

FALKIRK COUNCIL

Subject: **DEVELOPMENT OF LAND FOR RESIDENTIAL USE AT LAND TO THE WEST OF SCHIEHALLION, WESTER SHEILDHILL, FALKIRK FOR MS JACKIE KEMP - P/12/0314/PPP**

Meeting: **PLANNING COMMITTEE**

Date: **19 August 2015**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

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

Community Council: **Falkirk South**

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

UPDATE REPORT

1. Members will recall that the above planning application was presented to Planning Committee on 30 January 2013. At the meeting on 30 January 2013 Committee agreed that it was minded to grant planning permission in principle subject to the conclusion, in terms satisfactory to the Director of Development Services, of an appropriate legal agreement to secure that the monies generated from the development be properly and fully vouched and accounted for and spent on the Equestrian Centre. (Copies of previous report appended)
2. Subsequent to the minded to grant decision little progress was made in attempts by Falkirk Council for the applicant to commit to the legal agreement as required by the decision at Planning Committee. Latterly no progress at all was made between mid and late 2014.
3. Members will recall that the application was included in a report to Planning Committee on 25 February 2015 as a result of the length of time for which the application had been under consideration by Falkirk Council and the lack of progress in concluding the required legal agreement.
4. The Kingsbarn Equestrian Centre business was liquidated in late 2014 and the site has subsequently been sold. The agent for the planning application has confirmed that he is unable to withdraw the application and the applicant no longer has an interest in the site. No contact has been made by any party since the last report to Planning Committee seeking to progress the required legal agreement

5. RECOMEMNDATION

5.1 It is therefore recommended that the Planning Committee refuse planning permission in principle for the following reason:-

The applicant has failed to conclude a Section 75 Legal Obligation as required by the minded to grant decision made by Falkirk Council Planning Committee at its meeting of 30 January 2013.

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pp Director of Development Services

Date: 7th August 2015

LIST OF BACKGROUND PAPERS

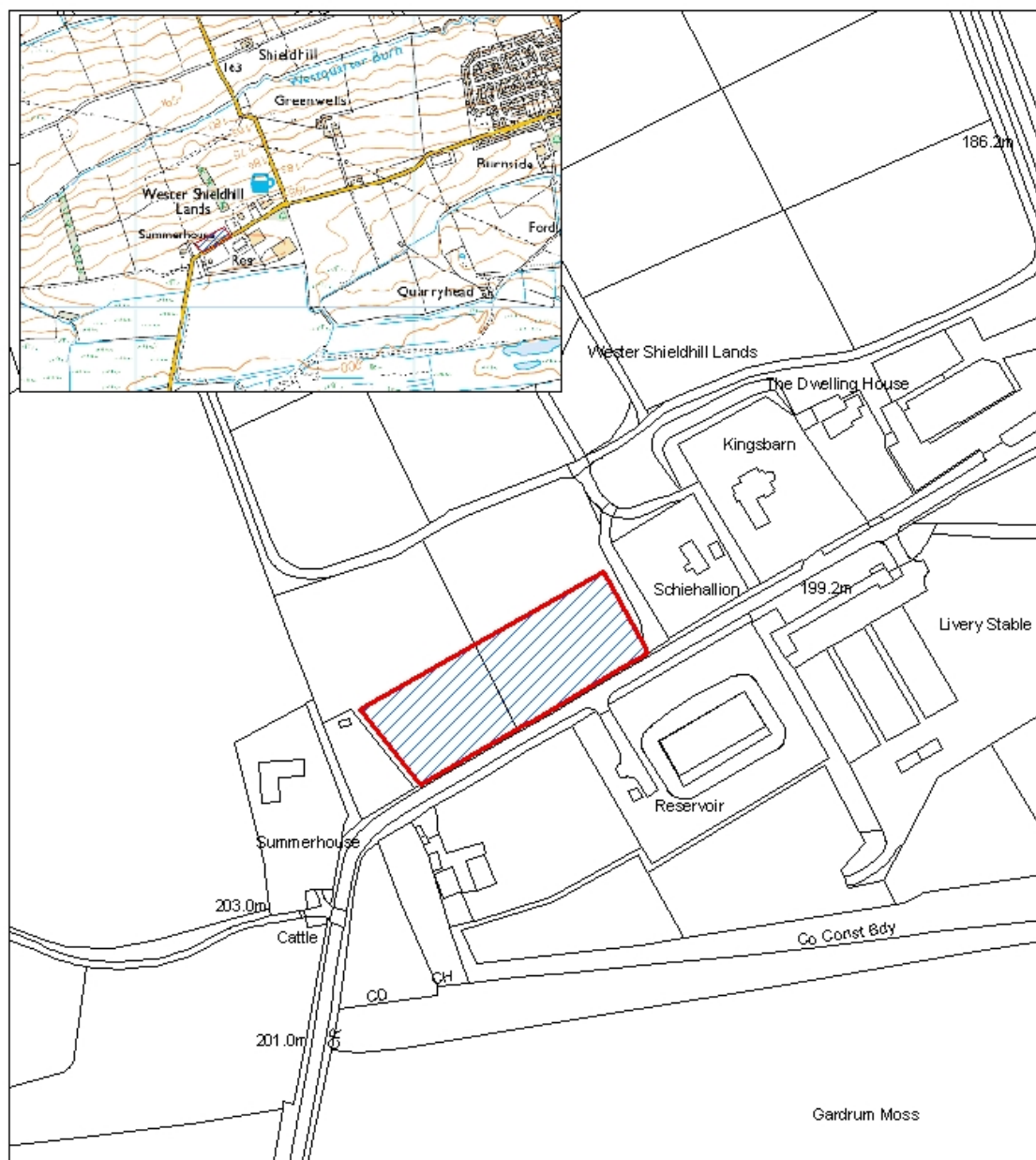
1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
6. Letter of support received from Beancross Restaurant, F.T.A.O. Douglas Hannigan, West Beancross Farm, Polmont, Falkirk, FK2 0XS on 19 July 2012.
7. Letter of support received from Russell's Country Store Ltd, Wester Woodside Farm, Linlithgow, EH49 6QE on 19 July 2012.
8. Letter of support received from Marie-Louise McLean, Burnfoot Cottage, Chapel Lane, Falkirk, FK1 5BB on 19 July 2012.
9. Letter of support received from Diva Dogs, F.T.A.O. Emma Chisholm, Kingsbarn, Falkirk, FK1 3AT on 19 July 2012.
10. Letter of support received from Andrew, Mhairi and Katie Maxwell, Heatherdale, 6 Queen's Crescent, Falkirk, FK1 5JL on 19 July 2012.
11. Letter of support received from Marion Cameron, enclosing a petition with 77 signatories, 41 Montrose Road, Polmont, Falkirk, FK2 0YN on 19 July 2012.

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/12/0314/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: DEVELOPMENT OF LAND FOR RESIDENTIAL USE AT LAND
TO THE WEST OF SCHIEHALLION, FALKIRK FOR MS
JACKIE KEMP - P/12/0314/PPP

Meeting: PLANNING COMMITTEE

Date: 30 January 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Falkirk South

Case Officer: Ian Dyden (Development Manager), Ext.4756

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT AND CONTINUATION

1. Members will recall that this application was originally considered at the Planning Committee on 28 November 2012 (copy of previous report appended), where it was agreed to continue the application to the January Planning Committee to allow further discussions with the applicant in relation to considering further the reduction of the proposed house plot access/egress points onto the B8028.
2. The applicant has now submitted a further plan that revises the access arrangements as requested at the Planning Committee on 28 November 2012. This plan now shows a single access point at the intersection of plots 3 and 4. In addition, associated visibility splays are shown comprising a visibility splay of 4.5 metres x 115 metres to the west (the corner of road bend B8028) and 4.5 metres x 122 metres to the center line of the road (B8028). The applicant cites that these visibility splays are better than the existing accesses along this stretch of road.
3. In response, roads officers have advised that the visibility splay in both directions from the site access should be 4.5 metres x 122 metres and measured to the kerb line or carriageway edge adjacent to the site and not the centre line of the road. Therefore the required visibility splays cannot be achieved in either direction to the required standards (shortfall of 15 metres to the east and 7 metres to the west).

4. Roads officers have also advised that the single access point would have to be designed and constructed to adoptable standards with correct visibility splays, horizontal and vertical alignment, junction radii, road and footway widths including possible street lighting. As such, this requirement could create an urbanisation in a location that is rural in character. It should also be noted that as there is no continuous public footway from the site to Shieldhill, resulting in the requirement for the Council to provide school transport for any resident children should planning permission be granted. It is therefore considered that the proposal would still raise road safety concerns given the number of dwellings proposed and the rural location of the site.
5. Therefore no matters have arisen in this further assessment that would change the recommendation to refuse planning permission.

6. RECOMMENDATION

6.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reasons:-

- (1) The proposed development is considered to be contrary to policy ENV1 (Countryside and Protected Areas) of the Falkirk Council Structure Plan in that the proposed housing is not directly related to the Kingsbarn Equestrian Centre and does not therefore require a countryside location.
- (2) The proposed development is considered to be contrary to policy EQ19 (Countryside) of the Falkirk Local Plan in that it has not been demonstrated that the proposed housing requires a countryside location and is not considered to be an appropriate infill development.
- (3) The proposed development is considered to be contrary to policy SC3 (Housing Development in the Countryside) in that there is no operational need for the proposed housing which would not be directly associated with the operation of the existing Kingsbarn Equestrian Centre and the housing would not represent appropriate infill development.
- (4) The proposed development is considered to be contrary to policy EQ22 (Landscape and Visual Assessment) of the Falkirk Local Plan in that a landscape and visual assessment has not been provided for a site in a prominent countryside location which, if developed, could have a significant impact on the landscape setting of the wider area.
- (5) The proposed construction of an additional vehicular/pedestrian access on a de-restricted section of the B8028 and the potential for vehicular and pedestrian conflict arising from vehicle turning is not considered to be in the best interests of road safety.
- (6) The information submitted in support of the proposed development has not demonstrated that the proposed development is in accordance with countryside and landscape policies of the Development Plan or justified that an exception to these policies, in terms of enabling development directly related to an established countryside business, should be made.

Informative(s):-

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

Pp

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Director of Development Services

Date: 22 January 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
6. Letter of support received from Beancross Restaurant, F.T.A.O. Douglas Hannigan, West Beancross Farm, Polmont, Falkirk, FK2 0XS on 19 July 2012.
7. Letter of support received from Russell's Country Store Ltd, Wester Woodside Farm, Linlithgow, EH49 6QE on 19 July 2012.
8. Letter of support received from Marie-Louise McLean, Burnfoot Cottage, Chapel Lane, Falkirk, FK1 5BB on 19 July 2012.
9. Letter of support received from Diva Dogs, F.T.A.O. Emma Chisholm, Kingsbarn, Falkirk, FK1 3AT on 19 July 2012.
10. Letter of support received from Andrew, Mhairi and Katie Maxwell, Heatherdale, 6 Queen's Crescent, Falkirk, FK1 5JL on 19 July 2012.
11. Letter of support received from Marion Cameron, enclosing a petition with 77 signatories, 41 Montrose Road, Polmont, Falkirk, FK2 0YN on 19 July 2012.

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 FOR RESIDENTIAL USE AT LAND
TO THE WEST OF SCHIEHALLION, FALKIRK FOR MS
JACKIE KEMP - P/12/0314/PPP

Meeting: PLANNING COMMITTEE

Date: 28 November 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Falkirk South

Case Officer: Ian Dyden (Development Manager), Ext.4756

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT AND CONTINUATION

1. Members will recall that this application was originally considered at the Planning Committee on 22 August 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 4 September 2012. The application was subsequently presented to Committee on 19 September 2012 and 31 October 2012 (copy of update report appended) and continued in order to allow further assessment of the supporting financial information submitted by the applicant.
2. Further consultation with Falkirk Council Finance Services has now been undertaken in order to further evaluate the ability of the existing business to implement the previous planning permission to extend Kingsbarns through the proposed enabling development. As a result, a further meeting has been held between the applicant, her accountant and the Council's Accountancy Services Manager.
3. Following discussions with the applicant and submission of further financial information, it has been confirmed that the contributions from the enabling development would be insufficient to enable the proposed development to be undertaken without further capital being introduced by the applicant. The applicant has confirmed that it has always been the intention to further invest in the business and written confirmation has been received that the applicant will meet any shortfall from other sources. It should be noted that planning officers had already estimated that construction costs appear higher than would normally be expected for a building of this size and use. The applicant has stated that this assessment does not include all internal finishings and also states that this cost could be lower.

4. It is acknowledged that the ongoing success of the business in terms of improved financial performance following the proposed development cannot be predicted with absolute certainty, as indeed with any business enterprise. The company has been in existence for 3 years and has demonstrated increasing profitability during this period. The business is looking to expand by promoting more equestrian events on the site which will result in the downscaling of the existing livery operation. Ultimately there is a risk that the financial assumptions are optimistic, with projected income overstated and/or operating costs understated. This remains a concern of planning officers. However that is a risk that would have to be managed by the applicant if the enabling development was approved. The applicant proposes that the enabling development would be tied to the expansion of the equestrian business through a legal agreement and therefore any funds arising from the sale of the plots would only be available for the purpose proposed.
5. The applicant has submitted further details in order to address the concerns of the Roads Development Unit. These details have been assessed and it has been concluded that the proposed development cannot achieve the junction visibility standards for Roads in the Falkirk Council Area 2000. The Roads Development Unit has re-iterated concerns of potential impacts on road safety as a result of unnecessary increased vehicular and pedestrian movements on a de-restricted rural road.
6. It is therefore considered that no matters have arisen in further assessment that would change the recommendation to refuse planning permission

7. RECOMMENDATION

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

- (1) The proposed development is considered to be contrary to policy ENV1 (Countryside and Protected Areas) of the Falkirk Council Structure Plan in that the proposed housing is not directly related to the Kingsbarn Equestrian Centre and does not therefore require a countryside location.
- (2) The proposed development is considered to be contrary to policy EQ19 (Countryside) of the Falkirk Local Plan in that it has not been demonstrated that the proposed housing requires a countryside location and is not considered to be an appropriate infill development.
- (3) The proposed development is considered to be contrary to policy SC3 (Housing Development in the Countryside) in that there is no operational need for the proposed housing which would not be directly associated with the operation of the existing Kingsbarn Equestrian Centre and the housing would not represent appropriate infill development.
- (4) The proposed development is considered to be contrary to policy EQ22 (Landscape and Visual Assessment) of the Falkirk Local Plan in that a landscape and visual assessment has not been provided for a site in a prominent countryside location which, if developed, could have a significant impact on the landscape setting of the wider area.

- (5) The proposed construction of an additional five vehicular accesses on a de-restricted section of the B8028 and the potential for vehicular and pedestrian conflict arising from vehicle turning is not considered to be in the best interests of road safety.
- (6) The information submitted in support of the proposed development has not demonstrated that the proposed development is in accordance with countryside and landscape policies of the Development Plan or justified that an exception to these policies, in terms of enabling development directly related to an established countryside business, should be made.

Informative(s):-

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

Pp

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Director of Development Services

Date: 21 November 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
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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 FOR RESIDENTIAL USE AT LAND
TO THE WEST OF SCHIEHALLION, FALKIRK FOR MS
JACKIE KEMP - P/12/0314/PPP

Meeting: PLANNING COMMITTEE

Date: 31 October 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Falkirk South

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT AND CONTINUATION

1. Members will recall that this application was originally considered at the Planning Committee on 22 August 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 4 September 2012. The application was subsequently presented to Committee on 19 September 2012 and continued in order to allow further assessment of the supporting financial information submitted by the applicant.
2. Previous consultation with Falkirk Council's Economic Development Unit and Falkirk for Business has established that:
 - (i) the employment generation opportunities identified by the applicant were optimistic;
 - (ii) business profits were modest and that no business accounts have been provided for the most recent period, 2011-2012, despite these being requested on a number of occasions;
 - (iii) the applicant had identified the exploration of only limited financial options; and
 - (iv) the applicant is a company director of other companies which are providing credit to the Kingsbarns facility. These other companies have a high ratio of debt to available assets.

3. Additional consultation with Falkirk Council Finance Services has now been undertaken in order to further evaluate the ability of the existing business to implement the previous planning permission to extend Kingsbarns through the proposed enabling development. This further consultation has confirmed that the concerns previously raised by the Economic Development Unit and Falkirk for Business have validity.
4. It is the professional view of Finance Services that the existing business is trading in the context of liquidity constraints and that, given the existing financial commitments of the business and the modest profit levels, the business is unlikely to be able to implement the development as proposed, even with the benefit of enabling development.
5. An evaluation of the construction costs for the approved extension to Kingsbarns has been undertaken by Development Services Quantity Surveyors. This has confirmed that the approximated construction cost identified by the applicant appears higher than would normally be expected for a building of this size and use.
6. The applicant has submitted further details in order to address the concerns of the Roads Development Unit. These details have been assessed and it has been concluded that the proposed development cannot achieve the junction visibility standards for Roads in the Falkirk Council Area 2000. The Roads Development Unit has re-iterated concerns of potential impacts on road safety as a result of unnecessary increased vehicular and pedestrian movements on a de-restricted rural road.
7. Further analysis of the proposed financial arrangements submitted by the applicant in support of the proposed development have confirmed the concerns of project viability previously intimated to Members. An assessment of the additional information provided with respect to road safety has concluded that a road safety concern remains. The applicant's agent has questioned the assessing of the review by Finance Services but has not specified any particular concerns at the time of the deadline for the writing of this report. In this regard some further discussion is ongoing and any necessary update will be provided verbally at Committee.
8. It is therefore considered that no matters have arisen in further assessment that would change the recommendation to refuse planning permission

9. RECOMMENDATION

- 9.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reason(s):-
 - (1) The proposed development is considered to be contrary to policy ENV1 (Countryside and Protected Areas) of the Falkirk Council Structure Plan in that the proposed housing is not directly related to the Kingsbarn Equestrian Centre and does not therefore require a countryside location.
 - (2) The proposed development is considered to be contrary to policy EQ19 (Countryside) of the Falkirk Local Plan in that it has not been demonstrated that the proposed housing requires a countryside location and is not considered to be an appropriate infill development.

- (3) The proposed development is considered to be contrary to policy SC3 (Housing Development in the Countryside) in that there is no operational need for the proposed housing which would not be directly associated with the operation of the existing Kingsbarn Equestrian Centre and the housing would not represent appropriate infill development.
- (4) The proposed development is considered to be contrary to policy EQ22 (Landscape and Visual Assessment) of the Falkirk Local Plan in that a landscape and visual assessment has not been provided for a site in a prominent countryside location which, if developed, could have a significant impact on the landscape setting of the wider area.
- (5) The proposed construction of an additional five vehicular accesses on a de-restricted section of the B8028 and the potential for vehicular and pedestrian conflict arising from vehicle turning is not considered to be in the best interests of road safety.
- (6) The information submitted in support of the proposed development has not demonstrated that the proposed development is in accordance with countryside and landscape policies of the Development Plan or justified that an exception to these policies, in terms of enabling development directly related to an established countryside business, should be made.

Informative(s):-

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

Pp

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Director of Development Services

Date: 23 October 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
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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 FOR RESIDENTIAL USE AT LAND
TO THE WEST OF SCHIEHALLION, FALKIRK FOR MS
JACKIE KEMP - P/12/0314/PPP

Meeting: PLANNING COMMITTEE

Date: 19 September 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Falkirk South

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the Planning Committee on 22 August 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 4 September 2012.
2. The case officer presented a factual summary of the application and the applicant's agent spoke in support of the proposed development.
3. The Convener read a late representation letter submitted in support of the proposal.
4. Members of the Committee raised questions in relation to countryside planning policy, the road safety concerns identified in consultation with Falkirk Council Roads Development Unit and the applicant's supporting case seeking to justify the development on the basis of enabling development to further develop the existing Kingsbarn equestrian and livery centre.
5. The Falkirk Council Roads representative confirmed that the proposed development could not meet requirements for visibility on the de-restricted B8028. The creation of further vehicular accesses at the location was not therefore favoured, on the basis of road safety concerns.
6. The case officer confirmed that the recommendation to refuse planning permission was arrived at on the basis of it being both contrary to countryside policies of the Development Plan and concerns of road safety.
7. The case officer summarised consultation with Falkirk Council's Economic Development Unit on the applicant's submitted supporting information seeking to justify the proposal as enabling development. This consultation identified that:-

- i) the employment generation opportunities identified by the applicant were optimistic;
- ii) business profits were modest and that no business accounts have been provided for the most recent period, 2011-2012, despite these being requested on a number of occasions;
- iii) the applicant had identified the exploration of only limited financial options; and
- iv) the applicant is a company director of other companies which are providing credit to the Kingsbarns facility. These other companies have a high ratio of debt to available assets.

The conclusion of this consultation was that the grant of planning permission for the proposed development may not be sufficient to ensure the implementation of business development as envisaged by the applicant.

8. No issues were raised which would change the recommendation to refuse planning permission for the reasons detailed below.

9. RECOMMENDATION

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

- (1) The proposed development is considered to be contrary to policy ENV1 (Countryside and Protected Areas) of the Falkirk Council Structure Plan in that the proposed housing is not directly related to the Kingsbarn Equestrian Centre and does not therefore require a countryside location.**
- (2) The proposed development is considered to be contrary to policy EQ19 (Countryside) of the Falkirk Local Plan in that it has not been demonstrated that the proposed housing requires a countryside location and is not considered to be an appropriate infill development.**
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- (5) The proposed construction of an additional five vehicular accesses on a de-restricted section of the B8028 and the potential for vehicular and pedestrian conflict arising from vehicle turning is not considered to be in the best interests of road safety.
- (6) The information submitted in support of the proposed development has not demonstrated that the proposed development is in accordance with countryside and landscape policies of the Development Plan or justified that an exception to these policies, in terms of enabling development directly related to an established countryside business, should be made.

Informative(s):-

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

PP

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Director of Development Services

Date: 12 September 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
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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 FOR RESIDENTIAL USE AT LAND
TO THE WEST OF SCHIEHALLION, FALKIRK FOR MS
JACKIE KEMP - P/12/0314/PPP

Meeting: PLANNING COMMITTEE

Date: 22 August 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Falkirk South

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The proposed development relates to the erection (in principle) of 5 detached dwellinghouses on land owned by Kingsbarn Equestrian Centre, Shieldhill, Falkirk.
- 1.2 It is submitted by the applicant's agent that the proposed development is required in order to fund the development of a previously approved extension to Kingsbarn Equestrian Centre (reference P/08/0577/FUL) to provide additional facilities. The improved physical and economic viability of the existing business is considered to be the justification for the proposed enabling development.
- 1.3 The application site lies adjacent to the B8028 Shieldhill to Slamannan Road on its northern side. The site is located approximately 1km to the west of the Shieldhill settlement boundary in an area locally referred to as Wester Shieldhill lands.
- 1.4 The site lies in an open area with a slight incline from north to south. Existing dwellinghouses are located to the west and east of the site with a Scottish Water reservoir and the Kingsbarn Equestrian Centre to the south. Open countryside used as grazing land lies to the north.

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

- 3.1 06/0458/FUL - Erection of livery and equestrian centre - approved 23 October 2006 and now constructed.
- 3.2 P/08/0577/FUL - Extension to equestrian centre to provide additional facilities - approved 31 July 2008 but not yet constructed.
- 3.3 P/11/0380/PPP - Development of land for residential purposes - withdrawn.

4. CONSULTATIONS

- 4.1 The following responses to consultation were received:
- 4.2 The Roads Development Unit has expressed concern in relation to the unnecessary introduction of increased vehicular movements in the rural location of the site. Increased traffic movements are considered to have a detrimental effect on road safety. The proximity of existing commercial uses (with associated traffic generation) to the site and the de-restricted designation of the B8028 are considered to represent a concern from a road safety view.
- 4.3 The Environmental Protection Unit has no objection subject to the submission of a contaminated land assessment to determine if ground contamination exists on the site.
- 4.4 Education Services has no objection to the proposed development as sufficient capacity exists in the area.
- 4.5 Scottish Water has no objection to the proposed development.
- 4.6 The Scottish Environment Protection Agency has not responded to consultation.

5. COMMUNITY COUNCIL

- 5.1 No comments received.

6. PUBLIC REPRESENTATION

- 6.1 Seven letters, one of which includes a petition with 77 signatories, were received in support of the proposed development. All were submitted following the notification of the recommendation to refuse planning permission to the applicant.

7. DETAILED APPRAISAL

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

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

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

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

Falkirk Council Local Plan

7a.2 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.3 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.4 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.5 Structure Plan policy ENV1 Countryside and Protected Areas states that:

"There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential"

7a.6 The proposed housing is not directly associated with the Kingsbarn Equestrian Centre and it is considered for this reason that the proposed development does not accord with the provisions of Structure Plan policy ENV.1.

7a.7 The Falkirk Council Local Plan policies EQ19 (Countryside) and SC3 (Housing Development in the Countryside) are relevant.

7a.8 Policy EQ19 (Countryside) states that land outwith settlement boundaries is designated as countryside and will be subject to detailed policies for specific uses indicated in Table 3.3. This includes Policy SC3 (Housing Development in the Countryside). 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.

As the proposal does not meet any of these requirements, it is considered to be inconsistent with the terms of Policy EQ19.

- 7a.9 With regard to the issue of 'infill development' it is considered that the length of the site frontage and the distance between buildings on either side, of approximately 200 metres, go well beyond what could reasonably be considered to be 'appropriate infill development'.
- 7a.10 Policy SC3 'Housing Development in the Countryside' outlines in sub paragraphs (1), (2) and (3) the circumstances in which housing development in the countryside will be permitted. These include in sub paragraph (1), housing for which a countryside use is required, and sub paragraph (3), appropriate infill opportunities within the envelope of an existing group of residential buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8 'Infill Development and Subdivision of Plots'. It is considered that Policy SC8 is not relevant to this case.
- 7a.11 As the proposal is not directly associated with the operation of the rural business, it does not meet the operational need required by sub paragraph (1) of Policy SC3. In terms of sub paragraph (3), the issue of infill development is referred to above. In terms of its physical form, it is considered that the proposal does not form part of a cluster or group, but rather contributes to linear or 'ribbon' type development which does not relate well to the landscape or to other elements of the built environment at this location. The site is especially exposed and visible, particularly from the north, and additional development along the north side of Standrigg Road would lead to further erosion of the rural character of the immediate area.
- 7a.12 In terms of this proposal, there is no policy support within the Falkirk Council Local Plan for housing development to enable business development within the countryside. Whilst it is acknowledged that proceeds from the sale of housing are sought to fund expansion of the equestrian centre, it is considered that this cannot be at the expense of waiving policies aimed at safeguarding the countryside from housing not associated with a rural business. It appears in this case that the grant of planning permission for housing is sought as a substitute for normal development funding.
- 7a.13 The site is in a rural location, to the west of Shieldhill. To the east between the application site and The Three Kings are three detached residential properties forming a small 'ribbon development' along Darnrigg Road. To the west is another residential property, Summerhouse. To the south is Darnrigg Road with a reservoir and Gardrum Moss beyond and to the south east is Kingsbarn stables. To the north the land is rural, small fields and a 'track' associated with stables.

- 7a.14 Darnrigg Road follows a ridge line, running west/east alongside the southern boundary of the application site. The ground rises slightly to the south of the site and falls away more steeply to the north towards Glen Village/Lionthorn/Falkirk. This means that there are extensive views out from the site to the north over the urban area and beyond to the Ochils and more distant hills and mountains. This therefore means that the site is in quite a visible location. There is a small shelter belt of trees to the north east of the site (running north south) which affords it some screening. The Three Kings is a large and prominent building and therefore more noticeable than the adjacent residential properties which are partially screened by boundary planting.
- 7a.15 The regular arrangement of proposed residential curtilages of a typical urban form, direct vehicular accesses onto the B8028 and the indicative defined landscape screening all suggest that the development would result in unsympathetic and incongruous development out of character with the site and existing countryside setting. No indicative design parameters such as building height, mass and scale or orientation have been provided to address these concerns.
- 7a.16 If this site is developed the rural character of the immediate area would be further eroded. The proposed development is therefore considered to be contrary to the aims of Policy EQ22 - Landscape and Visual Assessment.
- 7a.17 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be assessed are Scottish Planning Policy (SPP), information submitted in support of the proposal, responses to consultation and letters and petition supporting the proposed development.

Scottish Planning Policy (SPP)

- 7b.3 It is considered that the Development Plan provides a policy framework which supports the Scottish Government's aim to create sustainable economic growth, and that the Falkirk Council Local Plan provides opportunities aimed at encouraging and supporting appropriate business development in the countryside.
- 7b.4 Scottish Planning Policy (SPP) encourages support for more opportunities for small scale housing in all rural areas including new clusters and groups and development which supports rural business and provides employment. It also requires new development to respond to the specific character of the location and to fit into the landscape.
- 7b.5 Whilst paragraph 94 of SPP makes reference to funding for rural business, this is not interpreted as meaning that housing can automatically be used to fund rural businesses. It is of concern that such an approach could result in unrestricted housing development across the rural areas, as rural businesses look to housing development for business funding.

- 7b.6 The proposed development does not meet expectations for appropriate infill as expressed in paragraph 82 of SPP. The proposed development would, undoubtedly, be of financial benefit to the existing business but could not be considered to enhance environmental quality (SPP paragraph 92). The proposed residential development does not represent diversification of the existing business use and may adversely impact on the distinctiveness of the countryside. Whilst the potential financial benefits are without doubt, they would not arise through the re-use of land or buildings. No environmental enhancement or regeneration would result from the proposed development (SPP paragraph 93).

Information Submitted in Support of the Proposal

- 7b.7 The applicant has provided supporting information consisting of financial costings from a building company for the construction of an approved planning permission P/08/0577/FUL to extend the existing equestrian centre. Valuations from a chartered surveying firm for the anticipated financial yield from the sale of proposed residential plots have also been provided.
- 7b.8 A letter declining to offer financial support has been provided from the applicant's bank.
- 7b.9 The proposed residential development therefore fails to be considered as potentially acceptable development solely in relation to the policy expressions contained in SPP paragraph 95 (settlement identity). As previously noted, the proposal does not provide any assurance that local character and landscape setting have been appropriately considered. Whilst the potential for small scale housing development to support a business diversification is noted, this is qualified by the many other policy considerations noted above.
- 7b.10 The proposal is that the yield from the sale of residential plots would, as enabling development, part fund the development of planning permission P/08/0577/FUL with the applicant meeting the financial shortfall. A business plan to outline the financial mechanisms of this arrangement has not been provided.
- 7b.11 No identification or viability assessment of potential associated complementary business diversification uses has been presented that could provide the funding stream which the applicant seeks. On-site diversification would have support from policies in the Development Plan. In addition, the financial case for enabling development has not been cogently advanced. Whilst costs and opportunities have been identified, these have not been quantified or evidenced in supporting documents. The submission of a comprehensive business plan, including demonstrated and quantified development costs, funding opportunities, financial phasing of enabling development and estimated profit is required. Whilst a business plan has been submitted, it does not provide an appropriate level of detail or consideration of all of these issues.

Response to Consultation

- 7b.12 Falkirk Council's Economic Development Unit has been consulted on the financial supporting information provided by the applicant. Comments have been provided in relation to business accounts, employment opportunities and alternative funding information provided by the applicant.
- 7b.13 The business accounts have been submitted for the periods 2009-2010 and 2010-2011. The accounts show modest but growing profitability.

- 7b.14 Employment opportunities existing from business expansion are most likely to be part-time, seasonal or in providing further work for freelance workers, such as farriers, who are used by Kingsbarns when required.
- 7b.15 Other than providing a letter from the applicant's bank declining credit the applicant has not provided details of the investigation of alternative funding sources. The Economic Development Unit and Falkirk for Business have provided the applicant with guidance on alternative funding sources which the applicant is currently investigating.
- 7b.16 The Roads Development Unit of Falkirk Council has expressed concern in relation to the proposed unnecessary provision of a further five vehicular accesses onto a derestricted section of the B8028. Concern has been expressed that potential vehicular and pedestrian conflict arising from the use of further accesses would not be in the best interests of road safety at this location.

Response to Letters and Petition Supporting the Proposed Development

- 7b.17 Three letters from hotels in the area have expressed support for the development of the existing business at Kingsbarns in terms of providing a positive impact to the local economy. Two letters from businesses associated with Kingsbarns businesses express the same view. One letter and a petition of 77 signatures have been submitted by customers of Kingsbarns expressing support for continued business development at the facility.
- 7b.18 The expansion of the Kingsbarns equestrian facility has previously been supported by the grant of planning permission (ref: P/08/0577/FUL) to extend the existing facilities.

7c Conclusion

- 7c.1 It is considered that the proposed development does not accord with the terms of the Development Plan with respect to new development in the countryside and potential visual impact on the landscape. Road safety concerns have been expressed by the Roads Development Unit of Falkirk Council. The supporting information provided is insufficient to justify a departure from countryside policies of the Development Plan. The letters submitted in support of the proposal are noted but are not considered to justify departing from Development Plan policy. There are no material planning considerations which would justify setting aside the terms of the Development Plan and support a recommendation to grant planning permission.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Planning Committee refuse planning permission for the following reason(s):-
- (1) The proposed development is considered to be contrary to policy ENV1 (Countryside and Protected Areas) of the Falkirk Council Structure Plan in that the proposed housing is not directly related to the Kingsbarn Equestrian Centre and does not therefore require a countryside location.

- (2) The proposed development is considered to be contrary to policy EQ19 (Countryside) of the Falkirk Local Plan in that it has not been demonstrated that the proposed housing requires a countryside location and is not considered to be an appropriate infill development.
- (3) The proposed development is considered to be contrary to policy SC3 (Housing Development in the Countryside) in that there is no operational need for the proposed housing which would not be directly associated with the operation of the existing Kingsbarn Equestrian Centre and the housing would not represent appropriate infill development.
- (4) The proposed development is considered to be contrary to policy EQ22 (Landscape and Visual Assessment) of the Falkirk Local Plan in that a landscape and visual assessment has not been provided for a site in a prominent countryside location which, if developed, could have a significant impact on the landscape setting of the wider area.
- (5) The proposed construction of an additional five vehicular accesses on a de-restricted section of the B8028 and the potential for vehicular and pedestrian conflict arising from vehicle turning is not considered to be in the best interests of road safety.
- (6) The information submitted in support of the proposed development has not demonstrated that the proposed development is in accordance with countryside and landscape policies of the Development Plan or justified that an exception to these policies, in terms of enabling development directly related to an established countryside business, should be made.

Informative(s):-

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

Pp

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Director of Development Services

Date: 14 August 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Government Guidance - Scottish Planning Policy.
4. Letter of support received from Hotel Cladhan, F.T.A.O. Douglas Hannigan, Kemper Avenue, Falkirk, FK1 1UF on 19 July 2012.
5. Letter of support received from The Best Western Park Hotel, F.T.A.O. Tommy Fleming, Park Hotel, 1 Arnothill, Falkirk, FK1 5RY on 19 July 2012.
6. Letter of support received from Beancross Restaurant, F.T.A.O. Douglas Hannigan, West Beancross Farm, Polmont, Falkirk, FK2 0XS on 19 July 2012.
7. Letter of support received from Russell's Country Store Ltd, Wester Woodside Farm, Linlithgow, EH49 6QE on 19 July 2012.
8. Letter of support received from Marie-Louise McLean, Burnfoot Cottage, Chapel Lane, Falkirk, FK1 5BB on 19 July 2012.
9. Letter of support received from Diva Dogs, F.T.A.O. Emma Chisholm, Kingsbarn, Falkirk, FK1 3AT on 19 July 2012.
10. Letter of support received from Andrew, Mhairi and Katie Maxwell, Heatherdale, 6 Queen's Crescent, Falkirk, FK1 5JL on 19 July 2012.
11. Letter of support received from Marion Cameron, enclosing a petition with 77 signatories, 41 Montrose Road, Polmont, Falkirk, FK2 0YN on 19 July 2012.

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