



Agenda Item 4

**Amendment to Planning Permission
P/13/0741/FUL (Substitution of
Housetype) at Land to the West of
Netherview Cottage, Bonnybridge, for
Black Bull Estates Limited -
P/19/0149/FUL**

FALKIRK COUNCIL

Subject: **AMENDMENT TO PLANNING PERMISSION P/13/0741/FUL
(SUBSTITUTION OF HOUSETYPE) AT
LAND TO THE WEST OF NETHERVIEW COTTAGE,
BONNYBRIDGE, FOR BLACK BULL ESTATES LIMITED -
P/19/0149/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **19 June 2019**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Denny and Banknock**

Councillor Jim Blackwood

Councillor Fiona Collie

Councillor Paul Garner

Councillor Nigel Harris

Community Council: **Banknock, Haggs and Longcroft**

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

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks planning permission for the erection of a replacement farmhouse. The proposed new farmhouse would replace the now demolished farmhouse at Tomfyne and become the new administrative and operational hub for the holding.
- 1.2 A replacement farmhouse at the same site has previously been approved (see the site history below). The previous approval was for a two storey dwellinghouse while the current application is for a single storey dwellinghouse of similar design.
- 1.3 The application site consists of land within an agricultural holding to the north of Kilsyth Road, west of Banknock. The site sits within an open landscape which rises to the north. The holding is an upland livestock unit consisting of breeding ewes and a cow beef herd, which also produces silage and includes commercial forestry.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as granting it would be contrary to the Development Plan.

3. SITE HISTORY

- 3.1 Planning application P/13/0109/FUL for the erection of two agricultural worker's dwellinghouse was granted on 28 March 2014.
- 3.2 Planning application P/13/0110/FUL for the erection of an agricultural shed was granted on 26 April 2013.
- 3.3 Planning application P/13/0741/FUL for the erection of a replacement farmhouse and outbuilding annex, incorporating a garage and estate office was granted on 2 April 2014. This permission has been implemented by the carrying out of foundation/sub-structure works.
- 3.4 Planning application P/17/0557/FUL for erection of two agricultural worker's dwellinghouses (amendment to planning permission P/13/0109/FUL) was granted on 13 October 2017.

4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit have advised that there are no roads related conditions to attach to any grant of planning permission.
- 4.2 The Council's Environmental Protection Unit have advised that noise need not be a determining factor in considering the application. A contaminated land assessment would be required in the event of any unexpected contaminated land being encountered following commencement of the development.
- 4.3 Scottish Water have no objection to the application. There is currently sufficient capacity at the Carron Valley Water Treatment Works and the Bonnybridge Waste Water Treatment Works. The availability of capacity would be reviewed at the time of a formal connection application. There may be potential conflicts with Scottish Water assets which may result in restrictions on proximity of construction.
- 4.4 The Coal Authority have advised that the application site lies within the defined Development High Risk Area (DHRA). However, the proposed dwellinghouse would be located clear of the area of shallow underground coal mining and the recorded mine entry i.e. outside the DHRA. Accordingly they have no objection to the application.

5. COMMUNITY COUNCIL

- 5.1 The Banknock, Haggs and Longcroft Community Council have not made any representation.

6. PUBLIC REPRESENTATION

- 6.1 No public representations have been received in respect of the application.

7. DETAILED APPRAISAL

- 7.1 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 Falkirk Local Development Plan (LDP) was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies.
- 7a.2 The application site lies outwith the urban limits, within the countryside, as defined in the LDP.
- 7a.3 Policy CG01 Countryside states:-

The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside, within which development will be assessed in the terms of the relevant supporting countryside policies (Policies CG03 and CG04), and Supplementary Guidance SG01 'Development in the Countryside'.

- 7a.4 This policy states that development proposals in the countryside will be assessed against the relevant supporting policies and supplementary guidance SG01 'Development in the Countryside'. The relevant supporting policy in this instance is Policy CG03 'Housing in the Countryside'.

- 7a.5 Policy CG03 Housing in the Countryside states:-

Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:

- 1. Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;*
- 2. Restoration or replacement of houses which are still substantially intact, provided the restored/replacement house is of a comparable size to the original;*
- 3. Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;*
- 4. Appropriate infill development;*
- 5. Limited enabling development to secure the restoration of historic buildings or structures; or*

6. *Small, privately owned gypsy/traveller sites which comply with Policy HSG08.*

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'. Proposals will be subject to a rigorous assessment of their impact on the rural environment, having particular regard to policies protecting natural heritage and the historic environment.

7a.6 This policy provides for housing in the countryside in certain circumstances. The potential relevant circumstances in this case are set out in parts 1 and 2 of the policy and relate to agricultural need and replacement housing. SG01 'Development in the Countryside' sets out the criteria to be satisfied in support of the policy. Assessment of the proposal against the criteria is carried out in paragraphs 7a.11 to 7a.13 below.

7a.7 The scale, layout and design of housing development in the countryside is required under the policy to be suitable for its intended location. Planning permission has previously been granted for a two storey dwellinghouse at the site (reference P/13/0741/FUL). The current proposal would be very similar in terms of its siting and size of the footprint and the design theme would be similar. The most significant change is a reduction in height to single storey, which is considered to be acceptable at this location.

7a.8 D04 - Low and Zero Carbon Development states:-

1. *All new buildings should incorporate on-site low and zero carbon-generating technologies (LZCGT) to meet a proportion of the overall energy requirements. Applicants must demonstrate that 10% of the overall reduction in CO₂ emissions as required by Building Standards has been achieved via on-site LZCGT. This proportion will be increased as part of subsequent reviews of the LDP. All proposals must be accompanied by an Energy Statement which demonstrates compliance with this policy. Should proposals not include LZCGT, the Energy Statement must set out the technical or practical constraints which limit the application of LZCGT. Further guidance will be contained in Supplementary Guidance SG15 'Low and Zero Carbon Development'. Exclusions from the requirements of this policy are:*
 - *Proposals for change of use or conversion of buildings;*
 - *Alterations and extensions to buildings;*
 - *Stand-alone buildings that are ancillary and have an area less than 50 square metres;*
 - *Buildings which will not be heated or cooled other than by heating provided solely for the purpose of frost protection;*
 - *Temporary buildings with consent for 2 years or less; and*
 - *Where implementation of the requirement would have an adverse impact on the historic environment as detailed in the Energy Statement or accompanying Design Statement.*
2. *The design and layout of development should, as far as possible, seek to minimise energy requirements through harnessing solar gain and shelter;*

3. *Decentralised energy generation with heat recycling schemes (combined heat and power and district heating) will be encouraged in major new developments, subject to the satisfactory location and design of associated plant. Energy Statements for major developments should include an assessment of the potential for such schemes.*

7a.9 Under this policy, all new buildings should incorporate on-site low and zero carbon generating technologies (LZCGT) to meet a proportion of the overall energy requirements. A condition would be attached to any grant of planning permission to require the submission of an energy statement to demonstrate compliance with the terms of SG15, - 'Low and Zero Carbon Development'

Supplementary Guidance forming part of the Local Development Plan

7a.10 Supplementary Guidance SG01 'Development in the Countryside' and SG15 'Low and Zero Carbon Development' are relevant to the application.

7a.11 SG01, 'Development in the Countryside' indicates that the Council recognises that the nature of a rural business may mean that managers or employees need to live on site. If a house is required on site for an economic activity, a number of criteria must be met. These include whether: -

- There is an operational need for the dwellinghouse in association with the business;
- There is no existing dwelling which might have served the need that has been sold or otherwise alienated from the holding; and
- There are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwelling.

7a.12 With regard to these criteria, the operational need for the proposed dwellinghouse was previously accepted in the context of the overall labour requirement for the holding. In addition, it was accepted that there were no reasonable opportunities for using redundant buildings rather than building a new dwelling. However, it was recognised that the existing farmhouse (Tomfyne) had been sold and therefore alienated from the holding. The proposal therefore does not satisfy all of the criteria.

7a.13 SG01 'Development in the Countryside' also includes provisions for replacement housing. However, the criteria relate to sub-standard housing which is demolished and replaced on the same site. In this case, the proposed dwellinghouse is to 'replace' the now demolished farmhouse as the administrative and operation hub for the holding. The existing farmhouse was alienated from the holding, and was at a different location than the proposed dwellinghouse. The proposal therefore does not meet the criteria for replacement houses.

7a.14 The application is therefore assessed as contrary to the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed in respect of this application are Proposed Falkirk Local Development Plan 2, the consultation responses and the planning history.

Proposed Falkirk Local Development Plan 2

- 7b.2 The Proposed Falkirk Local Development Plan 2 (LDP2) was approved by the Council in September 2018 for consultation. The consultation period ran from 27 September 2018 to 23 November 2018. The representations to LDP2 are to be considered by Council on 26 June 2019. Following consideration by Scottish Ministers of the unresolved representations, it is expected that LDP2 will be adopted in 2020, at which point it will replace the current Falkirk Local Development Plan. LDP2 provides the most up to date indication of Falkirk Council's views in relation to Development Plan Policy and constitutes a material consideration in the determination of planning applications.
- 7b.3 Under Proposed LDP2, the application site also lies outwith the urban limits, within the countryside. The policy considerations are the same or similar to those of relevance under the LDP.

Consultation Responses

- 7b.4 The consultation responses are summarised in section 4. No objections are raised and the matters highlighted could be the subject of planning conditions or informatives as appropriate.

Planning History

- 7b.5 The planning history is detailed in section 3 and includes the approval of a replacement farmhouse in 2014 (reference P/13/0741/FUL). This application was assessed as contrary to the Development Plan but the individual circumstances of the case were recognised, in that the existing farmhouse and steading had been sold for use in a new quarry operation and the proximity of the new quarry to the existing farmhouse would render it unsuitable as a residential property. This was considered to be a relatively unique circumstance to justify granting the application contrary to the Development Plan.
- 7b.6 In the intervening period the existing farmhouse has been demolished as the building was assessed by the new owner as being in a dilapidated condition and not economical for conversion into the quarry office.

7c Conclusion

- 7c.1 The application is considered to be contrary to the Development Plan for the reasons detailed in this report. The report advises that planning permission was previously granted in 2014 for a replacement dwellinghouse at this site. That application was similarly assessed as contrary to the Development Plan and the justification for its approval is explained in paragraph 7b.5 above. The circumstance to justify the previous approval still stands and therefore it is considered that the current application can be similarly approved. There are not considered to be any other material considerations to justify refusal of the application.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Committee grant planning permission subject to the following condition(s):-

- 1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- 2. Before the development commences, the exact details of the colour and specification of the proposed external finishes shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- 3. Before the development commences, the exact details of the height, location and construction of all proposed fences, walls and other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order), no fence, wall, gate, or other means of enclosure exceeding one metre in height shall be erected without the prior express consent of this Planning Authority.**
- 5. For the avoidance of doubt, the defined curtilage of the proposed dwellinghouse shall be as defined on approved plan 02 (Drawing Number RMDL/254/001 Revision G).**
- 6. Before the development commences, a scheme of soft landscaping works (including the proposed plant bund) shall be submitted to and approved in writing by this Planning Authority. Details of the scheme shall include (as appropriate):-**
 - i. Existing and finished ground levels/profiles in relation to a fixed datum, preferably ordnance;**
 - ii. An indication of existing landscape and planting features to be removed, those features to be retained and, in the case of damage, proposals for their restoration;**
 - iii. The location of new trees, shrubs, hedges and grassed areas;**
 - iv. A schedule of plants to comprise species, plant sizes and proposed numbers/density; and**
 - v. A programme of completion and subsequent maintenance.**

No existing vegetation shall be removed prior to approval of the scheme of soft landscaping works, and, following approval of the scheme, the development shall be carried out in accordance with the approved details.

7. Before the development commences, a contaminated land assessment shall be submitted to and approved in writing by this Planning Authority. Before the development is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy, and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
8. Before the development commences, a proposed strategy to deal with surface water run-off shall be submitted to and approved in writing by this Planning Authority. Thereafter, the approved strategy shall be fully implemented prior to the development being brought into use.
9. The dwellinghouse hereby approved shall be used and occupied in all-time coming for no other purpose than exclusively for a person employed, or last employed, in the farm business associated with the proposed development, or widow or widower of such persons, and any resident dependants of such a person.

Reason(s):-

1. As these drawings and details constitute the approved development.
- 2-4, 6. To safeguard the visual amenity of the area.
5. In order to confirm the defined curtilage for the proposed dwellinghouse
7. To ensure the ground is suitable for the proposed development
8. To ensure that adequate drainage is provided.
9. The proposed development is at a countryside location and is considered to be inappropriate unless tied to the agricultural use of the land.

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.
2. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
3. 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 - 19:00 Hours
Saturday	08:00 - 13:00 Hours
Sunday / Bank Holidays	No noise audible at site boundary

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

4. In the event of any unexpected contaminated land being encountered following the commencement of development, the applicant is advised to notify the Planning Authority immediately, carry out a contaminated land assessment and any necessary remediation works, and only recommence the development with the approval of the Planning Authority.
5. Scottish Water have advised that according to their records, the development proposals impact on existing Scottish Water assets. Any conflicts identified may be subject to restrictions on proximity of construction. The Asset Impact Team should be contacted on service.relocation@scottishwater.co.uk

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Director of Development Services

Date: 11 June 2019

LIST OF BACKGROUND PAPERS

- 1) Falkirk Local Development Plan (including relevant supplementary guidance).
- 2) Proposed Falkirk Local Development Plan 2.

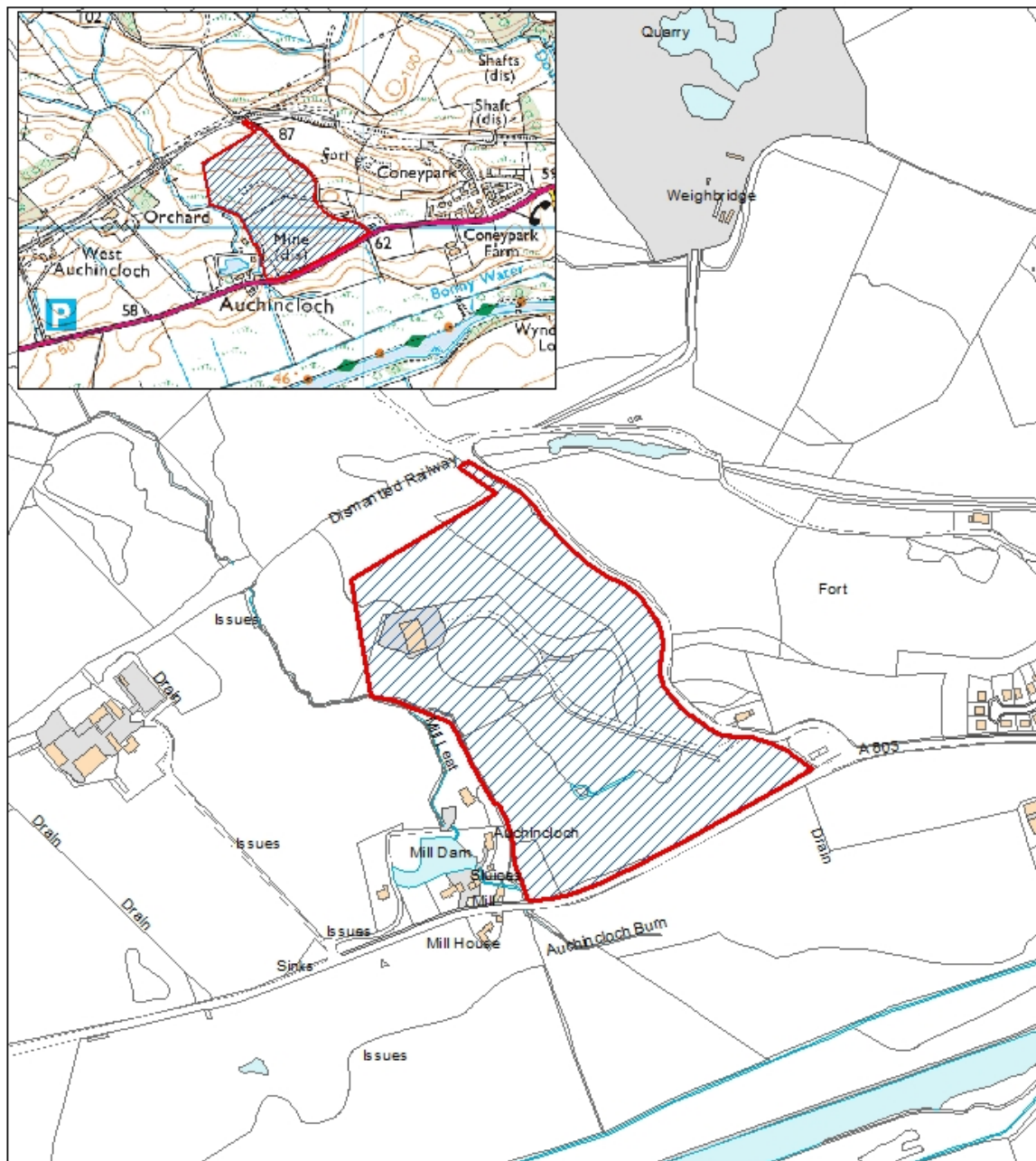
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/19/0149/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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