

# PLANNING APPLICATION DETERMINED BY DIRECTOR OF DEVELOPMENT SERVICES UNDER DELEGATED POWERS – REPORT OF HANDLING

---

**PROPOSAL** : Deletion of Condition 12 of Planning Permission P/11/0595/FUL Relating to Occupation of Dwellinghouse  
**LOCATION** : Drumbroider Farm, Falkirk, FK1 2HN,  
**APPLICANT** : Mark & Mrs Savanna Baird  
**APPN. NO.** : P/15/0129/VRC  
**REGISTRATION DATE** : 17 March 2015

## 1. SITE LOCATION / DESCRIPTION OF PROPOSAL

The site consists of the Drumbroider farm unit, which is located between the villages of Avonbridge and Standburn. The main farm buildings are currently all grouped together at a high point on the land, which slopes off gently in both a north-west and south-east direction. The lower section of the farm land to the south-east runs into an area covered by the Avon Valley Area of Great Landscape Value (AGLV). The farm unit is also divided by the B825 road, which is a main link between this rural area and the main A-class roads and the motorway network. The farm is currently an active livestock farm, and includes a saddlery business which is open to the public. Due to the success of the saddlery business, reorganisation of the farm unit was proposed under application P/11/0595/FUL for the demolition of the existing barns which are used as the shop unit and office, erection of a large new unit in their place containing a retail area, cafe, storage areas and offices for the business. It is also proposed as part of the redevelopment to separate the areas accessible by members of the public from that of the operational farm. To do this it is proposed to erect a second dwelling to the lower south-east section of the farm, which would also include associated farm buildings to allow livestock operations to take place within this new area. This would allow the majority of operations to be split and not require as many crossings of livestock over the B825 road. It is proposed that the son of the farm owner would occupy the property, as he is employed full-time on the farm, but currently lives remotely. The remainder of the main farm cluster would also be organised so the farm operations do not cross into the public areas, although the buildings existing and proposed would remain grouped together. Application P/11/0595/FUL was granted for the works proposed, although an occupancy condition was included in relation to the new dwelling, limiting the occupation to a person solely or mainly employed, or last employed in agriculture at Drumbroider Farm, or to a widow or widower of such a person and to any dependants. The current application has been submitted to delete Condition 12, as the applicant is stating that there is difficulty in obtaining the necessary finance to proceed with the proposal.

## 2. SITE HISTORY

- P/11/0595/FUL - Detail - Granted - 21.09.2012 - Erection of Dwellinghouse, Storage Buildings, New Retail Store, Café and Associated Ancillary Buildings, Associated Parking and New Vehicular Access
- P/11/0791/FUL - Detail - Granted - 23.04.2012 - Erection of Wind Turbine (50 kW) (25 Metres to Hub) (34 Metres to Blade Tip)
- P/12/0507/FUL - Application Withdrawn - 18.03.2013 - Erection of 2 Wind Turbine and Access Road (50 kW) (36.5 Metres to Hub) (46.1 Metres to Blade Tip)
- P/14/0205/FUL - Detail - Granted - 13.06.2014 - Erection of Wind Turbine (50 kW) (25 Metres to Hub) (34 Metres to Blade Tip) (Relocation of Turbine Previously Granted Planning Permission (P/11/0791))

## 3. CONSULTATIONS

No consultations were carried out on this proposal.

Where the local Community Council requested consultation, their comments appear above.

## 4. PUBLIC REPRESENTATION



In the course of the application, 1 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

- It is still considered that the level of livestock farming carried out at Drumbroider Farm does not justify a new dwelling house.
- It was considered that planning permission was granted on the basis of the farming activity, and not the saddlery business, although over the last couple of years it does not appear that the farming activity warrants such, and concerns on this matter have not lessened. It is considered that Condition 12 placed on application P/11/0595/FUL is perfectly reasonable, as it ensures that the proposed dwelling would be in compliance with the Council's Local Plan and ensure the dwelling would be used for its intended purpose, and therefore the Council should not remove the condition.
- It should be noted that the representation included a copy of the previous representation submitted for application P/11/0595/FUL. The points raised within that representation were fully addressed within application P/11/0595/FUL, and therefore do not require to be readdressed within the current application, as the issues highlighted have not altered within the current application.

## **5. THE DEVELOPMENT PLAN**

The proposed development was assessed against the undernoted Development Plan(s):

### **Falkirk Council Structure Plan**

There are no relevant policies within the Falkirk Council Structure Plan.

### **Falkirk Council Local Plan**

SC03 - Housing Development in the Countryside

### **Falkirk Council Local Development Plan - Proposed Plan**

CG03 - Housing in the Countryside

## **5A. MATERIAL CONSIDERATIONS**

The following matters were considered to be material in the consideration of the application:

Consideration of the site in relation to coal mining legacy

Assessment of Public Representations

Additional Planning Considerations

Falkirk Local Development Plan (Proposed Plan)

## **6. PLANNING ASSESSMENT**

### **The Development Plan**

The proposal raises no strategic issues and was therefore assessed against the Falkirk Council Local Plan alone.

### **Local Plan Policies**

Policy SC03 Housing Development in the Countryside - There are no material considerations within the policy which would require this proposal to be assessed in a different manner and therefore justify the removal of Condition 12 of application P/11/0595/FUL. The dwellinghouse is required within the business plan of the farm, and is therefore considered as a business asset within an area which is under



pressure for rural development, as it is contained within a commuter belt. It is considered therefore that there is a need for a more restrictive approach to development within this area, to ensure that unsustainable growth within the countryside does not occur. It is therefore considered that the proposal to delete Condition 12 would be contrary to Policy SC3, which requires new housing to be essential for businesses in the rural area. The deletion of the condition would result in a new dwellinghouse which could be occupied or sold without restriction.

### **Assessment of Public Representations**

- The need for the new dwellinghouse as part of the previous application P/11/0595/FUL is not under assessment.
- It is considered that the location of the proposed dwellinghouse is within an area of commuter pressure, which could lead to unsustainable growth within the countryside, therefore justifying the restrictive approach in relation to Condition 12. It is therefore not considered as acceptable to remove the condition, and the application has therefore been recommended for refusal.

### **Additional Planning Considerations**

#### **Scottish Planning Policy (SPP) -**

The Scottish Planning Policy (SPP) sets out national guidance for development within Scotland's rural areas. It is seen within the SPP to cover all rural areas across Scotland, and therefore gives guidance from more remote rural areas to rural areas under pressure of unsustainable growth due to their accessible location to nearby towns and cities. It is considered that the rural area within Falkirk District is accessible and pressured, and there is a danger of unsustainable growth in the rural area, therefore a more restrictive approach to new housing is considered appropriate. The dwellinghouse approved within application P/11/0595/FUL was approved on the requirement of the business reorganisation. Given the location, which is remote from the main farm unit, and the accessible location of a dwelling in this location to main towns and cities, it was considered appropriate to place a condition on the occupancy of the property. This was considered necessary as the assessment of the original application noted that the dwelling was only required in this location as a direct consequence of a reorganisation and expansion of the farming business. To ensure it was maintained as a business asset in this particular location, it was deemed appropriate to control occupancy. Due to the location of the property within this rural area, it is seen as an area that is under pressure for growth due to the proximity of nearby towns and cities which are well connected to the road network. Without restriction on the occupancy in relation to the business, it could lead to an unsustainable level of growth within this rural area. There is also no allocation or policy requirement within the Local Plan for a single dwelling at this location other than the business need. It is therefore considered that in this case, due to the location and requirement of the dwelling specifically for the business, that an occupancy condition is required to ensure that the property remains as a business asset, and that unsustainable growth within this area is avoided.

#### **Supporting Statement -**

The applicant has submitted a supporting statement with the application, noting that SPP supports and promotes housing in rural areas, particularly when linked to rural business, and that the need for the dwelling was fully assessed in the determination of P/11/0595/FUL.

The supporting statement goes on to note that Condition 12 in application P/11/0595/FUL does not in the applicant's opinion meet the requirements of the 6 tests within Circular 4/1998, these being –

- Necessary.
- Relevant to planning.
- Relevant to the development to be permitted.
- Enforceable.
- Precise.
- Reasonable in all other respects.

It is considered that Condition 12 does meet the requirements of the 6 tests within Circular 4/1998, being necessary and relevant to planning, as well as necessary to the approved development. It is considered



that the condition would be enforceable, and is precise in its requirement, as well as being reasonable in all other respects.

The applicant's statement also highlights a letter sent to Planning Authorities in November 2011 from the Scottish Government's Chief Planner. This was in relation to the use of occupancy restrictions and rural housing. The applicant submits that within this letter it states occupancy conditions are rarely appropriate, and that such conditions to restrict occupancy of a dwelling are not necessary, onerous and difficult to monitor and enforce. It is concluded within the applicant's statement that this means it does not meet 3 of the 6 tests within Circular 4/1998 for placing a condition on the application. It is seen that the content of the letter includes items noted by the applicant, but it does not state that such conditions do not meet the 6 tests set out within Circular 4/1998. The letter from the Chief Planner also notes that in rural areas that are pressured due to the accessibility to towns and cities, where there is a danger of unsustainable growth, that there is a sound case for a more restrictive approach. Falkirk is within a commuter belt area, and there is pressure for dwellings within the rural areas, which do require restrictive control to avoid unsustainable growth.

It is therefore considered that the supporting statement submitted by the applicant does not introduce any additional material considerations that would warrant removal of Condition 12 of application P/11/0595/FUL.

### **Falkirk Local Development Plan (Proposed Plan)**

The Proposed Falkirk Local Development Plan is expected to be adopted in 2015, at which point it will replace the current Structure Plan and Local Plan. It 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.

Policy CG03 Housing in the Countryside - The policy is relevant and as within Policy SC3 of the Falkirk Council Local Plan, requires new housing to be necessary in relation to rural businesses. There are no material considerations within this policy which would cause the proposal to be assessed in a different manner, and it is therefore concluded, that the proposal to delete Condition 12 of application P/11/0595/FUL be refused.

### **Consideration of the Site in relation to Coal Mining Legacy**

The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system and as such there may be exemptions to the requirement for a desk based Coal Mining Risk Assessment within the Development High Risk Area.

Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered to fall into one of these exempt groups, but ground conditions should still be considered as part of the Building Standards process, if relevant.

Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

## **7. CONCLUSION**

It is considered that the deletion of Condition 12 is not acceptable, and would not be in accordance with the Falkirk Council Local Plan and the Falkirk Local Development Plan (Proposed Plan April 2013). There are no material planning considerations which would justify deletion of Condition 12.

## **8. RECOMMENDATION**

Refuse Planning Permission

Refusal is recommended for the following

Reason(s):


1. It is considered that the deletion of Condition 12 of application P/11/0595/FUL restricting occupancy of the dwellinghouse would not be in accordance with Policy SC3 Housing Development in the Countryside of the Falkirk Council Local Plan and Policy CG03 Housing in the Countryside of the Falkirk Local Development Plan (Proposed Plan April 2013), and that the condition satisfies the criteria contained in Circular 4/1998, "The use of Planning Conditions in Planning Permissions".

The recommendation is based on the following reason(s):-

The proposals do not accord with the provisions of the Development Plan and there are no material considerations which would warrant approval of the application.

Informative:

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

  
\_\_\_\_\_  
Director of Development Services

Contact Officer : Stephen McClure  
(Planning Officer) 01324 504702

*MSCHURRA*  
\_\_\_\_\_  
Date

16/6/15.

