



AGENDA ITEM

5

**PLANNING APPLICATION –
P/14/0686/FUL - ERECTION OF
DWELLINGHOUSE WITH INTERNAL
GARAGE AT LAND TO THE SOUTH
OF AONACH-MOR,
GLEN ROAD, FALKIRK**

Documents relating to Agenda Item 5

1. Request for Hearing written submission to Applicant dated 4 November 2015. (Pages 16 to 17)
2. Response to request for Hearing written submission from Applicant dated 25 November 2015. (Pages 18 to 51)
3. **Important Note:** - the previous papers on this item were submitted to the meetings of the Planning Review Committee on 25 September 2015. These papers are available to view on the Falkirk Council website at:-

<http://www.falkirk.gov.uk/services/council-democracy/councillors-decision-making/committees/planning-local-review-body>

See website

Enquiries to: Antonia Sobieraj
Direct Dial: (01324) 501277
Email - Antonia.sobieraj@falkirk.gov.uk
Our Ref: AS
Date: 4 November 2015

Ist Class Post

Mr Michael Block
Aonach-Mor
Glen Road
Torwood
Falkirk
FK5 4SN

Dear Mr Block,

LOCAL PLANNING REVIEW COMMITTEE - PLANNING APPLICATION - P/14/0686/FUL - ERECTION OF DWELLINGHOUSE WITH INTERNAL GARAGE AT LAND TO THE SOUTH OF AONACH-MOR, GLEN ROAD TORWOOD, FALKIRK

I refer to your application for review of the recent decision in relation to the above planning application as agent on behalf of Mr and Mrs Craig and Denise Comrie.

I note from the email dated 12 October 2015 from Andrew Bennie, Planning Consultant that he will attend the Hearing on behalf of the applicants. The date for the Hearing will be confirmed as soon as possible and you will be advised of the date in due course.

In line with the terms of Schedule 1 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (the Regulations) you are now required to send to me no later than **Thursday 26 November 2015** the following:-

- (a) A Hearing Statement; and
- (b) Where you intend to refer to or rely on any documents when presenting your case (i) a list of all such documents; and (ii) a copy of every document (or the relevant part of a document) on that list which is not already available for inspection as part of the review papers.

Copies of the Hearing Statement and any associated documents are forwarded to those other parties who are entitled to appear at the Hearing. I would advise that the Director of Development Services has indicated that she will be represented at the Hearing.

To clarify, a "Hearing Statement" means, and is comprised of:-

- (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward at a hearing session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on, and

- (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

As I had advised previously the specified matters referred to above are:-

- (a) Whether the site of the proposed dwellinghouse correctly falls outwith the Torwood Village Limit in the Local Development Plan and whether decisions taken by the Planning Authority to grant permissions in the vicinity of the application site should have resulted in adjustment of the Village Limit in the Local Development Plan;
- (b) In the event that the proposed development is considered to correctly fall outwith the Torwood Village Limit, whether there is justification for the proposed development in terms of meeting the prescribed circumstances to permit new housing development in the countryside under the Development Plan or the existence of any material considerations that would justify going against the plan; and
- (c) Whether existing developments in Torwood at the bottom of Newington Lane (opposite Aonach-Mor) and at the northern end of Glen Road should be considered to be precedents for development of the nature proposed by the current application.

Again, I would advise that no other matters beyond these specified matters are to be considered at the Hearing.

In summary, you are requested to provide to me in the terms outlined above a Hearing Statement on or before **Thursday 26 November 2015**.

Should you require any further information please contact me at the above telephone number.

Yours sincerely,

Committee Services Officer
for Chief Governance Officer

cc. Mr and Mrs Craig and Denise Comrie
Andrew Bennie, Director, Andrew Bennie, Planning Limited

ANDREW BENNIE
PLANNING LIMITED

Ms. A Sobieraj
Committee Services Officer
Chief Executive Office, Governance
Municipal Buildings
FALKIRK
FK1 5RS

24th November 2015

Dear Ms. Sobieraj

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION) LOCAL REVIEW
PRODEDURES)(SCOTLAND) REGULATIONS 2008
PLANNING APPLICATION REFERENCE P/14/0686/FUL
LAND TO THE SOUTH OF AONACH-MOR, GLEN ROAD, TORWOOD

I refer to the above and to your letter of 4th November 2015 concerning the same.

In line with the terms set out within your letter, and in accordance with the relevant Regulations, I attach for your attention, a copy of my Hearing Statement, which addresses the list of Specified Matters.

Included within this Statement is a list of those Documents to which reference will be made by me during the course of the Hearing Session and also a copy of the Documents themselves.

I trust that you find this to be in order and I look forward to hearing from you further in due course.

Yours Sincerely



ANDREW BENNIE

Director

Enc.

HEARING STATEMENT IN SUPPORT OF
LOCAL REVIEW
RELATIVE TO THE REFUSAL OF PLANNING
APPLICATION REFERENCE P/14/0686/FUL

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Dullatur
G68 0AP

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November 2015

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1.0 Introduction

2.0 Responses to Specified Matters

Appendix 1: Documents List and copy of Additional Documents

1.0 INTRODUCTION

- 1.1 This Hearing Statement has been prepared by Andrew Bennie Planning Limited on behalf of Persimmon Homes East Scotland Limited in further support of their request that the Planning Authority, under the provisions of Section 43A(8) of the Town and Country Planning (Scotland) Act 1997, review the decision of the Appointed Person to refuse planning application reference P/14/0686/FUL.
- 1.2 This Hearing Statement provides responses to each of the Specified Matters set out within the letter from Falkirk Council dated 2nd October 2015.
- 1.3 Andrew Bennie, BA (Hons) MRTPI, a Director of Andrew Bennie Planning Limited will appear at the Hearing Session on behalf of the applicant.

2.0 RESPONSES TO SPECIFIED MATTERS

2.1 The matters specified by the Planning Review Committee at their meeting on 25th September 2015, are as follows:

- (a) Whether the site of the proposed dwellinghouse correctly falls outwith the Torwood Village Limit in the Local Development Plan and whether decisions taken by the Planning Authority to grant permissions in the vicinity of the application site should have resulted in adjustment of the Village Limit in the Local Development Plan;**
- (b) In the event that the proposed development is considered to correctly fall outwith the Torwood Village Limit, whether there is justification for the proposed development in terms of meeting the prescribed circumstances to permit new housing development in the countryside under the Development Plan or the existence of any relevant material considerations that would justify going against the plan; and**
- (c) Whether existing developments in Torwood at the bottom of Newington Lane (opposite Aonach-Mor) and at the northern end of Glen Road should be considered to be precedents for development of the nature proposed by the current application.**

2.2 My comments in relation to each of these matters specified are as follows.

- (a) Whether the site of the proposed dwellinghouse correctly falls outwith the Torwood Village Limit in the Local Development Plan and whether decisions taken by the Planning Authority to grant permissions in the vicinity of the application site should have resulted in adjustment of the Village Limit in the Local Development Plan,**

2.3 With regards to the details which are shown on Map 1: Banknock, Bonnybridge, Denny, Allandale, Greenhill & Torwood of the adopted Local Development Plan, it is accepted that the site which is the subject of this Review falls outwith the identified Village Limit which relates to Torwood.

- 2.10 In the event of is being accepted that the Review site is correctly identified as falling outwith the Torwood Village Limit, the Review proposals would fall to be considered against those provisions of the development plan which relate to the assessment of proposals for the erection of new housing in the countryside.
- 2.11 Policy CG03: Housing Development in the Countryside of the adopted Local Development Plan, and its associated Supplementary Guidance SG01: Development in the Countryside, provide the criteria against which proposals for housing and business development within the defined countryside require to be assessed.
- 2.12 Policy CG03 advises that proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported subject to satisfying any of six stated criterion.
- 2.13 One of the stated criteria, criteria (5), notes that housing development will be supported where in represents "Appropriate infill development".
- 2.14 Given that the Review site falls within the boundary of the site covered by planning permissions P/10/0589/PPP and P/12/0359/MSC, and in light of the fact that the dwellinghouse to which these earlier planning permissions relate is now nearing completion, it is my submission that within the context of these considerations, the Review site can fairly and reasonably be considered to constitute an appropriate infill site.
- 2.15 Furthermore, and in line with the overall requirements of Policy CG03, I would submit that in terms of its scale, layout and design, the dwellinghouse proposed under this Review is wholly appropriate for this location and that as such, the Review proposals can be fully and reasonably justified against the provisions of criterion (5) of Policy CG03 of the adopted Local Development Plan.

(c) Whether existing developments in Torwood at the bottom of Newington Lane (opposite Aonach-Mor) and at the northern end of Glen Road should be considered to be precedents for development of the nature proposed by the current application.

- 2.16 It is submitted that existing development within Torwood have established a precedent which, on a number of different grounds, support the case in favour of the development which is proposed under this Review.

- 2.17 Looking first of all at the issue of development outwith the defined village limit, attention is drawn to the terms of planning permission reference P/11/0692/FUL.
- 2.18 The Director of Development Services report on this application made clear that the site of the proposed dwellinghouse lay outwith the defined village limit and accordingly, recommended that the application be refused.
- 2.19 Notwithstanding this recommendation, and following an inspection of the application site by Committee, this planning permission was granted by Notice dated 4th April 2012 following consideration by the Council's Planning Committee at their meeting on 7th March 2012.
- 2.20 It is considered that this granting of planning permission creates a clear precedent in favour of the Review proposals.
- 2.21 In addition to this application, it is my understanding that the Council's Planning Committee have indicated that they are minded to approve planning permission pursuant to the erection of three dwellinghouses on Plots 1, 2 and 3 on land lying to the south of the existing dwellinghouse known as Bye-Ways, which sits on the south side of Glen Road.
- 2.22 These three dwellinghouses are proposed under the terms of planning application reference numbers P/13/0509/FUL, P/13/0513/FUL and P/13/0514/FUL.
- 2.23 In each case, the site of the proposed dwellinghouse sits outwith the defined village limit.
- 2.24 The stance that the Planning Committee has taken in respect of each of these applications, which provides a clear indication of the willingness of the Committee to grant permission for residential development on land outwith the defined village limit, is again held to establish a precedent in favour of the Review proposals.
- 2.25 The second means by which existing development within this area is held to create a precedent in favour of the Review proposals relates to those planning permissions, which have been granted for the erection of new dwellinghouses within the garden ground of existing dwellinghouses.
- 2.26 One example of this form of development can be found under the terms of planning permission reference 05/0687/FUL, which relates to the erection of two detached dwellinghouses within an area of garden ground lying to the rear of existing properties.

2.27 This planning permission is considered to be of relevance to the consideration of the Review proposals by way of precedent, both because it demonstrates that the ability to safely accommodate new build development within the garden ground of existing properties, as would be the case in respect of the Review proposals, but also because it is understood that at the time that this planning permission was granted, the site in question fell outwith the defined village limit of Torwood.

2.28 **Taking into account all of those matters set out above, I would respectfully request that the Local Review Body uphold this Review and in so doing, grant planning permission pursuant to planning application reference P/14/0686/FUL.**

APPENDIX 1: List of Review Documents copy of Additional Documents

Document 1: Copy of Decision Notice Ref. P/10/0589/PPP and Location Plan

Document 2: Copy of Decision Notice Ref. P/12/0359/MS and Location Plan

Document 3: Copy of Committee Report on Planning Application Ref. P/11/0692/FUL

Document 4: Copy of Decision Notice Ref. P/11/0692/FUL

DOCUMENT 1

Reference No. P/10/0589/PPP



Falkirk Council

Please note: this permission does not carry with it any necessary consent or approval for the proposed development under any other statutory enactments.

Town and Country Planning (Scotland) Acts as Amended

Planning Permission in Principle

Applicant

Mr Michael Block
Aonach-Mor
Glen Road
Torwood
Larbert
FK5 4SN

This Notice refers to your application registered on 23 August 2010 for permission in respect of the following development:-

Development Sub-Division of Garden Ground and Erection of Dwellinghouse at

Location Aonach-Mor, Glen Road, Torwood, Larbert, FK5 4SN

The application was determined by the Planning Committee. Please see the attached guidance notes for further information, including how to appeal against the decision.

In respect of applications submitted on or after 1 January 2010, Falkirk Council does not issue paper plans. Plans referred to in the informatives below can be viewed online at <http://eplanning.falkirk.gov.uk/online/>. In accordance with the plans docketed or itemised in the attached informatives as relative hereto, Falkirk Council, in exercise of its powers under the above legislation, hereby

Grants Planning Permission in Principle

This decision is issued subject to the following condition(s):-

1. This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site and future maintenance of landscaping.

2. That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:

- (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
- (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
- (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

3. That the development to which this permission relates must be begun not later than whichever is the later of the following dates:

- (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or
- (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

4. Before any development commences on site, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
5. The proposed driveway shall be at least 3 metres wide, at a maximum gradient of 10% and shall be constructed such that no loose material or surface water is discharged onto the public road.
6. Any driveway gates shall open in an inward direction only.
7. An in-curtilage turning facility shall be provided to enable vehicles to enter and exit the site in a forward gear.
8. Excluding any garage facility, in-curtilage parking shall be provided at a rate of 1 No. space for one and two bedroom dwellings and 2 No. spaces for dwellings with three or more dwellings.
9. There shall be clear sightlines to achieve as close to a minimum standard of 2.4m x 70.0m, in both directions from the proposed access, within which there will be no obstruction to visibility above carriageway level.
10. The proposed driveway will require to be constructed to allow maximum flow within the drainage ditch and be designed to allow access for maintenance purposes, ensuring it remains free of debris.



Reason(s):

- 1. To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- 2,3. To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- 4. To safeguard the visual amenity of the area.
- 5-7,9. To safeguard the interests of the users of the highway.
- 8. To ensure that adequate car parking is provided.
- 10. To prevent localised flooding.

Informative(s):

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01a.
2. The Roads Manager within Corporate and Commercial Services should be contacted to obtain a Minor Roadworks Consent before forming a vehicular access onto the public road or undertaking any work on, or under, the public road.
3. All drainage shall comply with the requirements of the Scottish Environment Protection Agency and Scottish Water and evidence of such compliance shall be exhibited to the Planning Authority on demand.
4. Falkirk Council have determined the application on the basis of available information relating to ground contamination/landfill gas. The responsibility for the safe development and secure occupancy of the site remains with the applicant/developer.
5. It is recommended that the applicant should consult with the Development Services Environmental Health Division concerning this proposal in respect of noise legislation which may affect this development.

11 March 2011


Director of Development Services


Location of proposed dwelling



R M D L
roy mitchell DESIGN LIMITED

	SEARCHED	SERIALIZED	INDEXED	FILED	APR 1968	FBI - LOS ANGELES
Mr Michael Block Aonach-Mor Glen Road, Torwood						
Site Layout						
RECEIVED						A

DOCUMENT 2

Falkirk Council

Approval of Matters Specified in Conditions

Location Aonach-Mor, Glen Road, Torwood, Larbert, FK5 4SN

In respect of applications submitted on or after 1 January 2010, Falkirk Council does not issue paper plans. Plans referred to in the informatives below can be viewed online at <http://eplanning.falkirk.gov.uk/online/applicationDetails.do?action=showSummary&caseNo=P/12/0359/MS>

C In accordance with the plans docketted or itemised in the attached informatives as relative hereto, Falkirk Council, in exercise of its powers under the above legislation, hereby


1. The development to which this permission relates must be begun within three years of the date of this permission.
2. That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 1, 2A and 3A.
2. The Roads Manager within Corporate and Commercial Services should be contacted to obtain a Minor Roadworks Consent before forming a vehicular access onto the public road or undertaking any work on, or under, the public road.
3. Falkirk Council have determined the application on the basis of available information relating to ground contamination/landfill gas. The responsibility for the safe development and secure occupancy of the site remains with the applicant/developer.
4. It is recommended that the applicant should consult with the Coal Authority concerning the proposal because of the possibility of disused mine workings under the site.

15 November 2012


Director of Development Services

3. That the development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or
 - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. Before any development commences on site, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
5. The proposed driveway shall be at least 3 metres wide, at a maximum gradient of 10% and shall be constructed such that no loose material or surface water is discharged onto the public road.
6. Any driveway gates shall open in an inward direction only.
7. An in-curtilage turning facility shall be provided to enable vehicles to enter and exit the site in a forward gear.
8. Excluding any garage facility, in-curtilage parking shall be provided at a rate of 1 No. space for one and two bedroom dwellings and 2 No. spaces for dwellings with three or more dwellings.
9. There shall be clear sightlines to achieve as close to a minimum standard of 2.4m x 70.0m, in both directions from the proposed access, within which there will be no obstruction to visibility above carriageway level.
10. The proposed driveway will require to be constructed to allow maximum flow within the drainage ditch and be designed to allow access for maintenance purposes, ensuring it remains free of debris.
11. For the avoidance of doubt, the site shall only be occupied by one dwellinghouse and the garden ground associated with it shall only be used for purposes incidental to the enjoyment of the dwellinghouse.

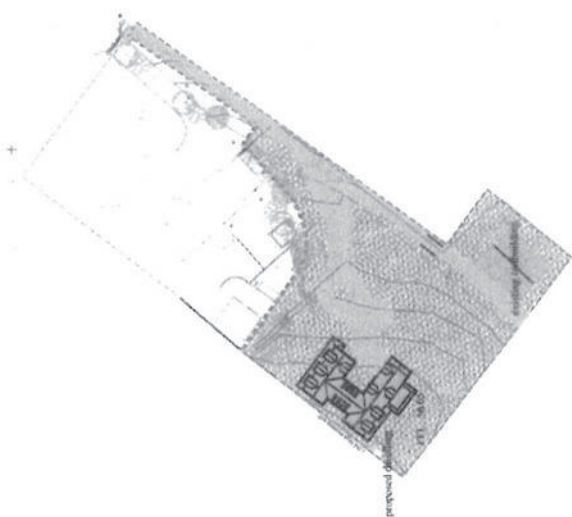
Reason(s):-

1. To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2,3. To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
4. To safeguard the visual amenity of the area.
- 5-7,9. To safeguard the interests of the users of the highway.
8. To ensure that adequate car parking is provided.
10. To prevent localised flooding.
11. To allow the Planning Authority to control the future use of the site.

The Council's decision is based on the following reason(s):-

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

This application is not subject to a planning obligation in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.



Rev:	Date:	By:	Amendments:

R M D L roy mitchell DESIGN LIMITED ARCHITECTURAL CONSULTANCY 1 Gainsborough Gainsborough Business Park LAUREL FSG 405 Telephone: 01524 822086	Date: August 2011 Scale: 1:1250 Drawn by: AMB
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Project: Mr Michael Block & Denise Block Glen Road Torwood

Title: Location Plan

Drawing Number: RMDL/310002	Revision: A
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DOCUMENT 3

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE AT GLEN HOUSE, GLEN ROAD, TORWOOD, LARBERT FK5 4SN FOR MR ALAN MILLIKEN - P/11/0692/FUL
Meeting: PLANNING COMMITTEE
Date: 7 March 2012
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally presented to the meeting of the Planning Committee on 1 February 2012 (copy of previous report appended), where it was agreed to continue the application for a Committee site visit. This visit took place on Monday 20 February 2012.
2. Representation has been received from Larbert, Stenhousemuir and Torwood Community Council, who object to the application on the following basis:-
 1. We remain concerned over the number of ongoing developments in the area outwith the local plan and housing allocation for the area;
 2. The application is not for an in-fill site but instead appears to be expanding the settlement by back-fill;
 3. We are concerned over the impact on local infrastructure of this and other developments;
 4. There would appear to be potential access issues to the site;
 5. We are concerned over encroachment on the woodland area which we understood was protected;
 6. We also note the number of properties currently for sale in the Torwood area which brings into question the demand for additional housing in the area;

3. No other material planning matters are arising and, at the request of Councillor Carleschi, a copy of the submitted tree survey is attached to this report.
4. No issues have been raised during or as a result of the site visit which would amend the recommendation to grant planning permission.

5. **RECOMMENDATION**

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

- (1) The proposal is contrary to Falkirk Council Structure Plan Policy ENV1 – Countryside and Protected areas - and Falkirk Council Local Plan Policy EQ19 – Countryside - in that the applicant has provided no essential justification for a dwellinghouse in a defined countryside location.
- (2) The proposal is contrary to Falkirk Council Local Plan policies SC3 – Housing Development in the Countryside – in that the proposal does not represent an appropriate infill opportunity within the envelope of an existing group of residential buildings and would, if approved, result in backland development, all to the detriment of the architectural character of the area.
- (3) The proposal is contrary to Falkirk Council Local Plan Policy SC8 – Infill Development and Sub-division of Plots – in that the proposed house does not respect the architectural character of the area, in terms of scale and would result in backland development, all of which would constitute an undesirable precedent which could not reasonably be resisted in similar circumstances.



.....
Director of Development Services

Date: 28 February 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Letter of objection from Gordon and Isabel Lawton, Hollings Cottage Glen Road Torwood Larbert on 7 November 2011.

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE AT GLEN HOUSE, GLEN ROAD, TORWOOD, LARBERT FK5 4SN FOR MR ALAN MILLIKEN - P/11/0692/FUL
Meeting: PLANNING COMMITTEE
Date: 1 February 2012
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert
 Councillor Billy Buchanan
 Councillor Tom Coleman
 Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: John Milne (Senior Planning Officer), Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the erection of a dwellinghouse within the rear garden area of an existing detached dwellinghouse. The proposed single storey dwellinghouse would measure some 30 metres long, 10 metres in width and have an off-shoot measuring some 15 metres by 5 metres. A detached garage of 6.6 metres by 6.6 metres is also proposed. The proposed dwelling would have 3 bedrooms, games room, kitchen, principal lounge and family dining area. A covered terrace would also partially extend along the exterior.
- 1.2 The dwelling is proposed within the rear garden area of Glen House, Glen Road, Torwood but is also to the rear of Torwood Tower and Torwood Cottage, Torwood.
- 1.3 The application is accompanied by a Tree Survey of the site.

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

- 3.1 Planning application P/11/0347/FUL – erection of dwellinghouse – was refused by the Planning Committee on 2 September 2011.

- 3.2 Planning application 05/1069/OUT – erection of dwellinghouse – refused 18 October 2006. This site included part of the site which is the subject of the current application.
- 3.3 Planning application 05/1068/OUT – erection of dwellinghouse – refused 11 October 2006. This site included part of the site which is the subject of the current application.
- 3.4 F/2004/0015 – development of land for housing purposes (outline) - granted 22 April 2005. This covered part of the site which is the subject of the current application. Subsequent applications for the erection of 2 dwellinghouses (F/2005/0099 and F/2005/0100) received approval of reserved matters on 19 April 2005. These dwellinghouses (Torwood Tower and Torwood Cottage) have been constructed and front onto Glen Road with the site of this application to the rear.

4. CONSULTATIONS

- 4.1 Scottish Water has no objections, but does not guarantee a connection to Scottish Water's infrastructure.
- 4.2 Falkirk Council's Roads Development Unit have no objections, but request that if permission is granted, planning conditions are imposed regarding access width, gate openings and in-curtilage car parking spaces.
- 4.3 Falkirk Council's Environmental Protection Unit have no objections, but request that if the proposal is granted, planning conditions are imposed regarding contaminated land.

5. COMMUNITY COUNCIL

- 5.1 No comments have been received.

6. PUBLIC REPRESENTATION

- 6.1 1 letter of objection has been received, commenting:-
- The proposal is backfill, contrary to local/structure plans.
 - Loss of privacy to existing properties.
 - Existing trees between the new development and the proposed should be retained.
 - The proposed access is a hazard to traffic on the main road.
 - Additional noise will be created by the construction of the proposed house.

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."*

7a.2 The application site lays outwith the urban envelope of Torwood and, as such, can be designated as countryside. Consequently, the applicant has failed to demonstrate that a new dwellinghouse within this countryside location is essentially required or is an appropriate form of agricultural diversification.

Falkirk Council Local Plan

7a.3 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.4 The urban and village limits represent the desirable limit to the expansion of settlements and the application site is clearly outwith the Torwood village envelope. Consequently, the site is classified as countryside and the proposal has no supporting information which would lead to the conclusion that the dwellinghouse requires a countryside location, constitutes appropriate infill development or will utilise suitable existing buildings.

7a.5 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

"The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:

- (1) *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7a.6 It appears that the applicant has recently removed, prior to determination, about 50 trees recorded on the survey submitted along with this application, with only 21 on the survey remaining on the application site. Although the loss of trees is regrettable, the trees in question are not the subject of Tree Preservation Orders and therefore not under the control of planning legislation. The proposals do retain tree coverage which predominantly is on the site boundaries. On balance, the proposal accords with this policy.

7a.7 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.8 In this instance, the proposal could not be considered to accord with the terms of the above policy, not least given the lack of essential justification. In addition, the proposal does not represent an appropriate infill opportunity within the envelope of an existing group of residential buildings, as the proposal would result in backland development (development of land behind the rear building line of existing housing or other developments, is usually land that is formally used as gardens and often, but not in all cases, does not directly front a road).

7a.9 Policy SC8 'Infill Development and Subdivision of Plots' states:

"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) *the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) *adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) *adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) *the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) *the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) *the proposal complies with other Local Plan policies."*

7a.10 In this instance, the scale and disposition of the proposed house does not respect the architectural character of the area as it constitutes backland development and does not comply with other Local Plan policies.

7a.11 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

- 7b.1 The issues to be considered are the points raised by objectors and comments received through consultation.

Points Raised by Objectors

- 7b.2 In consideration of the points raised:-

- It is agreed that the development of the site would constitute an unacceptable form of backland development and is, therefore, unsuitable for further housing development.
- Existing woodland has been subject to felling.
- It is agreed that vehicular access to the site is restricted, but not incapable of being utilised for construction purposes.
- Noise from construction may be subject to monitoring by the Environmental Protection Unit.
- Loss of view to existing residents is not a material planning consideration.

Points Raised Through Consultation

- 7b.3 Matters raised through consultation may be adequately addressed through planning conditions, should the proposal be approved.

7c Conclusion

- 7c.1 It is recognised that part of the applicant's garden ground lies outwith the village envelope as defined in the Falkirk Council Local Plan and, as such, the proposal offends policy with regard to new development in the countryside. However, in addition, the scale of the new development, combined with the positioning of the dwelling behind existing dwellings, offend policy relating to the appropriate setting of new development. The loss of some existing landscaping is unfortunate, but not preventable through planning legislation.

8. RECOMMENDATION

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

- (1) The proposal is contrary to Falkirk Council Structure Plan Policy ENV1 – Countryside and Protected areas - and Falkirk Council Local Plan Policy EQ19 – Countryside - in that the applicant has provided no essential justification for a dwellinghouse in a defined countryside location.

- (2) The proposal is contrary to Falkirk Council Local Plan policies SC3 – Housing Development in the Countryside – in that the proposal does not represent an appropriate infill opportunity within the envelope of an existing group of residential buildings and would, if approved, result in backland development, all to the detriment of the architectural character of the area.
- (3) The proposal is contrary to Falkirk Council Local Plan Policy SC8 – Infill Development and Sub-division of Plots – in that the proposed house does not respect the architectural character of the area, in terms of scale and would result in backland development, all of which would constitute an undesirable precedent which could not reasonably be resisted in similar circumstances.

Pp

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Director of Development Services

Date: 24 January 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Letter of objection from Gordon and Isabel Lawton, Hollings Cottage Glen Road Torwood Larbert on 7 November 2011.

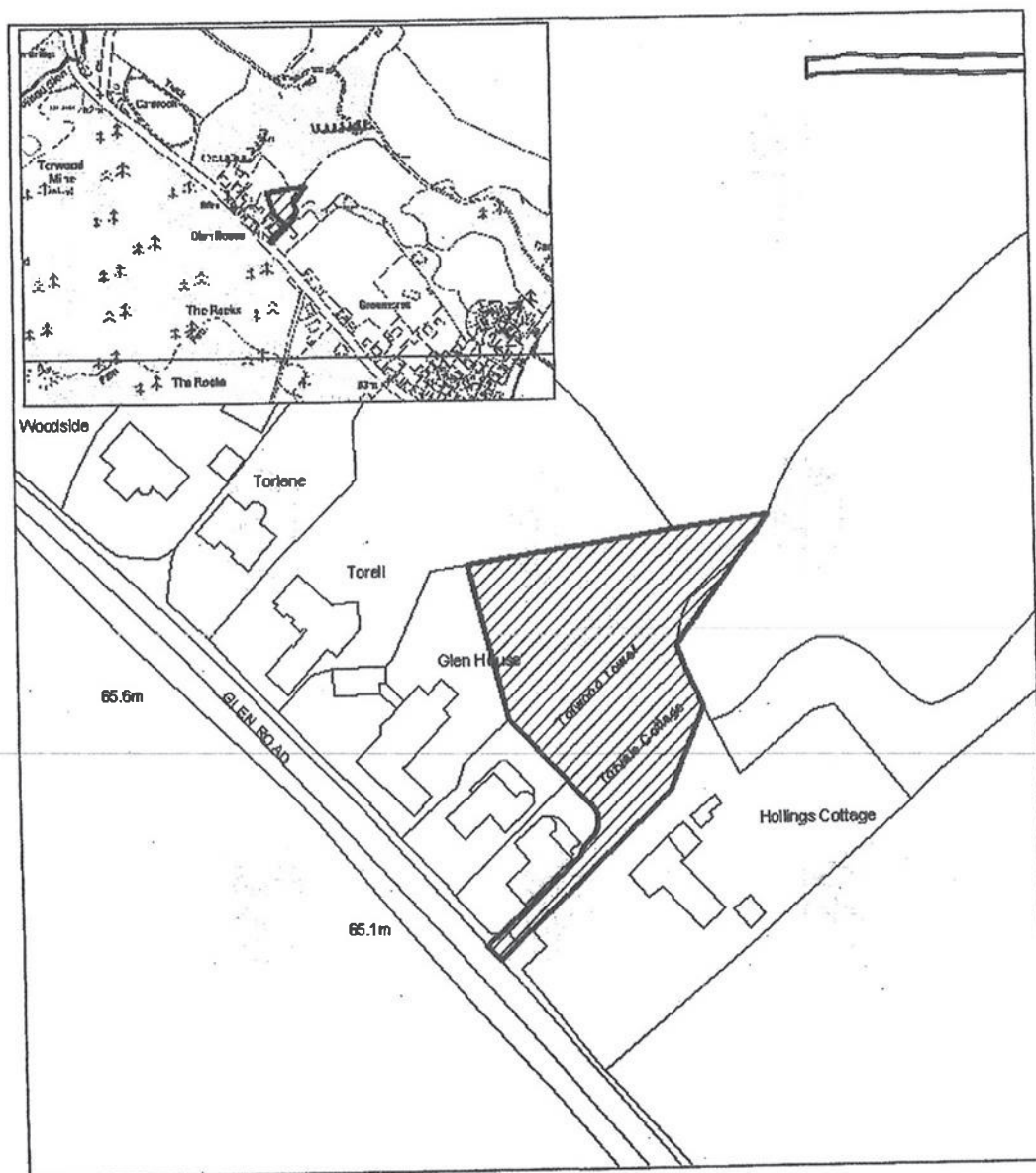
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0692/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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DOCUMENT 4



Falkirk Council

Please note: this permission does not carry with it any necessary consent or approval for the proposed development under any other statutory enactments.

Town and Country Planning (Scotland) Acts as Amended

Planning Permission

Agent

McLean Bell Consultants Limited
33 Miller Park
Polmont
Falkirk
FK2 0UJ

Applicant

Mr Alan Milliken
Glen House
Glen Road
Torwood
Larbert
FK5 4SN

This Notice refers to your application registered on 26 October 2011 for permission in respect of the following development:-

Development Erection of Dwellinghouse at

Location Glen House, Glen Road, Torwood, Larbert, FK5 4SN

The application was determined by the Planning Committee. Please see the attached guidance notes for further information, including how to appeal against the decision.

In respect of applications submitted on or after 1 January 2010, Falkirk Council does not issue paper plans. Plans referred to in the informatives below can be viewed online at <http://eplanning.falkirk.gov.uk/online/application/Details.do?action=showSummary&caseNo=P/11/0692/FUL>. In accordance with the plans docquetted or remised in the attached informatives as relative hereto, Falkirk Council, in exercise of its powers under the above legislation, hereby

Grants Planning Permission

This decision is issued subject to the following condition(s):-

1. The development to which this permission relates must be begun within three years of the date of this permission.
2.
 - (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
 - (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

- (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
3. Prior to the commencement of development, details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
4. Any access gates shall only open inwards.

Reason(s):

1. To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. To ensure the ground is suitable for the proposed development.
3. To enable the Planning Authority to consider this/these aspect(s) in detail.
4. To safeguard the interests of the users of the highway.

The Council's decision is based on the following reason(s):-

The development does not accord with the Development Plan, however material considerations outweighed these provisions.

This application is not subject to a planning obligation in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.

Informatives:-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01,02,03,04,05,06.

12 April 2012

[Redacted Signature]

Director of Development Services



INFORMATIVE NOTE

ALL DEVELOPMENTS IN COAL MINING DEVELOPMENT REFERRAL AREAS

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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