



**Joint meeting between FDT Board and representatives of FINDERNE Community Council  
Monday 14<sup>th</sup> November 2022, at Loch of Blairs 6-7pm.**

**In attendance:**

Tony Pinner FCC, Howard Davenport FCC, Stewart McCracken, Chair FCC and Director FDT, Brian Higgs, Chair FDT, Karen Astill Director FDT, Jo Laing Director FDT, Moira Dennis Director FDT, Ian Chorlton Development Officer FDT, Jan MacPherson Development Manager FDT.

**Outcome of discussions.**

**1. What mandate does the FDT have to build these houses on the Brockloch land?**

The FDT, like all other development trusts, is a legal entity and therefore the Board of Directors' mandate to do anything arises from the objectives and powers defined within the Articles of Association (AoA). The Directors of FDT have a legal obligation to work within the rules of company/charity legislation, and one of these obligations is to undertake the objectives defined within the Articles of Association.

The creation of the FDT started with work by the FINDERNE Community Council through a series of community surveys and consultation meetings which gave overwhelming support to the establishment of an entity that would work on long term, legacy, type projects centred around the general themes of rural sustainability and regeneration. This concept was proposed to the funders, the operators of Logie wind farm (HoGRLLP), who were supportive and the FDT was legally incorporated with AoA that reflect the original intent.

Under both company and charity law, a Development Trust such as FDT must be a member organisation and the Board of Directors are answerable to the membership of FDT, not the "community" as a general population. However, also under the law there must not be any encumbrance to someone becoming a member of the trust if they reside in the area defined under the AoA, so anyone in the community can become a member if they wish.

When asked through the original community engagement mentioned above, and through the specific means of a housing needs survey and analysis conducted by experts, the Communities Housing Trust, there has been continued positive support when the question asked has been "*does FINDERNE need more affordable houses to rent and/or buy*".

The AoA for Finderne Development Trust, and the membership of the FDT have given the mandate to the Board of FDT to develop an affordable housing project, and Brockloch is an obvious location to deliver part of the trust's objectives.

HD raised the point that, in response to the recent FCC community survey, around 60% of respondents in Upper Rafford, expressed that they would prefer that the Brockloch field was used for other purposes than housing. This was based on a very high response rate of nearly 60% from Upper Rafford.

MD suggested this result was not valid, as the questions about housing were not put in context of the Moray Development plan.

HD made the point that, in any case, there were considerable negative opinions of the project in Rafford, expressed in conversations with residents and at FCC meetings. When asked what the objections were, he pointed to the appendices in the FCC Survey Report.

HD observed that this issue had the potential to become divisive within the community, and that the FDT needed to do more in terms of communication and listening to the community. BH/JM said that the forthcoming drop-in event at Rafford Village Hall, would be used as an opportunity for community feedback, and that regular consultation events were embedded in the Project Execution Plan.

There was some discussion around the design of the recent FCC community survey. It was suggested that had circumstances been different that it would have been more effective if FDT and FCC had been able to co-ordinate the design and content of their community surveys, which were issued in March 2022 and June/July respectively. JM noted that FDT had been under a deadline to issue the FDT survey as funding for Kerry McInnes in her Project Officer post, the person who was co-ordinating FDT's community survey ceased at the end of March 2022. It was also noted by MD that it was difficult in questionnaire design, not to ask a question without leading people.

## **2. Where does the provision to build the houses appear in the FDT Strategic Plan?**

A Strategic Plan is a broad document that looks to define the future vision for a place/organisation and summarise key inputs that shape the intended actions that will take place. The development of FDT's first Strategic Plan was facilitated by Athena Solutions and Strategy Story, sponsored by Local Energy Scotland. Affordable housing is mentioned a number of times in the body of the text describing the context of the plan – examples on pages 12, 13 & 14. A link to FDT's strategic plan is as follows: <https://findernedevelopmenttrust.com/wp-content/uploads/2019/09/Strategic-Plan-2019-2023.pdf>.

TP raised the point that transport, and broadband came ahead of housing, in answer to the question 'What is most important to you for Finderne over the next 5-15 years?' – see page 14.

BH pointed out that the outcome of the initial community consultation which resulted in FDT's Strategic Plan, needed to be viewed in tandem with the outcome of the subsequent Housing Needs Survey (HNS) carried out by the Communities Housing Trust on behalf of FDT in October 2020. The HNS surveyed existing Finderne residents, existing Finderne businesses, and potential Finderne residents. A copy of the final report can be viewed at this link: [Finderne Housing Needs Survey- Report 2020 Final.docx](#)

BH noted that arguably the most important section of any Strategic Plan is the one that describes “*what are we going to do to deliver this vision*” and that starts on page 15. Affordable/Appropriate Housing (Link to hub?) is shown in the future projects graphic commencing in year 3 of the plan. On page 17 there is also reference to engaging with local land owners with a view to community purchase of potential sites for both housing and a hub. It was clearly ALWAYS the intention that the Trust would look into how more affordable housing could be developed for the community.

HD noted that it could be stretching a point for FDT to use the outcome of the HNA to justify the Brockloch site specifically.

BH confirmed that there is no specific reference to Brockloch in the FDT Strategic Plan because at the time of writing it there was no Brockloch proposal. The Brockloch proposal arose out of a coincidence of two things.

Firstly, the Moray Council carried out its review of the Moray local development plan (MLDP) in 2015 and included Brockloch as an area zone for “rural cluster” housing development (Note that Brockloch, as an area zoned for housing remains within the updated MLDP 2020).

As a statutory consultee, Finderne Community Council was invited to respond to the inclusion of Brockloch within the 2015 Moray Local Development Plan, and the updated MLDP in 2020. As far as those present at meeting could recollect, no objections had been raised by the FCC to the provision of housing at Brockloch per se on either occasion.

Feedback from the FCC to Moray Council in 2020 on zoning of Brockloch for housing remaining within the 2020 MLDP included a request for the re-inclusion of the following sentences which had been part of the 2015 MLDP:

- The area to the rear of the existing houses must be retained as open space/landscaping
- Consideration to be given to safe routes to school, which may take the form of a bus bay for school buses

The FCC also gave the following feedback ‘please note that there are no existing septic tanks that would be suitable for any additional houses. All septic tank in the area serve individual houses and are privately owned and maintained’.

At the same time Chris Piper, FDT’s first Chairperson and Brian Higgs FDT Director (who were both also on the FCC at the time) had a meeting with David Houldsworth of Dallas Estates who owned the land. David Houldsworth indicated that the land at Brockloch was about to be put on the market for sale but that they (Dallas Estates) would prefer the land to go for community development rather than commercial development, and that Dallas Estates were willing to give FDT the pre-emptive right of purchase.

BH noted that as the land at Brockloch was already zoned for housing, and as the landowner was minded to sell, but willing to give FDT the pre-emptive right of purchase, that the FDT Board had made the decision to progress the possibility of a community-led affordable housing project at the Brockloch site in the first instance, but not ruling out a similar or similar projects elsewhere within the Finderne area at some point in the future.

HD asked, given that a site near Logie School, has also been identified in the Local Area Plan, as a potential Rural Grouping, whether the landowner(s) in this area had been approached by FDT. BH said no approach had been made as Brockloch had been a priority. JL pointed out that this grouping had been reduced from 10 down to 2 in the final version of the Plan.

### **3. How will the FDT be able to fund the Brockloch development when its funding is only for five years?**

This question can best be answered in two parts as follows:

- A) The financial model for the Brockloch development is based on the vast majority of the capital funds coming from third parties other than the FDT. For example, funding from the Rural Housing Fund, CARES (Scottish Government's Community and Renewable Energy Scheme), Scottish Land Fund, Moray Council etc. Other funding sources include sale proceeds from the self-build plots and house sales and potentially commercial loans covered by the rental income. We cannot at this stage state categorically that no funds will come from the FDT, but any contribution would be a very small percentage of the total project.
  
- B) Understandably the core funders of the FDT, HoGRLLP, (Hill of Glaschyle Limited Liability Partnership) were unwilling to give a 25-year blanket commitment to funding an organisation, the Finderne Development Trust, that had literally only just been incorporated. Their position was that they supported the concept of the FDT, as enshrined in its AoA, and they would review the performance of the Trust after 5 years. If the trust had performed against its original intent the funding would be extended for a further 5 years. We have no reason to believe that the FDT will not receive a favourable review. BH pointed out that the Annual Operating Plans of the FDT had been approved each year by the core funders of FDT and were available on the FDT website.

### **4. What are the FDTs obligations under the grant they received for purchasing the field?**

The grant funding from the Scottish Land Fund (SLF) for the land purchase was predicated on the proposal to develop affordable housing. A key part of the application was confirmation from the Rural Housing Fund (RHF) that the Brockloch project met their basic eligibility criteria for development funding. Whilst the RHF would not guarantee that funding would be made available the risk of default on the project proposal was low enough for SLF to grant the finances for purchase.

If for whatever reason, FDT was unable to complete the affordable housing project, the Trust would have to go back to the Scottish Land Fund to discuss the situation in more detail. As a registered Scottish charity, the FDT is legally bound by an "asset lock" which means that any funds or property owned by the Trust must be transferred to an organisation with "similar intents" should the Trust be wound up.

When asked if there was anything in the agreement with SLF, that committed the FDT to a housing development in Brockloch field BH repeated that the grant had been given on the basis of the housing development and we have no idea what SLFs position would be if this did not go ahead because we have not asked SLF the question. FDT has not taken legal advice on this scenario, but it is highly likely that the FDT would have to try to find another organisation with similar objects, such as a housing association for example, who would take on the development of the land in the way that was originally supported by the SLF grant. FDT does not believe that the SLF would be willing to simply see the land redeployed for something such as amenity ground, particularly given the proximity of the land to the RVH and recreation ground.

#### **5. Why do the FDT refer to the Brockloch development as a 'community led housing project when there is considerable resistance from the community to the project?**

Because it is community led. The Board, at the time the proposal was initiated, discussed this subject long and hard with input from the representative of Community Housing Trust (CHT). The FDT board wanted a title that demonstrated that the project was different to a commercial housing development, and to a local authority and/or Housing Association **social housing** development.

The former would have virtually no community input, out with standard planning approval objections, and the latter would use an allocations policy that was determined by Scottish Government rules rather than anything based on local specific needs.

The full title of the project at Brockloch is “**community-led affordable housing**”. The inclusion of the term affordable reflects a key aspect of the project at Brockloch. The aim is to increase the available housing stock in Finnerne to meet the community’s needs for properties for sale that are well below the average market price, and properties for rent at affordable rents.

Increasing the supply of suitable, affordable housing prevents people being potentially forced to leave the community and provides secure, efficient homes for people who may be currently living in unsatisfactory accommodation.

All the proposed houses at Brockloch will be retained as affordable in perpetuity.

For the rental properties this will be achieved by letting at social equivalent rents, as advised by the Communities Housing Trust, and for discounted sales and self-build plots this will be achieved by applying a **Rural Housing Burden** to the title of each property.

A Rural Housing Burden comprises two elements:

- a) An agreed discount percentage to the purchaser from the open market value, and
- b) A right of pre-emption, which means that FDT will have the option to buy back the property when the owner decides to sell their home.

This will then allow FDT to sell the property to another purchaser, and a discount will be applied to the market value for any future sales.

**6. At the end of the meeting there was a brief discussion on the following points raised by the FCC as possible options to mitigate the development.**

- a) That no houses at all are built on the land.

As already noted above, the field at Brockloch has been zoned for housing within the Moray Local Development Plan since 2015, so if for any reason FDT had not been able to purchase the land on behalf of the community, it is highly likely that the land would have been purchased by a private developer.

- b) Reduce the numbers of houses proposed.

The total number of houses to be built has not yet been finalised however it is unlikely that the number will be significantly less than 12 in total, in to keep the overall financial viability of the project.

- c) Reduce the height of the buildings.

Any buildings will have to meet Moray Council planning constraints.

- d) Extend the build time of the project.

In discussion it was not entirely clear what had been meant by this suggestion. It was confirmed that the overall project is still at quite an early stage with architects yet to be appointed. We do not have a firm project plan timescale yet; completion is approximately 2-3 years away.

- e) Increase the area of unbuilt land around the proposed houses.

The housing project proposal being taken forward by FDT is already to have significantly less of the acreage of ground developed than would be under a commercial development

- f) Seek an alternative site in the Logie/Dunphail area, as both were identified in views received from the community in the FCC survey.

Representing the whole of Finderne, FDT aims to seek an additional site in the Logie/ Dunphail area for a similar community-led affordable housing project, once the project at Brockloch is well on the way to completion.

**AOCB**

- The Board of FDT emphasised that there will be regular ongoing consultation with the Finderne community throughout the completion of the community-led affordable housing project at Brockloch, and that comments, feedback, and enquiries are always welcomed.

Please contact [hello@findernedevelopmenttrust.com](mailto:hello@findernedevelopmenttrust.com) or call our office based at Logie Steading on 01309 221026.

- Regular updates will be posted on the Finderne Development Trust website <https://findernedevelopmenttrust.com/>
- TP asked why FDT had not followed through on their assurance to FCC that minutes of meeting would be issued, and why FDT did not publish copies of board minutes on the FDT website. BH replied that at an early stage FDT had taken advice from DTAS (Development Trust Association Scotland) on this point, who confirmed that there was no legal obligation on FDT to do so.

In view of the fact that there might be times when minutes would require to be redacted if commercially sensitive points had been under discussion the board had taken the decision not to post FDT board minutes publicly due to the additional secretarial work involved in redaction. At the October 2022 board meeting, the FDT Board has committed to circulate e-bulletin updates on Project Brockloch as well as other projects to FDT members on a monthly basis, going forward.

- A reminder was made that anyone living in the Finderne area is welcome to become a member of Finderne Development Trust, and that all members of FDT are encouraged to consider the possibility of joining the board of FDT to have a more direct role in all future developments of the Trust. Director training will be provided.
- For more details on membership please see : <https://findernedevelopmenttrust.com/membership-application/> or phone the FDT office, number as above, to request a paper copy of a membership application form to be sent out.
- It was agreed that a copy of FDT's monthly e-bulletin will also be forwarded to the FCC Secretary, to then be re-forwarded by FCC to all those on the FCC mailing list.
- It was noted by all those present that more regular communication between FDT and FCC would be very helpful to both organisations, and that under FDT's Articles of Association FCC have the right to have a co-opted member on the board of Finderne Development Trust.
- The meeting concluded at 7.15pm with a reminder that FDT will be holding a community drop-in event at Rafford Village Hall on **Saturday 19<sup>th</sup> November 2022** between 10am and 1pm to give an update on current progress with the community-led affordable housing project, and that all community members are warmly invited to come along for a chat.