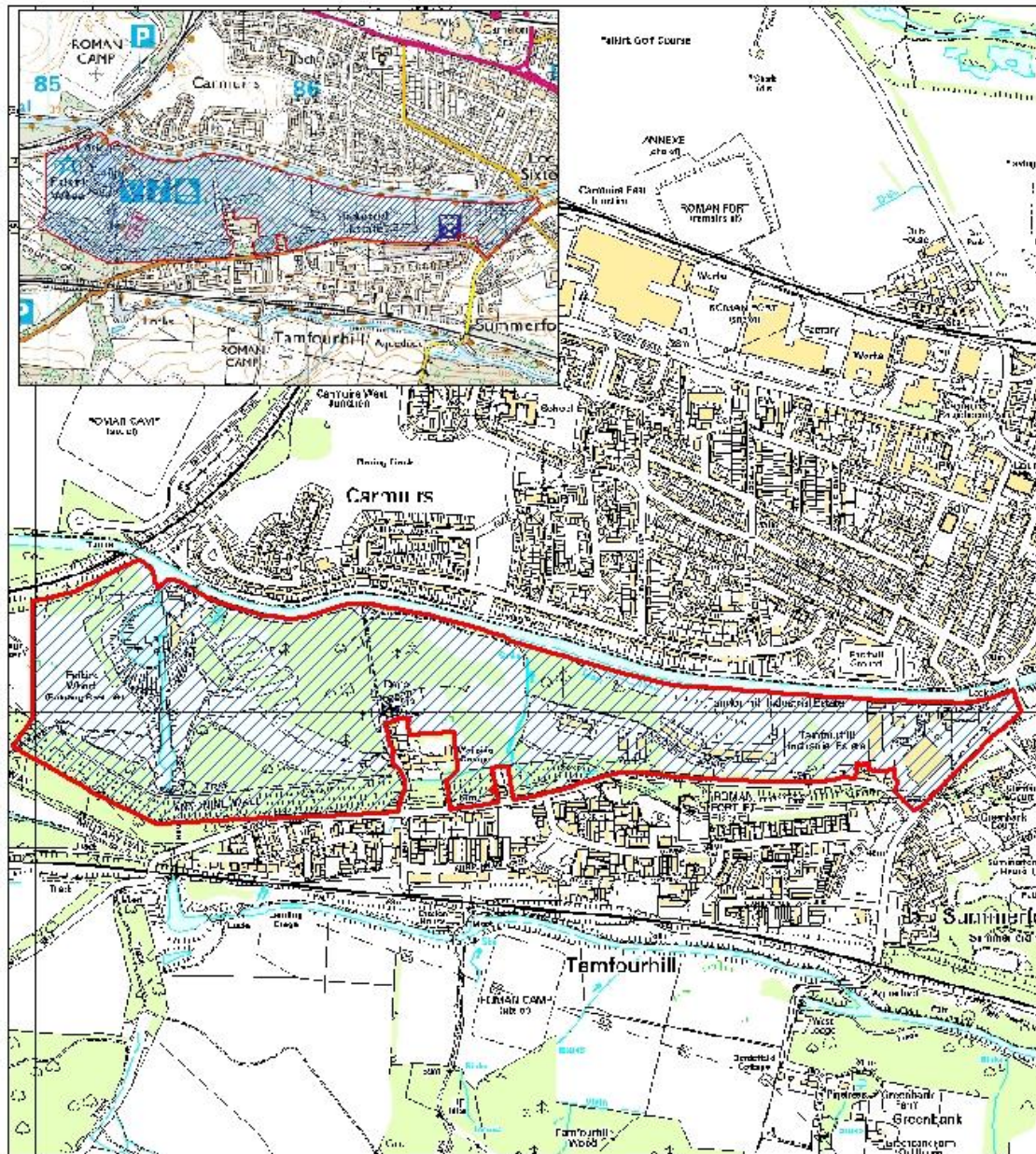
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Letter of Objection from Avril Clarke, Avrilclarke@blueyonder.co. on 5 August 2011.
4. Letter of Representation from Mrs Christine Oakley, The Lime Road Residents Association Lime Road Falkirk on 28 February 2011.

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/10/0512/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:** EXTENSION TO DWELLINGHOUSE (SECOND STOREY TO REAR) AT CAMPDEN, 47 MAIN STREET, BRIGHTONS, FALKIRK FK2 0JS FOR MR CHRIS MCPHEE - P/11/0019/FUL  
**Meeting:** PLANNING COMMITTEE  
**Date:** 20 April 2011  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

**Community Council:** Brightons

**Case Officer:** Kirsty Hope (Assistant Planning Officer), Ext. 4705

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This application seeks full planning permission for an extension above the existing single storey element of the existing dwellinghouse. This would be created by a large dormer over the existing property to create (flat roofed) accommodation on an upper level. Additionally, there is high level decking proposed at the rear of the extension leading onto the rear garden.
- 1.2 The property is a semi-detached, one and a half storey dwelling that is located within an existing residential area.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Malcolm Nicol.

**3. SITE HISTORY**

- 3.1 P/09/0787/FUL – detailed planning permission to extend the dwelling in a similar scale and design to this current application was refused permission on 22nd January 2010.
- 3.2 Pre-application advice was given to the agent with regard to possible options, but not all the recommended changes have been implemented.

#### 4. CONSULTATIONS

4.1 The Environmental Protection Unit has raised no objection to the proposal.

4.2 The Roads Development Unit has raised no objection to the proposal.

#### 5. COMMUNITY COUNCIL

5.1 The Brightons Community Council has not commented on the application.

#### 6. PUBLIC REPRESENTATION

6.1 During the consideration of the application, three letters were received from two contributors. Two letters from one contributor were in support of the application. The other letter highlighted comments, which can be summarised as follows:-

- No concern with extension, as long as hedge is not removed or damaged whilst work is being carried out.
- Privacy is maintained, unsure of height of the decking and the surrounding timber barrier.
- Unsure about light deprivation onto neighbouring property.
- When will access be required during construction works?

#### 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 SC9 - 'Extensions And Alterations To Residential Properties' states:

*"Extensions and alterations to residential properties will be permitted where:*

- (1) *the scale, design and materials are sympathetic to the existing building;*
- (2) *the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*



(3) *it will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, or the unacceptable loss of off-street parking.”*

7a.3 The proposed extension and, in particular, the two storey flat roof element of the development is considered to be unacceptable in terms of scale and character and its relationship with the existing dwelling house. It is considered that the proposed extension is unsympathetic to the scale and character of the existing property and therefore would have an adverse impact on the amenity and character of the area. It is considered that this extension would result in an overdevelopment of the existing dwelling. There are no concerns in relation to on-street parking and the rear garden ground would remain unaltered.

7a.4 Accordingly, the proposal is contrary to the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations relating to this application are the Falkirk Council Supplementary Guidance, consultation responses and the public representations.

### ***Falkirk Council Supplementary Guidance – House Extensions and Alterations***

7b.2 Paragraph 2.7 of the approved Supplementary Guidance states that generally, dormer extensions should appear mainly glazed, be vertically proportioned above existing openings, be no greater in proportion than 3 metres wide by 2 metres high and is positioned well within the roof plane. It is considered that the box dormer element over the existing outbuilding would be out of proportion to the original dwelling and would not comply with the guidance. The proposed over dominant design and scale of the extension is not considered to be sympathetic to the existing building and consequently would have an adverse effect on the amenity of the existing property and surrounding area.

7b.3 The proposed development therefore does not accord with the guidance as set out in the Supplementary Guidance.

### ***Consultation Responses***

7b.4 The Environmental Protection Unit has raised no objection to the proposal but has recommended that if planning permission is granted informatives be attached with regards to ground conditions and hours of construction work noise.

7b.5 The Roads Development Unit has advised that there is adequate off-street parking provision.

### ***Assessment of Public Representations***

7b.6 The existing hedge cannot be controlled by this planning application, any damage is a private legal matter.

7b.7 The lower level balcony is 1 metre in height, whilst the higher level is 2.4 metres high. The contributor has been advised accordingly.

7b.8 No details of the proposed screening have been provided.

7b.9 The immediate garden to the rear of the neighbouring property would have a degree of overshadowing at the later point in the day but given that the rear of the property is north facing, there will be a degree of overshadowing at present.

7b.10 Construction access is a civil matter.

**7c Conclusion**

7c.1 It is considered that the proposal is an unacceptable form of development and is contrary to the terms of the Falkirk Council Local Plan and the Supplementary Planning Guidance Note on House Extensions and Alterations. There are no other material planning considerations that would warrant an approval of planning permission in these circumstances.

**8. RECOMMENDATION**

**8.1 It is therefore recommended that planning permission be refused for the following reason(s):-**

- (1) The proposal by reason of its scale and design would not be sympathetic to the existing building and consequently would have an adverse effect on the amenity of the property and the residential area. As a result the proposed extension is contrary to the Falkirk Council Local Plan Policy SC9 and Falkirk Council's Supplementary Planning Guidance, related to 'House Extensions and Alterations'.**

**Informative(s):-**

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

.....  
**pp Director of Development Services**

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

- 1. Falkirk Council Structure Plan.

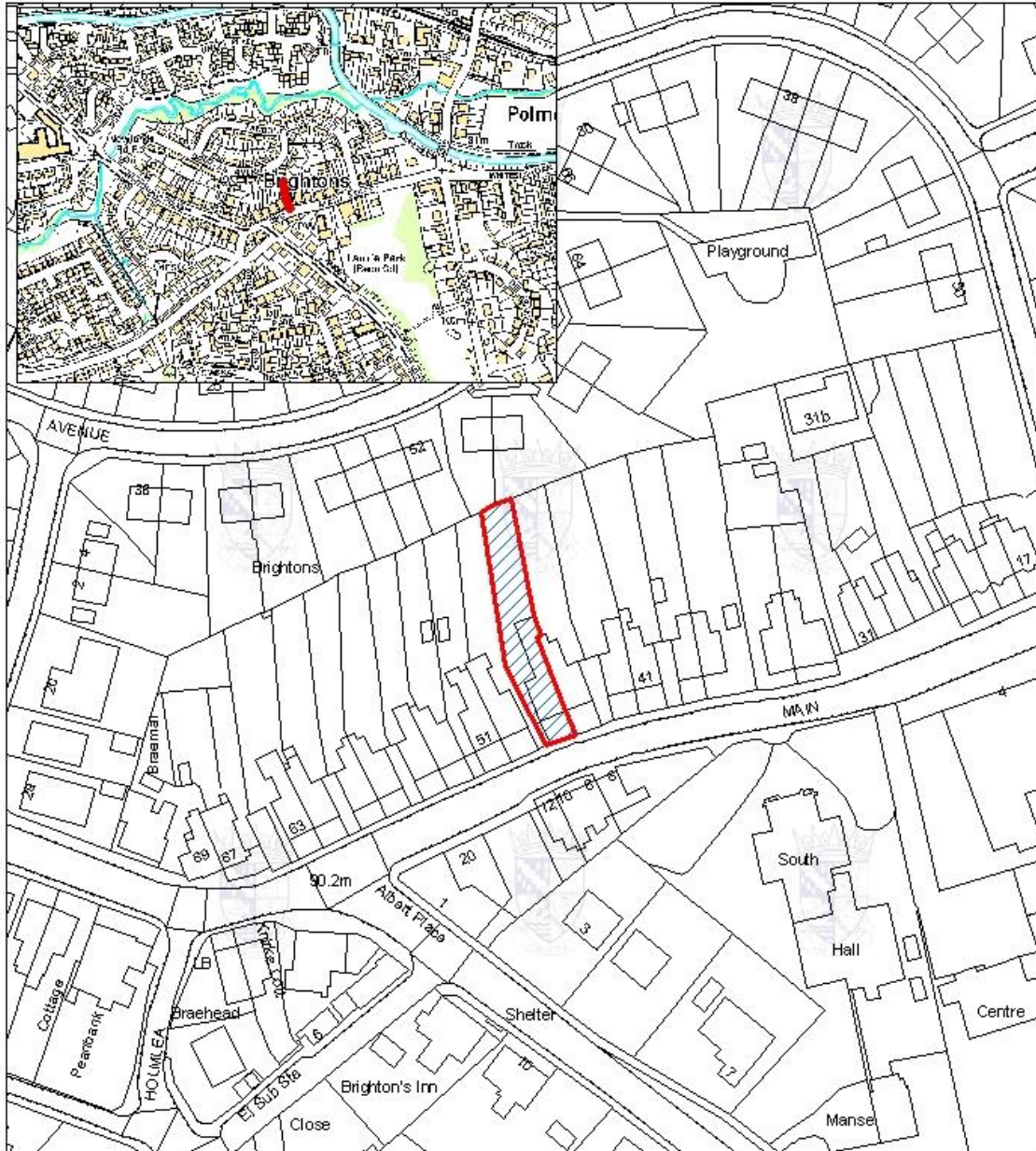
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Guidance Note on House Extension and Alterations.
4. Letter of representation from Mrs Kareen Ainslie, 45 Main Street, Brightons, Falkirk FK2 0JS on 28 January 2011
5. Letter of representation from Iain McColl, Moranside, 49 Main Street, Brightons, Falkirk on 8 February 2011
6. Letter of representation from Mrs Karen Ainslie, 45 Main Street, Brightons, Falkirk FK2 0JS on 8 February 2011.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

# Planning Committee

## Planning Application Location Plan P/11/0019/FUL

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**FALKIRK COUNCIL**

**Subject:** RESTORATION AND REFURBISHMENT OF LATHALLAN HOUSE TO FORM 9 FLATTED DWELLINGS, DEMOLITION OF LAUNDRY OUTBUILDING, RESTORATION & REFURBISHMENT OF STABLES TO FORM 3 DWELLINGHOUSES, ERECTION OF 36 DWELLINGHOUSES AND ASSOCIATED WORKS AT LATHALLAN HOUSE, FALKIRK FK2 0YG FOR ROWANHILL DEVELOPMENT LTD - P/09/0370/FUL

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

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

**Community Council:** Polmont

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This major application seeks detailed planning permission for the erection of 36 new dwellinghouses within the policies of Lathallan House and the restoration of the house and associated stables to create 12 residential units (total 48 new residential units). Lathallan House, the former stables and the remains of a walled garden, are all 'B' Listed. The House and stables lie derelict whilst the walled garden is in need of significant repair.
- 1.2 A new vehicle access to the site is proposed from the A803.
- 1.3 The proposal is to restore Lathallan House and associated stables and this is the subject of an application for Listed Building Consent (P/09/0369/LBC). The remaining elements of the proposed development pertain to new build housing. This is proposed to the immediate south of Lathallan House, in the form of terraced "mews houses", to the east, in the form of detached dwellinghouses in and around the remains of the "B" Listed walled garden and to the south east in the form of detached dwellinghouses in open agricultural land. A new 'gatehouse' is proposed at the site entrance from the A803.
- 1.4 The application site extends to approximately 12 hectares (30 acres). Ground levels fall from the A803 site access before rising to a level area on which Lathallan House is situated. From Lathallan House to both the walled garden area (to the east) and proposed townhouses (to the south) ground levels decline steadily before rising steeply further south and east.

- 1.5 The ground to which the application relates consists predominantly of fallow agricultural land with significant areas of mature woodland and wetland habitats. Evidence of European Protected Species (EPS) of Great Crested Newts and bats have been recorded. Sightings of important wildlife such as owl, badger and deer have also been noted. The remaining site area is occupied by the grounds of Lathallan House, associated stables and outbuildings and the walled garden.
- 1.6 There are a number of informal footpaths through the site and the wider area. Footpath/cycle links to Polmont to the west and tying into existing paths to the east are proposed in the development.
- 1.7 In addition to architectural drawings, roads and drainage details, the information submitted in support of the application includes the following:
- Financial Development Appraisal
  - Supporting Planning Statement
  - Ecological Impact Assessment
  - Architectural Design Statement
  - Tree Survey
  - Landscape Analysis and Masterplan
  - Topographic Survey
  - Drainage Impact Assessment
  - Road Safety Audit

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application is contrary to the Development Plan (but not significantly so).

## **3. SITE HISTORY**

- 3.1 There have been no planning applications submitted for the site. Pre-application submissions have however, been made by the applicant going back for a period of three years prior to the formal submission of the planning application currently under assessment.

#### **4. CONSULTATIONS**

- 4.1 Scottish Natural Heritage (SNH) has confirmed that the information submitted by the applicant in relation to Great Crested Newts European Protected Species etc is considered to be acceptable. Additional information is required in relation to bat mitigation but this can be addressed through the required European Protected Species (Bats) Licence made directly to SNH.
- 4.2 Historic Scotland fully supports an appropriate scheme to refurbish Lathallan House. Guidance has been provided on the proposed alterations to Lathallan House itself. The information submitted by the applicant with regard to specification of works was considered to be lacking in detail. Additional information has now been provided to allow a detailed assessment of the refurbished element of the proposed development to the satisfaction of Historic Scotland.
- 4.3 Historic Scotland objects, however, to the continued proposal to develop the listed walled garden in a manner to which Historic Scotland previously advised against. The proposed alterations are considered by Historic Scotland to be unacceptable on the basis of a significant reduction in the historic merit of the walled garden. Historic Scotland has also advised of the requirement for providing an assessment of proposed walled garden development in the context of the Scottish Historic Environment Policy (SHEP) 2010. This assessment has not been provided by the applicant.
- 4.4 The Scottish Environment Protection Agency (SEPA) has no objections to the proposal. Guidance has been provided to the applicant in relation to foul drainage, surface water drainage, pollution prevention, waste management, sustainability, biodiversity and nature conservation.
- 4.5 Scottish Water has no objections to the proposed development. The applicant has been advised of capacity availability and potential required infrastructure improvements to allow the connection to this capacity.
- 4.6 Falkirk Council Education Services has confirmed that development impacts on school capacity at Whitecross Primary School and St Mungo's RC High School will require a mitigatory financial contribution – see para 7b.19.
- 4.7 The Roads Development Unit of Falkirk Council has assessed a Stage 1 Road Safety Audit in consideration of the proposed site access in relation to the proximity of the existing Lathallan interchange. Amendments to the submitted plans are required to address the comments of the Roads Development Unit and ensure implementation on site. The applicant's drainage impact assessment has been assessed and is considered to require additional information with regard to design and specification.
- 4.8 The Environmental Protection Unit of Falkirk Council has requested the submission of a contaminated land assessment on the basis of potential ground contamination resulting from historical uses in proximity to this site. This assessment can be required by planning condition.

#### **5. COMMUNITY COUNCIL**

5.1 The Polmont Community Council has not commented on the proposed development.

## **6. PUBLIC REPRESENTATION**

6.1 Two objections have been received as a result of neighbour notification and press advertisement.

6.2 One objection has been received from a resident of Erskine Hill, Polmont. The grounds of objection are made with regard to contradiction to Development Plan policy, the merits of restoration of Lathallan House, an unacceptable relationship of new development to Lathallan House, inappropriate architectural design, landscape impact, impact on protected species and a questionable requirement for enabling development.

6.3 One objection has been received from a resident of Linlithgow. The grounds of objection relate to more appropriate uses for Lathallan House such as a hotel and adverse impact on the landscape resulting from unnecessary housing that cannot be supported in the existing education network.

## **7. DETAILED APPRAISAL**

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

Accordingly,

### **7a The Development Plan**

#### ***Falkirk Council Structure Plan***

7a.1 The following policies of the Structure Plan apply.

7a.2 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.3 The proposed development includes enabling development to facilitate the restoration of the derelict Lathallan House and stables and associated walled garden, all Listed structures.

7a.4 Policy COM.7 ‘School Provision’ states:

*“New housing development will not be permitted unless adequate school capacity is available or will be made available.”*

7a.5 Education Services has confirmed that the needs of the proposed development for education provision can be met provided that the applicant makes a financial contribution towards the development's impacts on that capacity – see para 7b.19.

7a.6 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.7 The proposed redevelopment of Lathallan House and stables itself requires a rural location by virtue of the site location. The site is identified in the Falkirk Council Local Plan as an opportunity (EN.POL04) for re-use for a number of potential uses including residential. The proposed enabling development of proposed new residential units within the grounds of the House, would be contrary to the terms of Policy ENV.1 unless it could be demonstrated that the enabling development was the minimum necessary to secure the restoration of Lathallan House.

7a.8 Policy ENV.2 ‘Green Belt’ states:

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

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

7a.9 The application site lies within the Green Belt with considerations of landscape setting, landscape enhancement and countryside recreation of particular relevance. The proposed development is considered to be contrary to Policy ENV.2 with regard to the promotion of new residential development in the Green Belt. The applicant has, however, presented the

argument that the proposed residential development is enabling development required to restore Lathallan House, which occupies the site. This is assessed later in this report in relation to relevant material planning considerations.

7a.10 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.11 SNH has previously objected to the proposal on the grounds that insufficient provision has been made for the mitigation of development impacts on European Protected Species of Great Crested Newts and bats and other wildlife species of owl, badger and deer. The applicant has, however, submitted further information and, aside from the need for further information on the mitigation of potential impacts on bats, has satisfied the initial concerns of SNH. SNH has withdrawn its objection and confirmed that additional details can be provided and assessed in the required European Protected Species Licence made to SNH. It is considered that the proposal complies with Policy ENV.3.

7a.12 Policy ENV.5 'Built Environment and Heritage' states:

*"Important Archaeological Sites, Scheduled Ancient Monuments, Listed Buildings, Conservation*

*Areas, sites included in the Inventory of Historic Gardens and Designed Landscapes and trees will be protected and enhanced. Local Plans will identify these assets and incorporate policies appropriate to the significance of the area or individual feature, including the following range of measures:*

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

7a.13 Lathallan House is identified in the Falkirk Council Local Plan as an asset with the potential for re-development. This is detailed in paragraphs 7a.32 and 7a.33 of this report.

7a.14 Falkirk Council Community Services (Archaeology) has welcomed the restoration of Lathallan House, stables and associated buildings. A planning condition requiring archaeological survey on a small part of the site will be required.

7a.15 Objections have been received from and concern expressed by Historic Scotland. The grounds of objection relate to an unacceptable impact in both physical and historical perspective on the structure of the Listed walled garden and its relationship with Lathallan House. The impact of new development on the setting of Lathallan House and associated structures is also questioned.

7a.16 The principle of the restoration of Lathallan House itself could be supported by Policy ENV.5. The proposal does not, however, comply fully with Policy ENV.5.

7a.17 Policy ENV.7 ‘Quality of Development’ states:

*“(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been addressed and how quality objectives will be achieved.*

*(2) Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements.”*

7a.18 The proposal is accompanied by a design statement and landscape appraisal. The proposed development integrates well with the existing landscape and involves minimal loss of trees with acceptable supplementary planting. The proposal is considered to comply with Policy ENV.7.

### ***Falkirk Council Local Plan***

7a.19 The following policies of the Falkirk Council Local Plan apply:

7a.20 Policy SC13 ‘Open Space and Play Provision in New Development’ states:

*“New development will be required to contribute to open space and play provision. Provision should be informed by the Council’s open space audit and strategy and the SPG Note on ‘Open Space and New Development’, once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:*

- (1) Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*
- (2) Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where*
  - existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
  - in residential developments, the size of the development falls below the threshold of 10 houses indicated in Table 4.2, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
  - as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*
  - The required financial contribution per house will be set out in the SPG Note on ‘Open Space and New Development’.*
- (3) The location and design of open space should be such that it:*
  - forms an integral part of the development layout, contributing to its character and identity;*
  - is accessible and otherwise fit for its designated purpose;*
  - links into the wider network of open space and pedestrian/ cycle routes in the area;*
  - sensitively incorporates existing biodiversity and natural features within the site;”*
  - promotes biodiversity through appropriate landscape design and maintenance regimes; and*
  - enjoys good natural surveillance;*
- (4) Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it.”*

7a.21 The proposed development is a low density development in the setting of historic lowland and open space. The standards relative to access to quality open space are easily met. Formal play provision is not proposed and, given the historic character of the site, not considered appropriate.

7a.22 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 is set out in the SPG Note ‘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.23 The proposed development would require contributions towards capacity improvements at Whitecross Primary School and St Mungo’s RC High School – see para 7b.19.

7a.24 Policy EQ4 - 'Landscape Design' states:

*“Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:*

- (1) Be informed by the surrounding landscape;*
- (2) Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*
- (5) Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7a.25 The application incorporates a detailed landscape analysis and masterplan. The proposed landscaping is acceptable and complies with Policy EQ4.

7a.26 Policy EQ1 'Sustainable Design Principles' states:

*“New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:*

- (1) Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site's surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*
- (4) Resource Use. Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;*
- (5) Infrastructure. Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and*
- (6) Maintenance. Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.”*

7a.27 The proposed restoration and enhancement of Lathallan House complies with the aims of Policy EQ1. Additional ancillary development is considered to be of a high design standard and is necessary to ensure the retention and restoration of Lathallan House.

7a.28 Policy EQ14 'Listed Buildings' states:

*“The Council will seek to preserve the character and appearance of listed buildings. Accordingly:*

- (1) Development affecting a listed building, or its setting, shall preserve the building or its setting, or any features of special architectural or historic interest which it possesses. The layout, design, materials, scale, siting and use of any development shall be appropriate to the character and appearance of the listed building and its setting.*
- (2) Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping it. This will be demonstrated by inclusion of evidence to the Council that the building:*
  - has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a purchaser; and*
  - is incapable of physical repair and re-use through the submission and verification of a thorough structural condition report; and*
- (3) RCAHMS shall be formally notified of all proposals to demolish listed buildings to enable features to be recorded.”*

7a.29 The proposed restoration of Lathallan House and stables is welcomed and Historic Scotland has not objected to these elements of the proposed development. Historic Scotland has, however, objected to the proposed erection of detached dwellinghouses within and around the ‘B’ Listed walled garden. The objection is on the basis of an unacceptable impact on the architectural and historic importance of the wall and its relationship, physical and historical, with Lathallan House. However, in the context of an opportunity to restore the main building, the proposals for the walled garden are not sufficiently detrimental to warrant a recommendation for refusal. This element of the proposal does not therefore fully comply with Policy EQ14.

7a.30 Policy EQ15 - ‘Re-Use of Buildings’ states:

*“The Council will generally support the re-use or conversion of existing vacant buildings of architectural and townscape merit, provided that the building is structurally sound and capable of beneficial conversion, and an acceptable internal layout and level of amenity can be provided.”*

7a.31 The re-use of Lathallan House is supported and this element of the proposed development complies with Policy EQ15.

7a.32 In addition to the consideration of Policy EQ15, Lathallan House is identified by Opportunity EN.POL04 - ‘Lathallan House, Polmont’ for re-use/conversion of ‘House and Associated Buildings’.

7a.33 EN.POL04 Lathallan House, Polmont states:  
Opportunity: Re-use/Conversion of House and Associated Buildings  
Agency: Private  
Comments: The opportunity exists to pursue options for the re-use or conversion of Lathallan House which is a Category B listed building. It lies in relatively close proximity to the Union Canal and enjoys good access thanks to its proximity to junction 4 of the M9 and the A801. Potential exists for a range of uses including conversion to flats, hotel, etc., subject to compliance with other Local Plan policies. Access to be from A803 only, not Nicolton Road. An

application/listed building consent for the restoration of the house, associated buildings and additional development was submitted in May 2009.

7a.34 Policy EQ22 'Landscape and Visual Assessment' states:

*"Development proposals which are likely to have a significant landscape impact must be accompanied by a comprehensive landscape and visual assessment as part of the Design Statement, which demonstrates that the setting is capable of absorbing the development, in conjunction with suitable landscape mitigation measures, and that best environmental fit has been achieved, in terms of the landscape character of the area."*

7a.35 The applicant has submitted a detailed landscape appraisal. This assessment of the landscape setting and the proposed development's impacts upon it have acceptably demonstrated that the site is capable of absorbing the development. The proposal therefore complies with Policy EQ22.

7a.36 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.37 The proposed development requires a countryside location by virtue of the location of Lathallan House. The proposed development is not infill development but would, in part, utilise existing buildings. New residential development is unobtrusively sited and respects the landscape setting of the area. Boundary and curtilage treatments are sympathetic to a rural area. Building design is considered to be of good quality. Accordingly, it is considered that the proposal does comply with policy EQ19.

7a.39 Policy SC3 - 'Housing Development In The Countryside' states:

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

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

7a.40 The proposed housing development is not essential to the pursuance of accepted countryside uses. The proposal, in part, includes the restoration of Lathallan House and stables. New housing development seeks to relate to the siting of Lathallan House and exploit the Listed walled garden and landscape setting opportunities in order to limit visual impact. In this respect, the proposed development is considered to accord with the aims of Policy SC3.

7a.41 Policy EQ20 - ‘Green Belt’ states:

*“There will be a strong presumption against development in the Green Belt except where it can be demonstrated that:*

- (1) *The proposal satisfies Policy EQ19 and any relevant countryside policies as set out in Table 3.3;*
- (2) *The proposal will not undermine the role of the Green Belt by*
  - *detracting from its existing landscape character;*
  - *reducing the visual separation between settlements; or*
  - *compromising its existing or potential future use for countryside recreation.*

*Where proposals satisfy these criteria, developer contributions to landscape improvement, access and countryside recreation will be sought in accordance with Policy EQ21.”*

7a.42 Policy EQ20 presumes against new development in the green belt unless for justifiable uses of farming, forestry or tourism. The proposed development is not for these uses but requires this



location due to the presence of Lathallan House on the site. The renovation of Lathallan House and stables for residential use has been shown to comply with Policy EQ15 ‘Re-use of Buildings’ and Opportunity EN.POL04. The additional new residential development in the grounds of Lathallan House does not detract from the existing landscape character of the area; reduce the visual separation between settlements; or compromise its existing or potential future use for countryside recreation. Accordingly, the proposal is not considered to compromise the aims and objectives of the Green Belt. As stated above in para 7a.37, the proposal complies with Policy EQ19. Cycling access will be improved – see 7a.48.

**7a.43** 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 effect 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.*
- (6) The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.”*

7a.44 The proposed development has demonstrated, through detailed assessment of wildlife survey and mitigation studies, that potential impacts on European Protected Species of Great Crested Newts and Bats and other important species of badger and deer are unlikely to occur. Where potential impact has been identified appropriate mitigation is considered to have been demonstrated.

7a.45 Policy EQ26 - ‘Trees, Woodland And Hedgerows’ states:

*“The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.”*

7a.46 The proposed development has demonstrated, through landscape assessment and tree conservation measures, that the ecological, landscape and recreational importance of trees, woodland and hedgerows has been recognised and will be respected.

7a.47 Policy EQ29 ‘Outdoor Access’ states:

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

7a.48 The proposed development provides informal countryside access within the site and to the A803 to the north. Opportunity exists, however, for access to the west where a pedestrian/cycle link could be provided under the A801 to the identified opportunity for

office/industrial/distribution development at Gilston, Polmont (ED.POL01 of the Falkirk Local Plan). A planning condition requiring the provision of a footpath/cycle link to Gilston is therefore proposed.

7a.49 Accordingly, the proposed development does not fully accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the site history, the principle of enabling development required to fund the restoration of Lathallan House, National Planning Guidance, Falkirk Council's Economic Downturn: Action Plan and the views expressed by consultees and in objections.

### ***Site History***

7b.2 The principle of the renovation of Lathallan House and ancillary development including enabling development has been discussed, at the initiation of the current applicant, for a period in excess of three years. The principle of sensitive renovation of Lathallan House, with carefully considered and financially justified enabling development has been informally accepted.

7b.3 The proposed development constraints of European Protected Species existence and the importance for mitigation of any development impacts have long been established. In addition the stringent requirements of the redevelopment of Lathallan House and ancillary structures, as important "B" Listed Buildings has also been stressed.

### ***Enabling Development***

7b.4 The applicant has submitted a detailed financial appraisal of the land purchase costs, development costs and profit levels anticipated. This appraisal has been the subject of review by Falkirk Council development surveyors and construction professionals and by an external planning and surveying consultancy.

7b.5 The applicant has submitted a financial summary of costs that provides quantified expenditure on land acquisition, emergency works, construction costs, infrastructure costs, preliminaries and contingencies. In addition, quantified costs on professional fees, finance, sales costs, company formation costs, profits and VAT have been provided.

7b.6 The conclusion of the submitted financial summary is that the enabling development proposed is the minimum required to secure the renovation of Lathallan House.

7b.7 Peer review of the applicant's financial appraisal has indicated that the proposed enabling development to restore Lathallan House etc would not be excessive.

### ***National Planning Guidance***

7b.8 Scottish Planning Policy (SPP) establishes national planning policy in relation to housing land use. In the context of the proposed development, Scottish Planning Policy seeks to create quality residential environments, guide new housing to the right places and deliver housing land in the context of historic buildings, landscapes and natural heritage.

- 7b.9 It is considered that the renovation of Lathallan House and stables and provision of high quality housing of mixed type, to include terraced and detached units, is consistent with the aims and objectives of Scottish Planning Policy.
- 7b.10 Scottish Planning Policy advises of the need for a sensitive response to increasing demand for development in the countryside. The aims behind Scottish Planning Policy are that Scotland has a prosperous rural economy with a stable or increasing population and that the housing needs of that population need to be accommodated.
- 7b.11 Scottish Planning Policy establishes Scottish Government policy in relation to development affecting Listed Buildings and their settings with a view to protection, conservation and enhancement of the historic environment.
- 7b.12 The policy expressions in Scottish Planning Policy that are relevant to the proposed development relate to the renovation of Lathallan House, stables and walled garden as 'B' Listed Buildings and the potential impact on the setting of these buildings of new enabling development.
- 7b.13 The proposals to renovate Lathallan House and stables are welcomed both in policy terms and by Historic Scotland as statutory consultee. The agreed renovation works would ensure the restoration of these buildings and the re-introduction of residential use would ensure their long term care and protection. This position is consistent with the aims and policy expressions of Scottish Planning Policy.
- 7b.14 The impacts of the development on Lathallan House walled garden and the opposition to the current proposals by Historic Scotland have been outlined in this report, above. The objection by Historic Scotland with respect to the impacts of the proposed development on the Listed Walled Garden are acknowledged.
- 7b.15 Historic Scotland's Scottish Historic Environment Policy (SHEP) provides guidance on the statutory responsibility for the protection and enhancement of Listed Buildings and their setting.
- 7b.16 The proposed renovation of Lathallan House and stables is consistent with the requirements of SHEP. The renovation and long term survival of these buildings is considered to accord with the aims of SHEP and no objections to these proposed developments are held by Historic Scotland. It should be noted that there is an associated Listed Building Consent application (P/09/0369/LBC).
- 7b.17 Historic Scotland has, however, expressed concerns with regard to the impact of new development on the setting of Lathallan House and has objected to the proposed impacts on the walled garden. In this respect these elements of the development are considered to be contrary to Historic Scotland's SHEP guidance.

### ***Falkirk Council's Economic Downturn: Action Plan***

- 7b.18 This policy emphasises the need for flexibility in the current economic climate.

### ***Consultation Responses***

- 7b.19 The requirements of consultation responses from within Falkirk Council in relation to Education, Environmental Protection, Community Services (Archaeology), Transport Planning and Roads Development can be achieved either by developer contribution or appropriately worded planning conditions, except for a few remaining roads/drainage issues which would have to be resolved following any minded to grant decision by the Committee prior to referral to Ministers. Education Services consider that developer contributions would be necessary for Whitecross Primary School and St Mungo's RC High School. The contributions would be £2,150 per house and £1,250 per flat for Whitecross PS, with the equivalent figures being £650 and £450 for St Mungo's RCHS; totalling £121,700.
- 7b.20 The requirements of SNH in relation to protection of wildlife have been addressed in the information submitted by the applicant to date. SNH has, however, requested further information in relation to the mitigation of potential impacts on bats. This information can be acceptably achieved by means of planning condition.
- 7b.21 SEPA and Scottish Water have expressed no objections to the proposed development.
- 7b.22 Historic Scotland welcomes the restoration of Lathallan House and stables but has expressed objection to the development impacts on the listed walled garden and expressed concern in relation to development impacts on the setting of Lathallan House and associated buildings. The concerns of Historic Scotland have been relayed to the applicant and revisions, most notably to the new development in and around the walled garden, have been requested. The applicant has not agreed to suggested revision to the proposed development. The concerns of Historic Scotland have therefore not been addressed.
- 7b.23 It is accepted that there would be an impact on the setting of Lathallan House, stables and ancillary buildings with any new development. On balance, the proposed new development is acceptable on the grounds that it would secure the restoration and future of Lathallan House. With regard to the financial appraisal that has been submitted by the applicant and reviewed, it is questionable whether this could be achieved if the proposed new development does not proceed.

### ***Representations***

- 7b.24 Objections on the grounds of contradiction to Development Plan policy and architectural design have, in part, been substantiated during detailed assessment of the development proposal.
- 7b.25 Objections on the grounds of adverse impact on the landscape setting of Lathallan House, potential impacts on wildlife and the need for enabling development have not been substantiated. The suitability of Lathallan House for alternative uses other than residential is noted. The consideration of the current application does not, however, include such a use.

### **7c Conclusion**

- 7c.1 The proposed development represents a significant opportunity to secure the sensitive restoration of Lathallan House, stables and associated buildings. The proposal has been assessed against the terms of the Development Plan, and National Planning Policy. The conclusion of this assessment is that the proposal is, in part, contrary to the Development Plan. Also, the concerns raised by Historic Scotland should not be dismissed lightly. There is a relevant concern regarding the impact of the new development on the setting of the Listed

Building and, in particular, the listed walled garden. Members should also note that, in the current economic climate, the proposed enabling development may not be sufficient to make this project economically viable.

7c.2 However, a balanced and pragmatic approach is considered to be appropriate. The design quality of the proposed new build is considered to be high. There is no other opportunity proposed to secure the restoration of Lathallan House, stables and associated buildings and, therefore, the risk of further deterioration and the possible loss of the Listed Building is real.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee indicates that it is minded to grant planning permission subject to resolution of outstanding roads and drainage issues to the satisfaction of the Director of Development Services and, thereafter, referral to Scottish Ministers in view of the objection of Historic Scotland.**

**8.2 On conclusion of referral of the application to Scottish Ministers, referred to in section 8.1 above, Members remit to the Director of Development Services to grant planning permission subject to:**

**(a) The satisfactory completion of an obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 relating to:**

- (1) Financial contribution of £121,700 towards educational contributions;**
- (2) The provision of necessary off site road works identified in the approved stage 1 Road Safety Audit, and to close off the existing access to A803, following the opening of the new access;**
- (3) The provision of a footpath/cycle link to the A801 underpass to the west of the site;**
- (4) A restriction of new build dwellinghouses to a maximum of 36;**
- (5) The phasing of the development to ensure the satisfactory restoration of Lathallan House and stables prior to the commencement of work on any new build dwellinghouse. The phasing of new build dwellinghouses thereafter shall be agreed;**

**(b) and thereafter, on conclusion of the Section 75, to remit to the Director of Development Services to grant planning permission subject to appropriate planning conditions including these relating to roads, drainage, archaeological investigations, wildlife protection, ground contamination, external materials and samples as required, construction methodology, phasing of development, landscaping and boundary treatments.**

.....

**pp Director of Development Services**

**Date:** 12 April 2011

### **LIST OF BACKGROUND PAPERS**

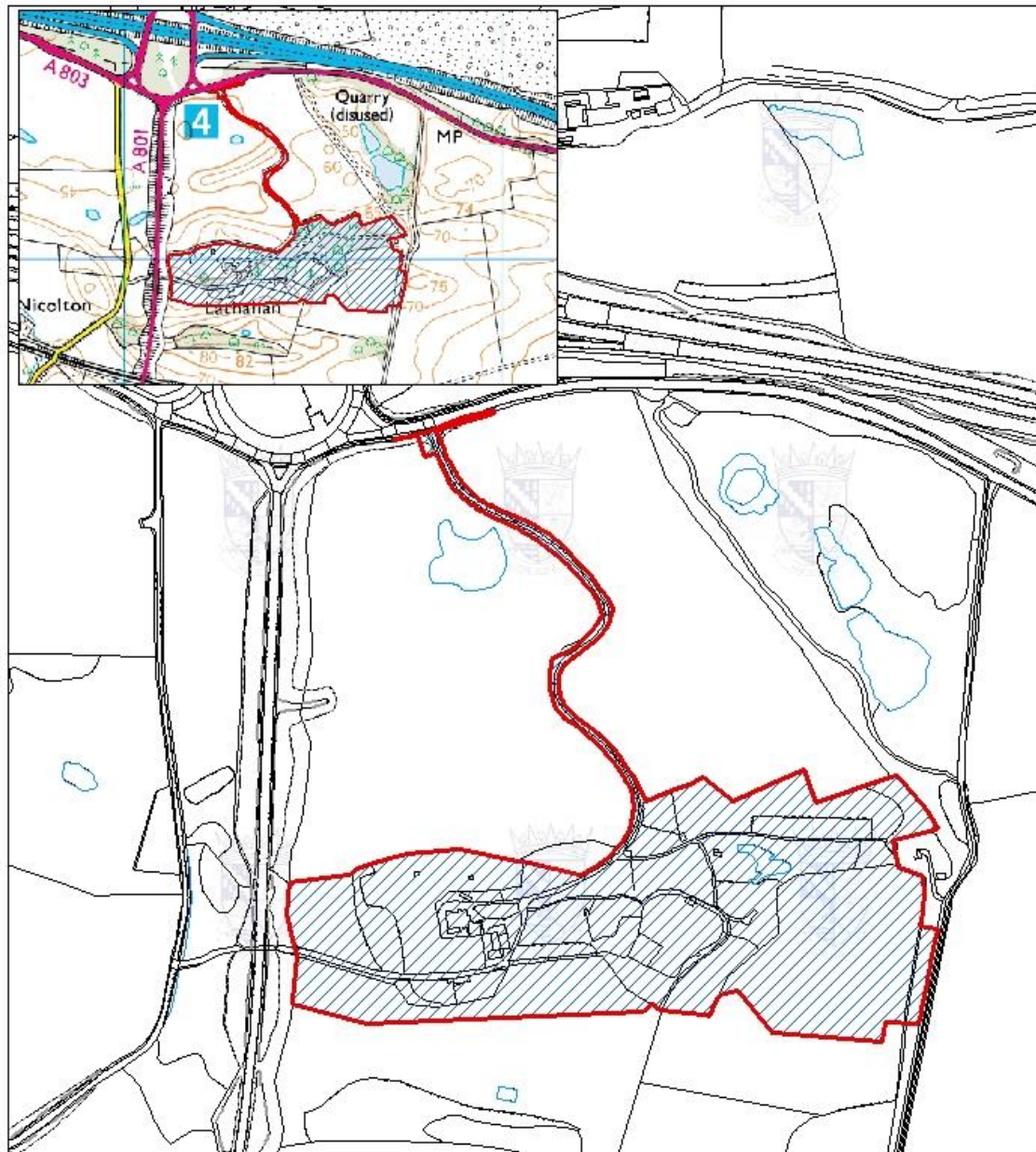
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance.
4. Falkirk Council Economic Downturn: Action Plan
5. Scottish Planning Policy (SPP).
6. Historic Scotland's Historic Environment Policy (SHEP).
7. Letter of Objection received from Miss Ashley Thompson Beechmount, Kingscavil, Linlithgow EH49 6NA on 23 September 2009.
8. Letter of Objection received from Sandy Simpson, 44 Erskine Hill, Polmont, Falkirk FK2 0UQ on 4 August 2009.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504951 and ask for John Angell.

# Planning Committee

## Planning Application Location Plan P/09/0370/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:** RESTORATION AND REFURBISHMENT OF LATHALLAN HOUSE TO FORM 9 FLATTED DWELLINGS, DEMOLITION OF LAUNDRY OUTBUILDING, RESTORATION & REFURBISHMENT OF STABLES TO FORM 3 DWELLINGHOUSES, ERECTION OF 36 DWELLINGHOUSES AND ASSOCIATED WORKS AT LATHALLAN HOUSE, FALKIRK, FK2 0YG, FOR ROWANHILL DEVELOPMENT LTD – P/09/0369/LBC

**Meeting:** PLANNING COMMITTEE

**Date:** 20 April 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

**Community Council:** Polmont

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This Listed Building Consent application seeks Listed Building Consent for the restoration of Lathallan House and associated stables to create 12 residential units. In addition, the proposals include the erection of 36 new dwellinghouses within the policies of Lathallan House. Lathallan House, the former stables and the remains of a walled garden, are all 'B' Listed. The House and stables lie derelict whilst the walled garden is in need of significant repair.
- 1.2 The proposal is to restore Lathallan House and associated stables. The remaining elements of the proposed development pertain to new build housing. This is proposed to the immediate south of Lathallan House, in the form of terraced "mews houses", to the east, in the form of detached dwellinghouses in and around the remains of the "B" Listed walled garden and to the south east in the form of detached dwellinghouses in open agricultural land. A new 'gatehouse' is proposed at the site entrance from the A803.
- 1.3 The application site extends to approximately 12 hectares (30 acres). Ground levels fall from the A803 site access before rising to a level area on which Lathallan House is situated. From Lathallan House to both the walled garden area (to the east) and proposed townhouses (to the south) ground levels decline steadily before rising steeply further south and east.
- 1.4 The ground to which the application relates consists predominantly of fallow agricultural land with significant areas of mature woodland and wetland habitats. Evidence of European Protected Species (EPS) of Great Crested Newts and bats have been recorded. Sightings of

important wildlife such as owl, badger and deer have also been noted. The remaining site area is occupied by the former grounds of Lathallan House, associated stables and outbuildings and the walled garden.

1.5 In addition to architectural drawings, the information submitted in support of the application includes the following:

- Supporting Planning Statement
- Architectural Design Statement
- Landscape Analysis and Masterplan
- Topographic Survey

## **2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application is associated with planning application P/09/0370/FUL which is on the agenda of applications presented to this Planning Committee. In addition, Historic Scotland, a statutory consultee, has objected to elements of the proposed development.

## **3. SITE HISTORY**

3.1 There have been no applications submitted for the site prior to the submission of the current planning and Listed Building Consent applications. Pre-application submissions have however, been made by the applicant going back for a period of three years prior to the formal submission of the applications currently under assessment.

## **4. CONSULTATIONS**

4.1 Historic Scotland fully supports an appropriate scheme to refurbish Lathallan House. Guidance has been provided on the proposed alterations to Lathallan House itself. The information submitted by the applicant with regard to specification of works was considered to be lacking in detail. Additional information has now been provided to allow a detailed assessment of the refurbished element of the proposed development.

4.2 Historic Scotland objects, however, to the continued proposal to develop the Listed walled garden in a manner to which Historic Scotland has previously advised against. The proposed alterations are considered by Historic Scotland to be unacceptable on the basis of a significant reduction in the historic merit of the walled garden. Historic Scotland has also advised of the requirement for providing an assessment of proposed walled garden development in the context of the Scottish Historic Environment Policy (SHEP) 2010. This assessment has not been provided by the applicant.

4.3 The Scottish Civic Trust has welcomed proposals to restore and re-use Lathallan House. The acceptance of enabling development is noted.

4.4 The Civic Trust does not accept that the existing Ivy Cottage / Stables building should be dismantled and re-built. A more appropriate approach is considered to be the conversion of existing building fabric which appears to the Trust to be capable, in particular the south

elevation and courtyard area, of re-use. The Civic Trust considers that the originally proposed "jagged" roofline of "mews house" and proposed building heights are not appropriate to the setting of Lathallan House. The applicant has subsequently amended the roof design to address the concerns of the Civic Trust, and others, but has not reduced building heights.

- 4.5 The Civic Trust has questioned the conjectural recreation of the proposed North Lodge when a contemporary approach to new development is being advanced elsewhere in the proposals. The grouping of housing around the Listed walled garden is considered to be innovative although timber fenestration is suggested as being more appropriate than the aluminium materials proposed.
- 4.6 The Garden History Society notes that Lathallan House is not included in 'An Inventory of Gardens and Designed Landscapes: List of Sites 2007' but recognises the importance of the grounds as a designed landscape of significance. The Garden History Society has no objections to the conversion of Lathallan House and associated buildings and accepts the requirement for enabling development. The Society does, however, have significant concerns in relation to the scale and location of enabling development proposed both along the access road and in the area of the walled garden. In addition, concern is raised that the perceived suburban style "mews houses" are entirely inappropriate for the rural location and unrelated in style to Lathallan House. The insertion of new build housing within the Listed walled garden is considered to be contrary to the status of this structure. Scope for more sensitive enabling development is, however, acknowledged.
- 4.7 The Garden History Society advises that the local and regional importance of the grounds of Lathallan House, also referred to as Laurence Park, should be formally recognised by Falkirk Council and appropriate protection provided.
- 4.8 Falkirk Council Community Services (Archaeology) has no objections to the proposed development. Contradictory references to the proposed alterations to the Listed gas house building are noted relating to whether limited building take down and full dismantling and re-building is proposed. The applicant's agent has confirmed that the gas house building is proposed to be entirely dismantled, stored and re-built at a later date. A separate Listed Building Consent application is to be submitted to allow detailed assessment of these proposed works. Community Services has advised of the potential for archaeological remains to exist at the site and a condition requiring archaeological investigation prior to work commencing on site is therefore required.

## **5. COMMUNITY COUNCIL**

- 5.1 No comments have been received from the Community Council.

## **6. PUBLIC REPRESENTATION**

- 6.1 No comments have been received from members of the public.

## 7. DETAILED APPRAISAL

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

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

7a.1 The following policies of the Structure Plan apply.

7a.2 Policy ENV.5 'Built Environment and Heritage' states:

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

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

7a.3 Lathallan House is identified in the Falkirk Council Local Plan as an asset with the potential for re-development. This is detailed in paragraphs 7a.18 and 7a.19 of this report.

7a.4 Falkirk Council Community Services (Archaeology) has welcomed the proposed restoration of Lathallan House, stables and associated buildings. A planning condition requiring archaeological survey on a small part of the site will be required.

7a.5 Objections have been received from and concern expressed by Historic Scotland. The grounds of objection relate to an unacceptable impact in both physical and historical perspective on the structure of the Listed walled garden and its relationship with Lathallan House. The impact of new development on the setting of Lathallan House and associated structures is also questioned.

7a.6 The principle of the restoration of Lathallan House could be supported by Policy ENV.5. The proposal does not, however, fully comply with Policy ENV.5.

7a.7 Policy ENV.7 'Quality of Development' states:

- "(1) Priority is attached to the achievement of high standards of design in all new development. Proposals for development which would have significant visual and physical impact on a site and its surroundings must be accompanied by a "design concept statement" incorporating the relevant factors outlined in Schedule ENV.7 which sets out how design principles have been*

*addressed and how quality objectives will be achieved.*

- (2) *Local Plans and Supplementary Planning Guidance will provide detailed guidance on how significant impact will be assessed and the details to be included in such design concept statements.”*

7a.8 The proposal is accompanied by a design statement and landscape appraisal. The proposed development integrates well with the existing landscape and involves minimal loss of trees with acceptable supplementary planting. The proposal is considered to comply with Policy ENV.7.

### ***Falkirk Council Local Plan***

7a.9 The following policies of the Falkirk Council Local Plan apply:

7a.10 Policy EQ4 - ‘Landscape Design’ states:

*“Development proposals should include a landscape framework which enhances the development and assists integration with its surroundings. The landscape scheme should:*

- (1) Be informed by the surrounding landscape;*
- (2) Retain and incorporate existing vegetation, natural and cultural features where they contribute to the amenity and biodiversity of the site, with provision for replacement planting where removal is authorised;*
- (3) Integrate with strategies for the provision of open space, pedestrian access, and sustainable urban drainage systems on the site;*
- (4) Promote biodiversity, including the use of native tree and plant species (see Policy EQ25);*
- (5) Incorporate robust structure planting to provide structure in larger developments, and screen the edge of developments where necessary;*
- (6) Incorporate street trees and informal open space planting to assist in structuring and unifying streets and spaces;*
- (7) Incorporate high quality hard landscaping, including surface materials, boundary enclosures and street furniture which are robust and complement the development; and*
- (8) Demonstrate that satisfactory arrangements have been made for the future maintenance and management of all landscaped areas.”*

7a.11 The application incorporates a detailed landscape analysis and masterplan. The proposed landscaping is acceptable and complies with Policy EQ4.

7a.12 Policy EQ1 ‘Sustainable Design Principles’ states:

*“New development will be required to achieve a high standard of design quality and compliance with principles of sustainable development. Proposals should accord with the following principles:*

- (1) Natural and Built Heritage. Existing natural, built or cultural heritage features should be identified, conserved, enhanced and integrated sensitively into development;*
- (2) Urban and Landscape Design. The scale, siting and design of new development should respond positively and sympathetically to the site’s surroundings, and create buildings and spaces that are attractive, safe and easy to use;*
- (3) Accessibility. Development should be designed to encourage the use of sustainable, integrated transport and to provide safe access for all users;*

- (4) *Resource Use.* Development should promote the efficient use of natural resources, and take account of life cycle costs, in terms of energy efficient design, choice and sourcing of materials, reduction of waste, recycling of materials and exploitation of renewable energy;
- (5) *Infrastructure.* Infrastructure needs and their impacts should be identified and addressed by sustainable mitigation techniques, with particular regard to drainage, surface water management, flooding, traffic, road safety and noise; and
- (6) *Maintenance.* Proposals should demonstrate that provision will be made for the satisfactory future management and maintenance of all public areas, landscaping and infrastructure.”

7a.13 The proposed construction and enhancement of Lathallan House complies with the aims of Policy EQ1. Additional ancillary development is considered to be of a high design standard and is necessary to ensure the retention and restoration of Lathallan House.

7a.14 Policy EQ14 ‘Listed Buildings’ states:

*“The Council will seek to preserve the character and appearance of listed buildings. Accordingly:*

- (1) *Development affecting a listed building, or its setting, shall preserve the building or its setting, or any features of special architectural or historic interest which it possesses. The layout, design, materials, scale, siting and use of any development shall be appropriate to the character and appearance of the listed building and its setting.*
- (2) *Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping it. This will be demonstrated by inclusion of evidence to the Council that the building:*
  - *has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a purchaser; and*
  - *is incapable of physical repair and re-use through the submission and verification of a thorough structural condition report; and*
- (3) *RCAHMS shall be formally notified of all proposals to demolish listed buildings to enable features to be recorded.”*

7a.15 The proposed restoration of Lathallan House and stables is welcomed and Historic Scotland has not objected to these elements of the proposed development. Historic Scotland has, however, objected to the proposed erection of detached dwellinghouses within and around the ‘B’ Listed walled garden. The objection is on the basis of an unacceptable impact on the architectural and historic importance of the wall and its relationship, physical and historical, with Lathallan House. However, in the context of an opportunity to restore the main building, the proposals for the walled garden are not sufficiently detrimental to warrant a recommendation for refusal. This element of the proposal does not therefore fully comply with Policy EQ14.

7a.16 Policy EQ15 - ‘Re-Use of Buildings’ states:

*“The Council will generally support the re-use or conversion of existing vacant buildings of architectural and townscape merit, provided that the building is structurally sound and capable of beneficial conversion, and an acceptable internal layout and level of amenity can be provided.”*

7a.17 The re-use of Lathallan House is supported and this element of the proposed development complies with Policy EQ15.

7a.18 In addition to the consideration of Policy EQ15, Lathallan House is identified by Proposal and Opportunity EN.POL04 - 'Lathallan House, Polmont'. The re-use and conversion of Lathallan House and associated buildings is identified as an opportunity.

7a.19 EN.POL04 Lathallan House, Polmont states:  
Opportunity: Re-use/Conversion of House and Associated Buildings  
Agency: Private  
Comments: The opportunity exists to pursue options for the re-use or conversion of Lathallan House which is a Category B listed building. It lies in relatively close proximity to the Union Canal and enjoys good access thanks to its proximity to junction 4 of the M9 and the A801. Potential exists for a range of uses including conversion to flats, hotel, etc., subject to compliance with other Local Plan policies. Access to be from A803 only, not Nicolson Road. An application/listed building consent for the restoration of the house, associated buildings and additional development was submitted in May 2009.

7a.20 Policy EQ22 'Landscape and Visual Assessment' states:

*"Development proposals which are likely to have a significant landscape impact must be accompanied by a comprehensive landscape and visual assessment as part of the Design Statement, which demonstrates that the setting is capable of absorbing the development, in conjunction with suitable landscape mitigation measures, and that best environmental fit has been achieved, in terms of the landscape character of the area."*

7a.21 The applicant has submitted a detailed landscape appraisal. This assessment of the landscape setting and the proposed development's impacts upon it have acceptably demonstrated that the site is capable of absorbing the development. The proposal therefore complies with Policy EQ22.

7a.22 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.23 The proposed development requires a countryside location by virtue of the location of Lathallan House. The proposed development is not infill development but will, in part, utilise existing buildings. New residential development is unobtrusively sited and respects the landscape setting of the area. Boundary and curtilage treatments are sympathetic to a rural area. Building design is considered to be of a good quality. Accordingly, it is considered that the proposal does comply with policy EQ19.

7a.24 Policy EQ26 - ‘Trees, Woodland And Hedgerows’ states:

*“The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.”*

7a.25 The proposed development has demonstrated, through landscape assessment and tree conservation measures, that the ecological, landscape and recreational importance of trees, woodland and hedgerows has been recognised and will be respected. The proposals accord with Policy EQ26.

7a.26 Accordingly, the proposed development does not fully accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the site history, the principle of enabling development required to fund the restoration of Lathallan House, National Planning Guidance and the views expressed by consultees.

### ***Site History***

7b.2 The principle of the renovation of Lathallan House and ancillary development including enabling development has been discussed, at the initiation of the current applicant, for a period



in excess of three years. The principle of sensitive renovation of Lathallan House, with carefully considered and financially justified enabling development has been informally accepted.

- 7b.3 The stringent requirements of the redevelopment of Lathallan House and ancillary structures, as important “B” Listed Buildings has been stressed.

### ***Enabling Development***

- 7b.4 The applicant has submitted a detailed financial appraisal of the land purchase costs, development costs and profit levels anticipated. This appraisal has been the subject of review by Falkirk Council development surveyors and construction professionals and by an external planning and surveying consultancy.
- 7b.5 The applicant has submitted a financial summary of costs that provides quantified expenditure on land acquisition, emergency works, construction costs, infrastructure costs, preliminaries and contingencies. In addition, quantified costs on professional fees, finance, sales costs, company formation costs, profits and VAT have been provided.
- 7b.6 The conclusion of the submitted financial summary is that the enabling development proposed is the minimum required to secure the renovation of Lathallan House.
- 7b.7 Peer review of the applicant financial appraisal has indicated that the proposed enabling development to restore Lathallan House etc would not be excessive.

### ***National Planning Guidance***

- 7b.8 Scottish Planning Policy (SPP) establishes national planning policy in relation to housing land use. In the context of the proposed development, Scottish Planning Policy seeks to create quality residential environments, guide new housing to the right places and deliver housing land in the context of historic buildings and landscape as natural heritage.
- 7b.9 It is considered that the renovation of Lathallan House and Stables and provision of high quality housing of mixed type to include, terraced and detached units is consistent with the aims and objectives of Scottish Planning Policy.
- 7b.10 Scottish Planning Policy advises of the need for a sensitive response to increasing demand for development in the countryside. The aims behind Scottish Planning Policy are that Scotland has a prosperous rural economy with a stable or increasing population and that the housing needs of that population need to be accommodated.
- 7b.11 Scottish Planning Policy establishes Scottish Government policy in relation to development affecting Listed Buildings and their settings with a view to protection, conservation and enhancement of the historic environment.
- 7b.12 The policy expressions in Scottish Planning Policy that are relevant to the proposed development relate to the renovation of Lathallan House, stables and walled garden as 'B' Listed Buildings and the potential impact on the setting of these buildings of new enabling development.
- 7b.13 The proposals to renovate Lathallan House and stables are welcomed both in policy terms and by Historic Scotland as statutory consultee. The agreed renovation works would ensure the

renovation of these buildings and the re-introduction of residential use would ensure their long term care and protection. This position is consistent with the aims and policy expressions of Scottish Planning Policy.

- 7b.14 The impacts of the development on Lathallan House walled garden and the opposition to the current proposals by Historic Scotland have been outlined in this report, above. The objection by Historic Scotland with respect to the impacts of the proposed development on the Listed Walled Garden are acknowledged.
- 7b.15 Historic Scotland's Scottish Historic Environment Policy (SHEP) provides guidance on the statutory responsibility for the protection and enhancement of Listed Buildings and their setting.
- 7b.16 The proposed renovation of Lathallan House and stables is consistent with the requirements of SHEP. The renovation and long term survival of these buildings is considered to accord with the aims of SHEP and no objections to these proposed developments are held by Historic Scotland. It should be noted that an associated Listed Building Consent application remains under consideration.
- 7b.17 Historic Scotland has, however, expressed concerns with regard to the impact of new development on the setting of Lathallan House and has objected to the proposed impacts on the walled garden. In this respect these elements of the development are considered to be contrary to Historic Scotland's SHEP guidance.

### ***Consultation Responses***

- 7b.18 The requirements of consultation responses from within Falkirk Council in relation to Community Services (Archaeology), can be achieved by planning conditions.
- 7b.19 Historic Scotland welcomes the restoration of Lathallan House and stables but has expressed objection to the development impacts on the listed walled garden and expressed concern in relation to development impacts on the setting of Lathallan House and associated buildings. The concerns of Historic Scotland have been relayed to the applicant and revisions, most notably to the new development in and around the walled garden, have been requested. The applicant has not agreed to suggested revision to the proposed development. The concerns of Historic Scotland have therefore not been addressed.
- 7b.20 It is accepted that there would be an impact on the setting of Lathallan House, stables and ancillary buildings with any new development. On balance, the proposed new development is acceptable on the grounds that it would secure the restoration and future of Lathallan House. With regard to the financial appraisal that has been submitted by the applicant and reviewed, it is questionable whether this could be achieved if the proposed new development does not proceed.
- 7b.21 The consultation response from The Scottish Trust is noted and the proposed restoration of Lathallan House accords with the views expressed. Comment made with regard to the reuse of fabric of Ivy Cottage / Stables building are noted but the views of the Trust are contrary to the structural advice provided by the applicant's agent which requires more significant building work than The Trust appreciates.

- 7b.22 Comments made with regard to the conjectural recreation of the proposed North Lodge are also noted along with the acknowledgement by the Trust that the development proposals seek to emphasis the type of rural estate that may have previously existed. This matter is considered to be one of subjective judgment and is not considered to significantly affect the consideration of the proposed development in its entirety.
- 7b.23 The comments of the Trust with regard to an innovative approach to the re-use of the Listed walled garden are noted.
- 7b.24 The Trust has questioned the roof design of proposed ‘mews houses’ and the height of these buildings. As previously advised, the applicant's agent has re-designed the proposed roof treatment to take into account the comments raised. Building height has not been reduced. The agent has advised that the situation of the proposed houses at a lower level than Lathallan House does not justify a reduction in height.
- 7b.25 The comments received from the Garden History Society, “based on a basic desk-top study of the site and the information contained in the submitted documents”, acknowledge that the site is not formally recognised as a Designed Landscape. The conversion of Lathallan House is welcomed and requirement for some enabling development also recognised. However, they have concerns in relation to the scale and location of proposed enabling development, Mews housing design and new housing within the Listed walled garden, and object to the application in its current form.
- 7b.27 Falkirk Council has no plans to formally recognize the grounds of Lathallan House as a designed landscape. It is considered that the most effective method of securing the protected future of the grounds of Lathallan House is by agreeing sensitive development within the grounds and resultant management and maintenance arrangements being approved and thereafter controlled.

## **7c Conclusion**

- 7c.1 The proposed development represents a significant opportunity to secure the sensitive restoration of Lathallan House stables and associated buildings. The proposal has been assessed against the terms of the Development Plan, and National Planning Policy. The conclusion of this assessment is that the proposal is in part contrary to the Development Plan. Also, the concerns raised by Historic Scotland should not be dismissed lightly. There is a relevant concern regarding the impact of the new development on the setting of the Listed Building and, in particular, the listed walled garden. Members should also note that, in the current economic climate, the proposed enabling development may not be sufficient to make this project economically viable.
- 7c.2 However, a balanced and pragmatic approach is considered to be appropriate. The design quality of the proposed new build is considered to be high. There is no other opportunity proposed to secure the restoration of Lathallan House, stables and associated buildings and, therefore, the risk of further deterioration and the possible loss of the Listed Building is real.
- 7c.3 If Members are minded to grant listed building consent, the application would have to be referred to Scottish Ministers because it is a category B Listed Building and because of Historic Scotland’s outstanding objection.

**8. RECOMMENDATION**

**8.1 It is therefore recommended that Committee indicates that it is minded to grant Listed Building Consent subject to referral to Scottish Ministers.**

**8.2 On conclusion of the referral of the application to Scottish Ministers, referred to in section 8.1 above, Members remit to the Director of Development Services to grant Listed Building Consent subject to conditions relating to:**

- the investigation of potential archaeological remains and their subsequent recording;**
- the specification of construction materials and samples as required;**
- construction methodology statements; and**
- phasing and timing of proposed works.**

.....  
**pp Director of Development Services**

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

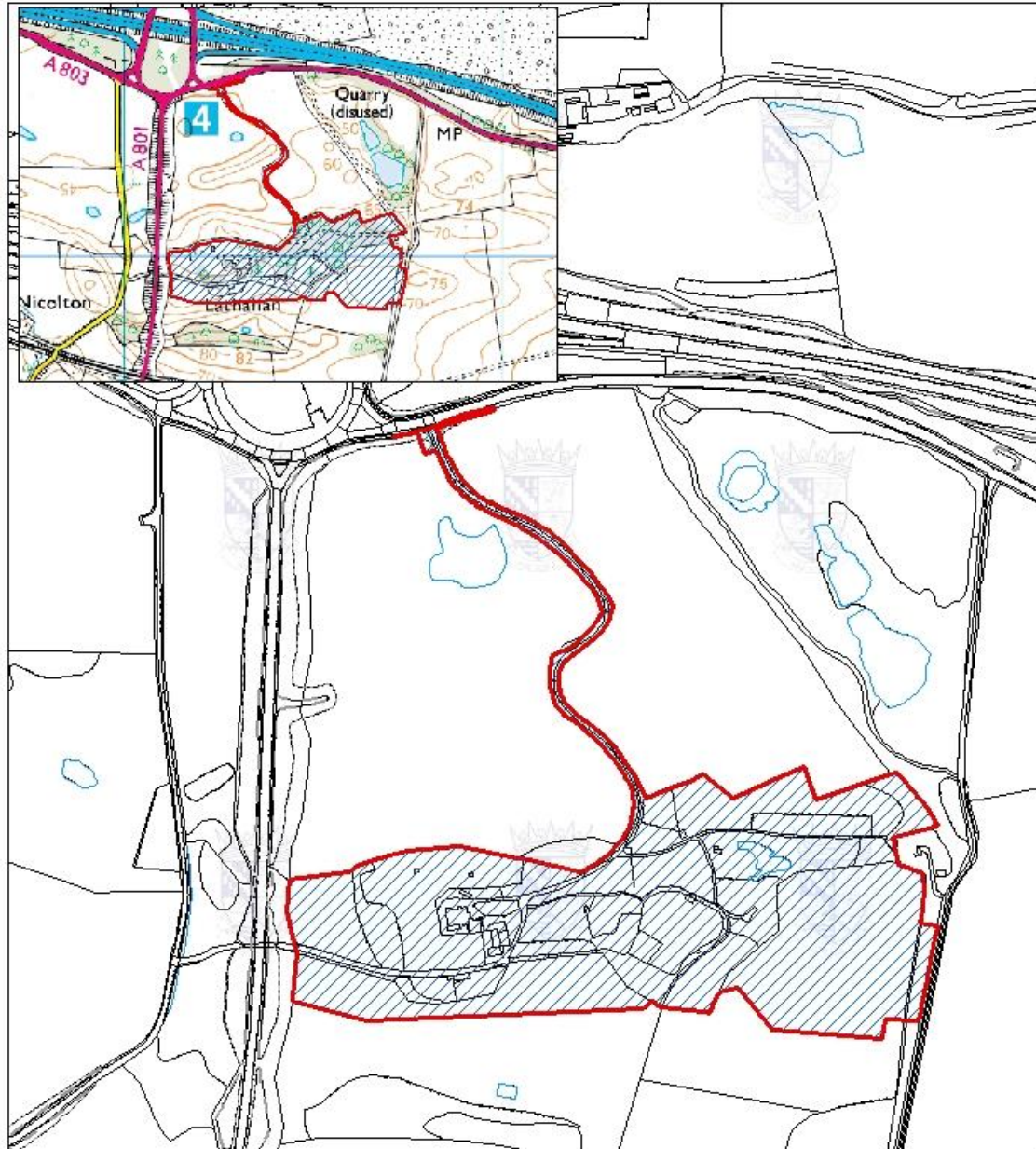
1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Scottish Planning Policy (SPP).
4. Historic Scotland's Historic Environment Policy (SHEP).

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504951 and ask for John Angell.

# Planning Committee

## Planning Application Location Plan **P/09/0369/LBC**

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:** ERECTION OF EFFLUENT TREATMENT PLANT AND  
INSTALLATION OF EFFLUENT TRANSFER PIPE AT  
CHRISTIE TIMBER SERVICES, NEW VICTORIA SAWMILLS,  
BRIDGENESS ROAD, BO'NESS, EH51 9SG, FOR  
CALEDONIAN PRODUCE - P/11/0077/FUL

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

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

**Community Council:** Bo'ness

**Case Officer:** David Paterson (Planning Officer), ext. 4757

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The site is located at the north side of Bridgeness Road, Bo'ness, measuring 0.86 hectares in area. The site includes the former Christie Timber Services site, part of an existing footpath running in a north-south direction between Bridgeness Road and the River Forth foreshore and part of the foreshore land which runs between said footpath and the existing Caledonian Produce site at Carriden.
- 1.2 It is noted that Caledonian Produce are the new operators of the former Christie Timber Services building. It is proposed to use the premises for food preparation (Class 4) purposes.
- 1.3 This application proposes to erect a water effluent treatment plant at the former Christie Timber Services site, and install a pipe at land forming part of an adjacent footpath and land at the River Forth foreshore, to transfer the treated water effluent to an existing storage facility at the existing Caledonian Produce site at Carriden. The treated water effluent would then be discharged into the River Forth in a controlled manner, with the approval of the Scottish Environment Protection Agency.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application partly relates to land in the ownership of the Council at the River Forth foreshore, and under the Council's amended Scheme of Delegation, such applications require the consideration of the Planning Committee.

### **3. SITE HISTORY**

- 3.1 F/2004/0962 - erection of sawmill - granted 20 March 2005.
- 3.2 06/0258/FUL - erection of sawmill - amendment to planning permission F/2004/0962, comprising reduction of the office area from two storey to single storey, relocation of building on site, and revised building dimensions - granted 21 August 2006.
- 3.3 P/07/0124/LA - engineering works to foreshore flood prevention scheme and formation of pedestrian/cycle path - granted 19 September 2007.
- 3.4 P/10/0734/FUL - extensions and alterations to existing portal shed - granted 2 February 2011.

### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has raised no objections. However, it is advised that steps be taken to ensure that the proposed development would have no impact on the River Forth flood defences and to ensure that a photographic survey is taken of any affected footpaths prior to the commencement of development. Any subsequent damage to footpaths should be made good to a standard which is satisfactory to the Council.
- 4.2 The Environmental Protection Unit has advised that contamination can be addressed by condition.
- 4.3 Scottish Water has raised no objections.
- 4.4 The Planning and Environment Unit also advises that a footpath photographic survey would be required prior to commencement of development. Furthermore, steps should be taken to ensure that appropriate directional signage relating to footpath availability is displayed to the satisfaction of the Council during the development.
- 4.5 The Scottish Environment Protection Agency has raised no objections.
- 4.6 Scottish Natural Heritage has raised no objections. It is confirmed that an appropriate assessment is not required.

### **5. COMMUNITY COUNCIL**

- 5.1 No objection has been received from the Bo'ness Community Council.

### **6. PUBLIC REPRESENTATION**

- 6.1 No objections or representations 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.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.2 It is not considered that the proposed development would have any impact in terms of flood risk. The proposal would not prejudice the integrity of the existing River Forth flood defences.

7a.3 It is not considered that the proposal would have an impact in terms of nature conservation, landscape impact or water pollution.

7a.4 The proposed development accords with Policy ENV.4.

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

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

- (1) National Cycle Network route between Edinburgh and Stirling through the Falkirk Council area;*

- (2) *Strategic walking and cycling routes utilising the Union and Forth and Clyde Canal towpaths; and*
- (3) *Local Core Path networks in line with the Council's Countryside Access Strategy.*

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

- 7a.6 The proposal would not have any significant impact on the local strategic footpath at the River Forth foreshore. The footpath would remain open for recreational use.
- 7a.7 The proposed development accords with Policy TRANS.1.
- 7a.8 Accordingly, the proposed development accords with the Falkirk Council Structure Plan.

### ***Falkirk Council Local Plan***

- 7a.9 *Policy EP2 – 'Land for Business and Industrial Use' states:*

*"In order to maintain the business and industrial land supply and the employment role of existing business and industrial areas:*

- (1) *The sites for new business and industrial development identified on the Proposals Map will be safeguarded for the employment use specified for each site; and*
- (2) *The areas for retention in business and industrial use identified on the Proposals Map will be retained and reserved for Class 4, 5 or 6 uses, except for the established business parks of Callendar Park and Gateway Business Park, Grangemouth which will be reserved for Class 4 uses only and the Glasgow Road Camelon Industrial Area which may include a food retail element to meet local needs as part of the mix.*

*Other ancillary employment uses may be permitted within these areas where they are compatible with the principal business/industrial use of the site, will not result in a significant reduction in the availability of business land or property, and are consistent with other Local Plan policies."*

- 7a.10 It is noted that the former Christie Timber Products site, which forms part of the application site, is an existing Class 4 site. The proposed development would not prejudice the retention of the site for Class 4, 5 or 6 use.
- 7a.11 The proposed development accords with Policy EP2.
- 7a.12 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.”*

7a.13 It is not considered that the proposed development would have an impact upon the amenity, ecology or water quality of the River Forth coastal zone.

7a.14 It is not considered that the proposal would have any impact in terms of flood risk.

7a.15 The proposal would not prejudice the integrity of the River Forth flood defences.

7a.16 The proposal would not have a significant impact on the Forth Foreshore local strategic footpath. The footpath would remain open for recreational use.

7a.17 The proposed development accords with Policy EQ28.

7a.18 Policy EQ29 - ‘Outdoor Access’ states;

- “(1) The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network once it is defined.*
- (2) In promoting new routes particular emphasis will be placed on opportunities specified on the Proposals Map other opportunities which support and provide linkages in respect of the Falkirk Greenspace Initiative, the recreational use of the major river corridors, including the Forth Estuary, and sustainable travel within and between settlements; other areas of proven demand as identified through community consultation; and the need to safeguard protected habitats and species in accordance with Policies EQ24 and EQ25; the need to safeguard protected buildings and archaeological sites in accordance with Policies EQ16 and EQ17.*
- (3) When considering planning applications, the Council will Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed. Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development, particularly where they relate to the priority areas identified in sub-section (2) above. Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.”*

7a.19 The availability of the Forth Foreshore local strategic footpath for recreational use would be secured during the proposed development.

7a.20 It is noted that there is an existing footpath link from Bridgeness Road to the River Forth foreshore footpath adjacent to the former Christie Timber Products site. It is accepted that there would be some disruption at the footpath link during construction. It is considered that safeguarding access to the Forth Foreshore footpath can be addressed by the identification of an alternative route during construction with appropriate signage, by condition.

7a.21 The proposed development accords with Policy EQ29.

7a.22 Policy ST1 - 'Core Path Network' states:

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

7a.23 The line of the Forth Foreshore local strategic footpath would be secured during the proposed development. The footpath would remain open for recreational use.

7a.24 The proposed development accords with Policy ST1.

7a.25 Policy ST2 - 'Pedestrian Travel And Cycling' states;

*"New development will be required to provide an appropriate standard of pedestrian and cycle infrastructure. This will consist of on- and where appropriate off-site measures that allow pedestrian and cycle movements within and beyond developments, and ensure that those wishing to use pedestrian/cycle networks are not dissuaded from doing so through the absence of suitable infrastructure.*

- (1) All pedestrian and cycle routes will comply with the standards set out in the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area. Where appropriate, infrastructure supporting the two modes will be combined.*
- (2) Pedestrian and cycle facilities in new developments should offer appropriate links to existing networks in surrounding areas, to other amenities and community facilities and support objectives in agreed Travel Plans where relevant.*
- (3) Pedestrian and cycle movement within developments should be allowed for via direct routes without barriers.*
- (4) Pedestrian and cycle links should be provided that offer connections to public transport connections in the surrounding area. For guidance, in new developments, no pedestrian should have to walk more than 400m to the nearest bus stop.*
- (5) Where practical, no pedestrian route should be obstructed by features that render it unsuitable for the mobility impaired.*
- (6) The surfacing, lighting, design, maintenance and location of pedestrian and cycle routes should promote their safe use. Particular emphasis should be given to the provision of suitable lighting, and the provision of suitably designed and located crossing facilities where routes meet the public road network.*
- (7) Pedestrian and cycle routes for school journeys should be provided in residential development where a need to do so is identified. In all cases, the aim should be to provide an overall walking/cycling distance between home and school of not more than 2 miles wherever practical, or not more than 1 mile for pedestrian journeys to primary school.*
- (8) Cycle parking should be provided in accordance with the standards set out in Falkirk Council's Design Guidelines and Construction Standards for Roads in the Falkirk Council Area."*

- 7a.26 The line of the Forth Foreshore local strategic footpath would not be obstructed or be rendered unsuitable for the mobility impaired during, or as a result of, the proposed development.
- 7a.27 The proposed development accords with Policy ST2.
- 7a.28 It is noted that proposal TR.BNS.03 of the Falkirk Council Local Plan - 'Coastal Path Creation/Upgrading' highlights the opportunity to improve the Forth Foreshore footpath route along the Bo'ness eastern foreshore through coastal defence works. It is noted that the coastal defence works at the Bo'ness eastern foreshore has been completed and that a footpath route is incorporated. The proposed development would not prejudice the integrity of the flood defences or the availability of the footpath for recreational use.
- 7a.29 The proposed development accords with Opportunity TR.BNS.03.
- 7a.30 Accordingly, the proposed development accords with the Falkirk Council Local Plan.
- 7a.31 Accordingly, the proposal accords with the Development Plan.

## **7b Material Considerations**

- 7b.1 Material considerations are consultation responses, Supplementary Planning Guidance Note (SPG) 'Development of Land Affected by Contamination' and The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

### ***Consultation Responses***

- 7b.2 It is noted that both the Roads Development Unit and the Planning and Environment Unit have advised that a survey of the condition of any affected footpath should be carried out prior to the commencement of development. Measures to ensure that the development is not brought into use until any damage to any footpath is made good to the satisfaction of the Planning Authority can be secured by condition.
- 7b.3 It is noted that the Environmental Protection Unit has advised that contamination can be addressed by condition.
- 7b.4 The Planning and Environment Unit has advised that an alternative footpath connection from Bridgeness Road to the River Forth Foreshore footpath be identified on site by means of signage to be agreed with the planning authority, prior to the commencement of the development.

***Supplementary Planning Guidance Note (SPG) 'Development of Land Affected by Contamination'***

- 7b.5 The SPG states that a key element of the 'suitable for use' approach is the responsibility of the planning authority to ensure that land is made suitable for the proposed development/use. The planning authority therefore requires that applications include appropriate contamination remediation measures. Where contamination may be present at an application site, but it is felt that the contamination risks can be dealt with through various remedial measures, then a contaminated land condition may be placed on the planning permission. This is felt to be a fair procedure and ensures that unnecessary financial burdens are not faced by the applicant, and minimises delay.
- 7b.6 It is noted that the Environmental Protection Unit has advised that contamination can be addressed by condition in this case.
- 7b.7 The proposed development accords with the SPG.

***The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009***

- 7b.8 The Direction sets out circumstances in which planning authorities must notify Scottish Ministers where they are intending to grant planning permission in relation to Planning Authority interest developments. In this case the planning authority has an interest in the proposal as part of the application site is owned by Falkirk Council and the Council is likely to receive remuneration to allow the proposed pipe to be installed in the Council owned land. However, it is noted that the proposed development is not contrary to the Development Plan. In these circumstances, the application would not have to be notified to Scottish Ministers.

**7c Conclusion**

- 7c.1 The proposed development accords with the Development Plan and Supplementary Planning Guidance Note 'Development of Land Affected by Contamination'.
- 7c.2 The proposed development would not have an impact on the structural integrity of the River Forth flood defences or prejudice the availability of the Forth Foreshore local strategic footpath for recreational use.
- 7c.3 It is noted that issues raised by consultees can be addressed by condition, i.e. contamination, integrity of the condition of footpaths affected by the proposed development and access to the Forth Foreshore local strategic footpath.
- 7c.4 The proposed development is a development in which the planning authority has an interest under the terms of the Town and Country Planning (Notification of Developments) (Scotland) Order 2009. However, should planning permission be favoured, the application would not be required to be notified to Scottish Ministers.

## **8. RECOMMENDATION**

**8.1 It is recommended that planning permission be granted 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) 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 assess must be approved in writing by the Planning Authority.**
- (3) Where contamination (as defined by Part 11A 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.**
- (4) 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.**
- (5) Prior to the commencement of work on site, the applicant shall submit to the Planning Authority a photographic record of the footpaths coloured yellow on the drawing bearing the Planning Authority's reference 01A for the written approval of the Planning Authority.**
- (6) The development shall not be brought into use until such times as the Planning Authority has agreed in writing that the condition of footpaths coloured yellow on the drawing bearing the Planning Authority's reference 01A are in a condition satisfactory to the Planning Authority.**
- (7) There shall be no commencement of work on site until such time as an alternative footpath link from Bridgeness Road to the Forth Foreshore local strategic footpath has been agreed in writing by the Planning Authority, and that appropriate signage, also to be agreed by the Planning Authority, is suitably displayed.**

**Reason(s):-**

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To safeguard environmental amenity.
- (5-6) To safeguard the condition of footpaths affected by the proposed development.
- (7) To ensure that there is adequate access to the Forth Foreshore Footpath during the proposed development.

**Informative(s):-**

- (1) For the avoidance of doubt, the plans to which this consent refers bear our reference(s) 01A, 02 and 03.
- (2) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the Environmental Protection Unit.

**Pp**

.....  
**Director of Development Services**

**Date:** 12 April 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Supplementary Planning Guidance Note 'Development of Land Affected by Contamination'.
4. The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

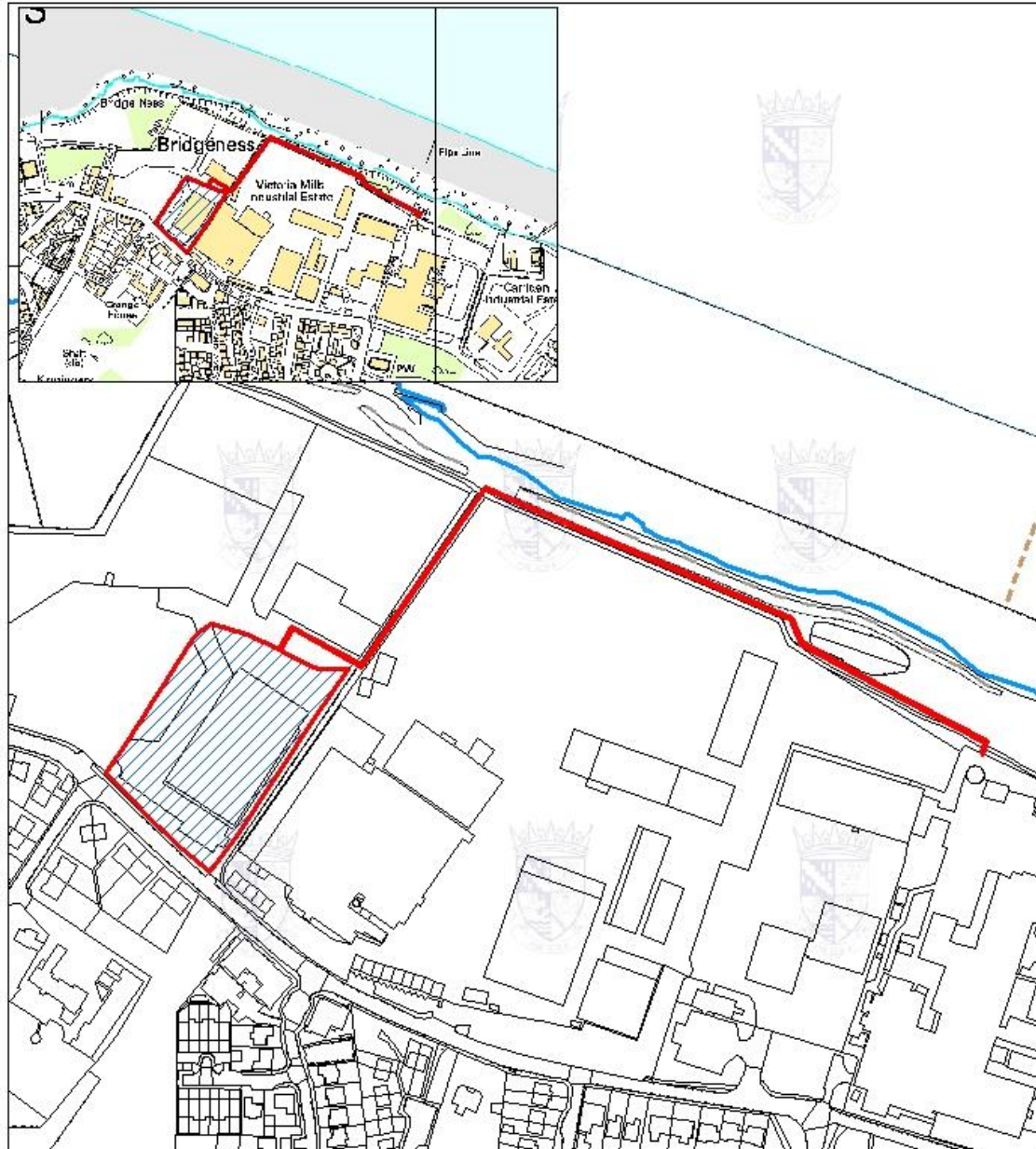
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.



# Planning Committee

## Planning Application Location Plan P/11/0077/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: ZERO VAT RATING AND PLANNING AGREEMENT OCCUPANCY RESTRICTIONS**  
**Meeting: PLANNING COMMITTEE**  
**Date: 20 April 2011**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION AND CONTEXT**

1.1 At the meeting of the Planning Committee of 23 February 2011, Members requested that the Director of Development Services present a report to the Planning Committee, in response to questions in relation to VAT and planning agreement occupancy restrictions.

**2. VAT POSITION**

2.1 Some goods and services are zero rated, meaning they are taxable for VAT, but the VAT is zero per cent. Construction of a new building would normally be charged VAT at the standard rate. However, construction of a building ‘designed as a dwelling’ that will be used solely for a ‘relevant residential purpose’ would incur a zero rating under certain circumstances. To qualify for the zero rating a building ‘designed as a dwelling’ must meet the following conditions:

- the dwelling consists of self-contained living accommodation;
- there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision;
- the separate disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision; and
- statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.

2.2 The Council sought specialist VAT advice in relation to the questions raised by Members. The law in relation to zero rating has not changed since 1989. The regulations state that occupancy restrictions do *not* explicitly or automatically remove the VAT zero rating. The VAT zero rating would only disappear if the Council had prohibited either *separate disposal* or *separate use* of a property. Neither of these are *explicitly* prohibited by the Council, in its normal occupancy restriction contained in Section 75 legal agreements and expert advice on the regulations appear to indicate that the Council does not *implicitly* create such prohibitions.

2.3 Four Councils have responded to our enquires. With one exception, none of the Councils are aware of any instances where VAT has been raised as an issue, specifically in relation to occupancy restrictions. However, one Council did recall a case some 6 years ago where VAT issues arose. However this was resolved and VAT issues have not been raised since.

### **3. CONCLUSION**

3.1 The Council does not generally appear to be creating circumstances where applicants are unable to reclaim VAT. Members should note, however, that each applicant is responsible for taking his or her own accounting and/or legal advice and that issues relating to VAT are not a material planning consideration.

### **4. RECOMMENDATION**

4.1 **That the Planning Committee note the content of this report.**

Pp

.....  
**Director of Development Services**

**Date:** 12 April, 2011

### **LIST OF BACKGROUND PAPERS**

1. HMRC Reference: Notice 708 (February 2008).

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