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Notice of Intention by Karen Black, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-240-2059
- Site address: Scottish Fire And Rescue, Main Road, Maddiston, FK2 0LG
- Appeal by Scottish Fire and Rescue Service against the decision by Falkirk Council
- Application P/17/0347/PPP for outline planning permission dated 31 May 2017 refused by notice dated 22 February 2019
- The development proposed: development of land for residential use for 90 houses with associated works, including access, infrastructure and landscaping
- Application drawings: Ind03 site location plan; Ind05 development parameters plan
- Date of site visit by Reporter: 27 June 2019

Date of notice: 23 September 2019

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## Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the conditions listed below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraphs 48 and 49 below.

## Preliminary matters

The scale and nature of the proposed development is such that it falls within the description of development described in Class 10(b) of Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 2017. The council issued a screening opinion to the effect that the proposed development did not require an environmental impact assessment. Having taken account of the criteria in Schedule 3 of the regulations, in terms of the scale, nature and location of the proposed development, I agree with the council's opinion.

The appellant has also made a claim for expenses against the council. This will be dealt with separately and a decision notice will be issued in due course.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the current housing land supply position and the principle of housing development on the site. Also relevant to my



consideration of the appeal is the presumption in favour of development which contributes to sustainable development, as set out in Scottish Planning Policy (SPP).

2. In refusing the application the council relied solely on the policies of the proposed Falkirk Local Development Plan 2018 (the emerging plan) which was submitted for examination on 25 July 2019. The weight that should be given to the emerging plan, and whether a grant of permission for the proposed development is premature with respect to that emerging local development plan, will also be material considerations in my determination of this appeal.

#### Appeal site and proposed development

3. The proposed site comprising approximately 3.8 hectares, lies immediately west of Main Road, Maddiston. Various disused commercial buildings formerly used by the Scottish Fire and Rescue Service remain on the site. The police station and a warehouse lie to the north east. A separate parking area serving the police station and delineated by metal posts lies on this boundary.

4. Substantial areas of hardstanding and car parking areas remain in and around the disused buildings. The western and southern portions of the appeal site comprise rough grassland containing semi mature trees and small shrubs. Existing residential development of varying ages and design are located immediately to the east, south-east and north-west. On the northern boundary, the proposed site is separated from the adjoining playing fields on California Road by a row of semi mature and mature trees.

5. A surfaced public footpath to Blackbraes and the Manuel Burn run immediately to the south west of the boundary of the proposed site. The eastern section of the footpath and the culverted section of the burn lie wholly within the proposed site on the south eastern portion of the appeal site. Substantial wooded areas form an attractive semi-rural setting in and around the footpath and burn.

6. The location of local services and community facilities are identified on figure 9 of the appellant's design and access statement. I observed at my site inspection the proximity of the local primary school, community centre, post office and local convenience stores all within a 5-10 minute walk of the appeal site. I also noted a number of bus stops located on either side of Main Road.

7. An indicative masterplan and parameters plan are also provided in support of the planning application, demonstrating potential capacity for 90 houses on the site, 25% of which would be 'affordable'. Provision is also made for landscaping, open space, drainage infrastructure and a new vehicular access to the south of the existing access onto Main Road.

#### Development Plan

8. The development plan in this case is the Falkirk Local Development Plan (LDP), adopted by the council in July 2015. The site is located within the 'Urban/Village Limits' as defined on map 5 of the LDP. The eastern part of the site comprising the disused buildings and parking areas has no specific designation and is shown as 'white land'. The western and southern areas of the appeal site are identified in the LDP as open space. A route identified as GN18 mirrors the location of the public footpath running in an east-west direction on the south eastern part of the site. GN18 is identified as 'Polmont Open Space Corridors' in the adopted LDP where opportunities to improve the quality, function and diversity of open space corridors are supported.

### Housing land supply

9. Policy HSG01 of the adopted LDP reflects the requirements of SPP, in that a minimum 5-year supply of effective housing land is to be maintained at all times, and that monitoring is to be undertaken to keep the position under review. The council confirm that the housing land audit position as of June 2018 indicates that there is a 4.3 year supply and a shortfall of 482 units. The appellant does not dispute those figures and on that basis I have no reason to disagree that a shortfall in the housing land supply currently exists in the local authority area.

### The principle of housing development

10. Policy HSG01 of the adopted LDP also states that if the annual housing land audit process identifies a shortfall in the effective land supply, the council will consider supporting sustainable development proposals that are effective, in the following order of preference: urban capacity sites; additional brownfield sites; and then sustainable greenfield sites. Account is also be taken of other local development plan policies and of any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.

11. I have concluded above that there is a shortfall in the housing land supply and I also note that both the council and appellant agree that the appeal site comprises an 'urban capacity site' being both brownfield and located within the urban limits. Support for development of the site for housing in principle can therefore be drawn from policy HSG01. I address the potential impacts of the proposal in more detail below.

12. Policy HSG03 of the adopted LDP is also relevant. It sets out a number of criteria where windfall sites would be supported. These are defined as sites within urban and village limits that become available for appropriate housing development which have not been identified in the development plan.

13. As I noted at my site inspection, the appeal site lies adjacent to existing residential uses, the police station and playing fields. The design and access statement, together with the indicative masterplan indicate to me that an acceptable layout and design compatible with national policy on 'Designing Streets' could be achieved on the site, all in compliance with policy HSG04 of the LDP. Such matters could also be addressed by planning conditions or in the detailed design of the development as part of any further detailed planning applications. I am therefore satisfied that the proposed use of the site for residential development would be compatible with these adjoining uses and that a satisfactory level of residential amenity could be achieved.

14. The appeal site also benefits from its proximity to local commercial, school and community facilities, bus stops and public footpaths in Maddiston. I also note that there are no objections from statutory consultees and council services in respect of habitat impacts, landscaping, flooding, ground conditions and existing physical infrastructure, such as roads, drainage and sewage capacity. The council, confirm that in the event that planning permission is granted, such matters could all be addressed by the imposition of appropriate planning conditions. I concur with that view, and on this basis conclude that compliance with relevant policies in the adopted LDP can be achieved.

15. As I note above, part of the appeal site is designated as open space in the LDP. Policies INF03 and INF04 are relevant in this respect. The Falkirk Open Space Audit indicates that the appeal site provides some amenity green space for the surrounding community and that it provides informal access to the surrounding areas. It also describes the site as having no features of interest. From my own observations at my site inspection,

although used by some dog walkers when I visited, the site does not constitute functional recreational open space. Also noting the playing fields to the north of the site and play areas on the opposite side of Main Road I am satisfied that the surrounding area is well served by such facilities. The predominant landscape features on the site are derived from the substantial wooded areas on the southern boundary and tree belt along the northern boundary with the adjoining residential areas and playing fields. Taken together with the provision of open space, play facilities and tree protection measures secured by planning condition, I am satisfied that there would not be a significant decrease in the overall recreational amenity and landscape character of the area.

16. I also note the response from the Scottish Rights of Way Society who have requested that the public footpath to the south of the site be safeguarded. There would also be opportunities to provide footpath connections to the adjoining playing fields to the north in any detailed design, to be considered as part of any subsequent detailed planning application. Again, provision could be secured by planning condition.

17. Consequently, subject to the imposition of planning conditions in respect of the above matters I find that the proposal would be compliant with the criteria in policies HSG03, INF03, INF04 and GN04 of the LDP.

18. Policy HSG02 of the adopted LDP and the council's statutory supplementary guidance on affordable housing also requires new housing developments of 20 units and over to provide a proportion of the units as affordable or special needs housing. The requirement in this case is 25%. The council suggests the imposition of a planning condition to ensure such provision is made in the event that planning permission is granted. The appellant has no objections to this requirement and includes reference to such provision in the planning application and appeal submissions.

19. There are significant concerns from the local community council and local residents about the capacity of the local schools, access to local health facilities and general lack of community and retail facilities in the area. Policies INF02, INF05 and INF06 of the adopted LDP set out the policy requirements in relation to such matters. In general terms these policies require developer contributions in respect of provision, upgrading and maintenance of community infrastructure where development will create or exacerbate deficiencies in existing infrastructure.

20. The council highlight that the proposed development would generate the requirement for a developer contribution towards education provision at Braes High School, Maddiston Primary School and nursery provision. The developer contribution towards education provision can be achieved by means of a planning obligation under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.

21. Although NHS Forth Valley made no comments on the planning application, the council officer's planning committee report makes reference to potential capacity issues at Polmont health centre and difficulties with the potential expansion of health care facilities at Meadowbank. I sought further clarity on this matter, and in response to my procedure notice NHS Forth Valley confirm that the appeal proposal at Maddiston is within a location where existing primary healthcare facilities are at, or over capacity. It states that developer contributions for healthcare provision would be required in line with the council's adopted supplementary guidance should planning permission be granted. NHS Forth Valley also highlight it would be open to discussions with the appellant regarding onsite provision if appropriate.

22. The appellant is concerned about the late intimation of such a contribution, the council's supplementary guidance SG11 being outdated and lack of an applicable formula in the guidance with which to identify the level of contribution required.

23. In respect of the 'outdated' nature of the guidance I note that the concerns of NHS Forth Valley relate to outdated capacity figures at the Polmont Park facility. The appellant also acknowledges that infrastructure capacities can change during the course of the determination of a planning application. In this case the planning application was submitted in May 2017 and inevitably circumstances will have changed in the intervening period. I have no evidence to dispute the most recent information on the capacity issues at local healthcare facilities and I see no reason in principle why a contribution could not legitimately be sought to enable the NHS to address any physical capacity issues arising as a consequence of the development, all in accordance with policy INF06 of the LDP and the terms of the council's supplementary guidance. In addition, I do not find that this would lead to any conflict with the six Circular 3/2012 tests. Noting the offer from NHS Forth Valley to consider alternative methods of provision, I accept however that if in the course of preparing a suitable agreement, evidence comes to light that on site provision could be made, a contribution would not be necessary in those circumstances.

24. In terms of an applicable formula, I note that the council's supplementary guidance includes an illustrative example, based on national health standards using nationally recognised space standards and build costs, based upon the population requirements for GP surgeries. I would therefore expect contribution levels to be negotiated on this basis.

25. In respect of matters related to the suggested lack of community facilities in general, I address this matter in more detail in the context of the emerging local development plan below.

26. Drawing all the above matters together, I conclude that subject to appropriate planning conditions and a legal agreement to secure planning obligations the proposed development accords with the relevant provisions of the adopted LDP.

#### Material considerations

27. Paragraph 125 of SPP states that development plan policies for the supply of housing land will not be considered up-to-date where a shortfall in the 5-year effective housing land supply has emerged. I have concluded above that there is a housing land supply shortfall. I must also take account of the requirements in paragraph 33 of SPP which highlights that in such circumstances, the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

28. Paragraph 29 of SPP also establishes a number of sustainable development principles. In terms of these, I acknowledge that the closure of the fire services facility may have resulted in the loss of some jobs but I have no detailed evidence to support that assumption. In any case, I consider that the proposal would support economic activity by providing employment opportunities during the construction period, thereby assisting in the support of the local economy and offsetting any job losses as a result of the closure of the facility. It would also support the delivery of housing on a brownfield site, in an accessible location, in close proximity to local community and retail facilities, with nearby bus stops and public footpaths. I have also concluded that an acceptable layout and design compatible with national policy on 'Designing Streets' could be achieved on the site.

29. Furthermore, as I note above, subject to the imposition of planning conditions there are no objections from statutory consultees and council services in respect of transport matters, roads, ground conditions, landscaping and habitats.

30. I have not identified any significant conflicts with any of the other principles set out in paragraph 29. Consequently, I consider that the presumption in favour of sustainable development in SPP also supports development of residential use on the appeal site.

The weight that should be given to the proposed Falkirk Local Development Plan 2018 (the emerging plan)

31. In determining the weight I must attach to the emerging plan, I have noted that no specific target date has yet been identified for completion of the examination but the council suggests formal adoption of the plan in the summer of 2020, at which point it will replace the 2015 LDP. In response to my request for further written submissions, the council confirms that representations by the appellant, other developers and community groups have been made to the proposed plan. Representations relate specifically to the appeal site and also to proposed policy HC02 in respect of windfall housing. These are unresolved issues which will be considered as part of the examination process. Consequently, there is a possibility that the policies and allocations of the proposed plan could change as a result of the examination process.

32. The council's view is that the terms of the emerging local development plan carry sufficient weight in this case to outweigh the terms of the adopted plan. It argues that setting aside the development plan was justifiable and appropriate and should be afforded more weight as a material consideration than the potential impact on the housing land shortage.

33. However, I have to agree with the appellant that the weighting placed on a local development plan which is subject to unresolved representations and has yet to be subject to formal examination should not be afforded equivalent, or as the council contends, greater weight than the currently adopted plan. I have concluded above that subject to the imposition of appropriate planning conditions the proposed development complies with the current adopted LDP. The proposal also benefits from the presumption in favour of sustainable development in SPP. In applying the 'planning balance' and to conclude, I do not consider that such material considerations should outweigh the support I find for the proposal when assessed against the policies of the current adopted LDP and the terms of SPP.

Whether a grant of permission for the proposed development is premature with respect to the emerging local development plan

34. Paragraph 34 of SPP provides that, where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. SPP also outlines that prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

35. I am aware of the history of the status of the site as it progressed from publication of the committee draft of the proposed plan in June 2018, at which time the appeal site was identified for mixed uses, specifically employment, residential and community uses. The

proposed plan was subsequently published for consultation in September 2018, and the site allocated as BUS22, an opportunity site for business, retail, or community use. In response to my procedure notice, I am advised that no further changes to the BUS22 allocation or proposed policy HC02 have been made by the council since publication of the proposed plan in September 2018.

36. The two reasons for refusal of the application by the council are based on the proposal being contrary to allocation BUS22 and with policy HC02 'Windfall Housing' in the proposed plan. The council states that the proposed development would significantly prejudice a strategic aim of the emerging plan to redress the balance of retail, business and community uses with residential development in the Maddiston area. It contends that such uses have not kept pace with growth in the Maddiston area and the site remains the only central location within Maddiston which could accommodate any scale of employment, community or retail use.

37. The appellant on the other hand contends that the release of the appeal site for the development of 90 dwellings is not of a scale which would undermine the emerging plan. Its relatively small scale and its re-development for residential purposes is not so significant as to form a central element of the emerging plan, or to prejudice its strategy. Background technical reports for the proposed plan provide no evidence or detail of any deficiency in employment land, retail units or existing community facilities in Maddiston. It is stated that significantly more evidence and assessment should be undertaken by the council to determine what uses are required and the needs identified. The appellant also points out that the council has not identified a requirement for contributions to community facility improvements in the proposed planning obligations in the event that planning permission is granted.

38. In my consideration of these matters I have looked at the spatial strategy chapters of the proposed plan. The spatial strategy is set out in chapter 3 and focusses on major areas of change and 10 strategic growth areas. Maddiston East Strategic Growth Area does not include the appeal site and makes no provision for business, retail or community uses. A business and local neighbourhood centre is however included as part of a large neighbourhood centre proposal at Gilston (BUS21) which, as the appellant points out is located a short drive away. The proposed plan does not list Maddiston as a strategic business location, nor is it included as a town centre or local centre.

39. In terms of infrastructure provision, the proposed plan highlights that significant additional infrastructure is required over the period of the plan to address existing gaps in provision and to support new business and residential development. In table 3.6, under the heading of 'Education, Healthcare and Community' the proposed plan refers only to a requirement for school capacity enhancements at the Braes and Maddiston Primary School. Similarly, the 'development guidance' for the Maddiston East Strategic Growth Area, also states that a contribution to education provision will be required for both schools.

40. The appeal site is however referenced in the settlement statement for 'Braes and Rural South' in chapter 5 where it is included as a local business site and described as a site which "offers a brownfield opportunity for retail, business or community use, which would provide necessary improvements to the range of facilities available in this growing community." It is one of 17 sites identified for local business/town or local centres in the settlement statement tables in the proposed plan.

41. I have also considered the content and status of the community council's Community Action Plan and the pre application consultation report undertaken by the appellant in

advance of submission of the planning application. Both documents highlight local concerns about facility provision in the area. At the pre-application public exhibition some support for residential development of the site was also evident. I also note that council staff are working with the community to scope out projects and seek external funding, with a view to investigating the possibility of setting up a development trust. Maddiston Community Council also intimate that it would like to acquire the fire service building for a community activity centre.

42. Whilst I appreciate the concerns of local residents and note the outcomes and recommendations of the action plan, I have to agree with the appellant's argument that the action plan does not form part of the emerging development plan. Furthermore, the council's technical background report for the emerging local development plan on employment land, provides an assessment of the site as a potential additional employment site, scoring favourably in terms of it being a sustainable brownfield site but with a low score in terms of accessibility to the trunk road network, amenity and ground conditions. I am also aware that the council's Community Planning team are working with the community to assess where the deficits in provision lie, as well as identifying possible solutions. However no timescales for the conclusion of the process are known.

43. On this basis I have to conclude that there are clearly uncertainties in terms of future funding of any proposals and ultimately whether provision of retail and business facilities can actually be achieved on the appeal site. Much will also be dependent on market demand and subsequent provision by commercial interests. Matters on the suitability and effectiveness of the site are however for more detailed consideration as part of the forthcoming examination of the proposed plan.

44. Turning to the council's second reason for refusal of the planning application, I note that policy HC02 of the proposed plan is very similar to policy HSG03 of the adopted plan. The distinction between the two policies is that proposed policy HC02 includes reference to support for housing developments within urban and village limits "which are not identified as LDP proposals". I have concluded above that the proposed development of the appeal site for residential purposes meets the terms of policy HSG03 of the adopted LDP. Although the site is identified as a specific proposal in the proposed plan, as I note above, there is still a high degree of uncertainty regarding the content of the emerging local development plan and the final status of the site has yet to be determined through the examination process.

45. Taking all these factors into account, I cannot agree with the council's assertion that the identification of retail, business and community uses in Maddiston is a strategic aim of, nor is it central to the emerging plan. The appeal site is not identified in the spatial strategy as being part of the strategic growth area for Maddiston and is not identified as a strategic business location or neighbourhood centre.

46. Consequently, I conclude that the proposed development is not so substantial, or its cumulative effect would be so significant, that to grant permission would undermine new developments that are central to the emerging plan as required by SPP.

#### Other matters

47. The appellant also refers to planning appeal decisions in Larbert and Stirling, cited as examples where the weight of an emerging local development plan and prematurity are matters considered by the respective reporters. Although there are some similarities with the case before me, they are not, in my view, directly comparable. There are differences in the facts and circumstances, both in terms of the scale of development proposed and the



status of the proposed local development plan examination at the point of determination of the appeals. Therefore, I do not consider it appropriate to take account of these decisions in coming in my determination of the case before me.

### Planning obligations

48. The council confirm that the proposed development would impact on capacity pressures at Maddiston Primary School, Braes High School and nursery provision. The impact of the proposed development could be mitigated by means of a developer contribution of £2,600 per unit towards education provision at Maddiston Primary School, £2,100 per unit towards provision at Braes High School and £700 per unit towards nursery provision. A developer contribution could be secured by means of a Section 75 planning obligation.

49. NHS Forth Valley confirm that there are capacity issues at local health centres in the area. As I outline in paragraph 23 above, in the absence of a negotiated on-site solution, a contribution towards the provision of health care facilities should be sought. The level of contribution to be calculated in accordance with the formula contained in Supplementary Guidance SG 11 'Healthcare and New Housing Development'.

### Conditions

50. The schedule of conditions is based on that provided by the council. The applicant has no objections to the proposed conditions but suggests an amendment to condition 5 to allow flexibility in terms of the road design. I have however noted the appellant's planning statement advises that the indicative masterplan reflects the principles set out in Scottish Government policy 'Designing Streets' and provides a defined street hierarchy which ensures that pedestrians and cyclists are prioritised over vehicles. Policies HSG04 'Housing Design' and D03 'Urban Design' of the adopted LDP both refer to a requirement for development proposals to conform to Designing Streets policy. Consequently I have retained the wording of the proposed condition as suggested by the council.

51. The appellant has not objected to the council's remaining conditions, however in addition to some changes to minor typographical errors in the council's schedule, I have added a new clause to condition 2 to ensure that further details are submitted in respect of the future maintenance of the culverted Manuel Burn which lies within the appeal site.

52. Although the council refers to the requirement for a planning obligation in respect of open space provision in its response to my procedure notice I see no reason why a planning condition would not achieve the same planning purpose. I have therefore retained the council's proposed condition.

53. In proposed condition 12, I have added a requirement for details of pedestrian/cycle links to adjoining residential areas, playing fields to the north and the public footpath to the south to be provided.

54. I have also added new conditions 16 and 17 to ensure that cognisance is taken of the existing landscape quality and that provision is made for the future maintenance and protection of trees in and around the appeal site boundaries.

55. I am also satisfied that the remaining suggested conditions are consistent with the terms of circular 4/1998: 'the use of conditions in planning permissions'.

### Overall conclusion

56. I have concluded above that subject to the imposition of appropriate planning conditions the proposed development complies with the current adopted LDP. The proposal before me also benefits from the presumption in favour of sustainable development in SPP and there are no other material considerations in this instance that would outweigh the development plan.

57. Consequently, I am minded to grant planning permission in principle subject to the schedule of conditions listed below and a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some other suitable agreement or mechanism as may be agreed by the parties, to secure financial contributions towards the provision of education infrastructure and health facilities.

58. I will accordingly defer determination of this appeal for a period of 12 weeks to enable the relevant planning obligation (an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997) to be completed and registered or recorded, as the case may be. If, by the end of the 12 week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

*Karen Black*

Reporter

### **Schedule of conditions**

1. Plans and particulars of the matters specified below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the planning authority has been given, and the development shall be carried out in accordance with that approval. The specified matters are:-

- a) The siting of the building(s);
- b) The design of the building(s);
- c) The external appearance of the building(s);
- d) Details of the access arrangements;
- e) Details of landscaping of the site, including maintenance schedule; and
- f) Details of the proposed boundary treatments.

2. Notwithstanding the terms of condition 1 of this permission, or any details previously submitted, the plans and particulars of the matters specified below shall also be submitted for the consideration by the planning authority, in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin in respect of the proposed development until such time as the planning authority has approved details of the matters specified below in writing and the development shall thereafter be carried out in accordance with the approval. The specified matters are:-

- a) Drainage strategy including drainage calculations and a maintenance schedule, outlining who will be responsible for the inspection, maintenance and any replacement of the culverted Manuel Burn;
- b) Details of existing and proposed site levels.

3. The development hereby approved shall not be occupied or brought into use until such time as the following documents have been submitted to, and approved in writing by the planning authority:

- a) A copy of the appropriate sustainability label (i.e. at least Bronze Active); and
- b) A statement of conformity which confirms that 10% of the required CO2 emissions reduction is achieved through the installation of low and zero carbon generating technologies.

Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to, and approved in writing by the planning authority. The approved details shall thereafter be implemented in accordance with the approved timetable and retained operating thereafter, unless otherwise agreed in writing by the planning authority.

4a) 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 risk to human health, property, the water environment and designated ecological sites should be determined. The contaminated land assessment must be approved in writing by the planning authority.

b) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy should be submitted to the planning authority demonstrating that the site will be made suitable for its intended use by removing any unacceptable risks, caused by the contamination. The scheme must be approved in writing by the planning authority.

c) 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.

d) If unexpected contamination is found after development has begun, development of the affected part of the site must stop. The developer must notify the planning authority immediately and carry out a contaminated land assessment, and undertake any necessary remediation works, before development of the affected part of the site may continue.

5. All roads shall be constructed in accordance with the “National Roads Development Guide” and as part of the first application for the approval of matters specified in conditions, a statement shall be submitted demonstrating accordance with the design toolkit of the Scottish Government “Designing Streets” policy.

6. The main access into the site shall be of standard construction, 5.5 metre wide carriageway with 2 metre wide footways. All other streets shall be designed as shared surface with a 5.5 metre wide carriageway and either 2 metre wide service strip, footway or verge, or any combination of all three.

7. As part of a first application for approval of matters specified in conditions, a swept path analysis shall be submitted demonstrating that refuse sized vehicles can satisfactorily manoeuvre throughout the site.
8. In curtilage parking, excluding any garage provision shall be provided at a rate of 1 space for a one bedroom dwelling, 2 spaces for a two or three bedroom dwelling and 3 spaces for a dwelling of four or more bedrooms.
9. Visitor parking shall be provided at a rate of 0.25 spaces per dwelling distributed evenly throughout the site.
10. Affordable housing shall be provided at a rate of 25% in accordance with Policy HSG02 of the 2015 Falkirk Local Development Plan “Affordable Housing” or any subsequently adopted replacement policy and the terms of Supplementary Guidance SG12 “Affordable Housing” or any subsequently adopted replacement guidance.
11. Open space shall be provided on site at a rate of:-
- Active Open Space 10.5m<sup>2</sup> per flat and 21m<sup>2</sup> per dwellinghouse; and
  - Passive Open Space 24.5m<sup>2</sup> per flat and 49m<sup>2</sup> per dwellinghouse, in accordance with the terms of Supplementary Guidance SG13 “Open Space and New Development” or any subsequently adopted replacement guidance.
12. As part of the first application for the approval of matters specified in conditions, a statement shall be provided demonstrating the measures to be taken to ensure that the public footpath crossing the southern section of the application site remains open and unobstructed during, and after completion and occupation of the proposed development. Details of pedestrian/cycle links to adjoining residential areas, playing fields to the north and public footpath to the south should also be provided. The statement must be approved in writing by the planning authority and the proposals carried out in accordance with the terms of the approved statement.
13. As part of the first application for the approval of matters specified in conditions, details of an intrusive site investigation to ascertain any mine entries at the site shall be submitted. The intrusive ground investigation shall include:-
- A report of the findings arising from the investigation including the results of any gas monitoring carried out;
  - The submission of a layout plan which identifies appropriate zones of influences for any recorded mine entries and the definition of suitable “no-build” zones;
  - A scheme of treatment for any recorded mine entries; and
  - A scheme for remediation works for shallow coal workings.
- For the avoidance of doubt, any remediation works required shall be carried out prior to commencement of development.
14. As part of the first application for the approval of matters specified in conditions, a statement shall be submitted demonstrating that the proposed development has been designed in accordance with the findings of the flood risk assessment, revision 1, dated 18 October 2018.
15. As part of the first application for the approval of matters specified in conditions, an operations statement shall be submitted demonstrating that the proposed development

shall be carried out in accordance with mitigation measures specified in the bat survey dated September 2017 submitted in support of the proposed development.

16. Further to condition 1(f), the scheme of landscaping shall include the following details:
- An indication of all existing trees, shrubs and hedges proposed to be removed, those to be retained and, in the case of damage, proposals for their restoration;
  - The location of all proposed new trees, shrubs, hedges and grassed areas;
  - A schedule of plants to comprise species, plant sizes and proposed numbers/ densities and nursery stock sizes;
  - Methods of protection (tree shelters/ guards/ staking/ fencing) and including initial maintenance to aid rapid establishment; and
  - A programme for completion and subsequent maintenance.

17. No trees shall be removed until such time as any tree protection fencing is in place in accordance with the details approved under condition 16(d) above.

## REASONS

1 - 2. To ensure that the matters specified are given full consideration and to accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

3. To ensure that minimum 10% of carbon reduction is achieved by means of on-site energy generating technologies.

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

5 - 9. To safeguard the interests of users of the highway.

10. To ensure that affordable housing is provided at a satisfactory rate and tenure.

11. To ensure that a satisfactory standard of open space is provided.

12. To ensure that the public footway at the application site remains open for existing use and unobstructed at all times.

13. To ensure the ground is suitable for the proposed development.

14. To ensure that the proposed development is not at risk from flooding or that the proposed development would cause a risk of flooding off-site.

15. To safeguard the interests of roosting bats at the application site.

16. To ensure the safeguarding and enhancing of local landscape quality.

17. To safeguard existing trees.