



AGENDA ITEM

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**Remove Condition 2 of Planning
Permission P/09/0771/FUL to Make
Temporary Access Permanent at
Land North West of Woodside, Glen
Road, Torwood for Mr Gillies
Guthrie - P/18/0009/VRC**

FALKIRK COUNCIL

Subject: REMOVE CONDITION 2 OF PLANNING PERMISSION
P/09/0771/FUL TO MAKE TEMPORARY ACCESS
PERMANENT AT LAND NORTH WEST OF WOODSIDE,
GLEN ROAD, TORWOOD FOR MR GILLIES GUTHRIE -
P/18/0009/VRC

Meeting: PLANNING COMMITTEE

Date: 30 May 2018

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert

Provost William Buchanan
Councillor Niall Coleman
Councillor David Grant

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Julie Seidel, (Planning Officer), Ext. 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 Planning Permission (Ref: P/09/0771/FUL) was granted in 2011 for the regrade and landscape of the disused quarry at Glen Road, Torwood. Condition No.2 states:
2. *For the avoidance of doubt, the proposed vehicular access shall be of a temporary period and closed off, in materials matching the existing random rubble wall, within 3 months of the cessation of the infilling of the existing quarry, all to the satisfaction of the Planning Authority.*
- 1.2 This application relates to the deletion of the condition, which would make the vehicular access permanent. The vehicular access is still open and available for use and the applicant advises that infilling of the quarry is on-going.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.2 The application is called in by Provost Billy Buchanan, to allow further scrutiny of the planning assessment by Members and to allow a site visit to view the access.

3. SITE HISTORY

- 3.1 A planning application for the erection of a dwellinghouse, garage and workshop (Ref: 05/0788/OUT) was refused on 17 January 2006.

- 3.2 A planning application for the change of use of derelict land to garden ground and erection of a domestic garage and workshop (Ref: 05/1071/FUL) was granted on 16 March 2006.
- 3.3 A planning application for engineering/regrading works and change of use of former quarry to garden ground (Ref: P/07/0940/FUL) was refused on 10 July 2008.
- 3.4 A planning application for the regrade and landscape disused quarry (Ref: P/09/0771/FUL) was granted on 23 May 2011.
- 3.5 A planning application for the erection of a dwellinghouse, garage, car port and studio (Ref: P/12/0492/PPP) was refused on 17 December 2012.
- 3.6 An application for the erection of 4 holiday lodges and caretaker's residential accommodation (Ref: P/12/0493/PPP) was refused on 7 June 2013.
- 3.7 An enforcement case, breach of planning conditions in relation to P/09/0771/FUL (Ref: ENF/2011/0048) on 20 January 2012.
- 3.8 An enforcement case, breach of planning conditions in relation to P/09/0771/FUL (Ref: ENF/2012/0127) on 1 January 2013.
- 3.9 An application to remove condition 2 of planning permission P/09/0771/FUL to make temporary access permanent (Ref: P/17/0462/VRC) was refused on 29 September 2017.
- 3.10 An enforcement case, unauthorised structure (Ref: ENF/2018/0008) on 19 February 2018.
- 3.11 Members should note that there are a number of matters which are subject to current investigation in relation potential breaches of planning control and building regulations at the applicant's residential property, Ochilview (adjacent to the application site).

4. CONSULTATIONS

- 4.1 The Roads Development Unit advise that at the time of consideration of the planning application P/09/0771/FUL, concerns were raised in relation to the rural location and inadequate visibility at the vehicular access. As a result the application was granted with a planning condition giving temporary permission for the access only and requiring 'banksman' supervision of vehicles using the site.
- 4.2 The Council have undertaken a traffic survey to obtain current vehicle speeds adjacent to the application site. Based on the survey results, visibility splays of 2.4m x 93m are required in a north-west direction and 2.4m x 109m in a south-east direction. The required level of visibility cannot be achieved to the south-east, as a result of the vertical alignment of Glen Road which restricts visibility.
- 4.3 The Roads Development Unit advise that the granting of planning permission for a permanent access at this location would not be in the best interest of road safety.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council did not make comment.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 2 contributors submitted letters of objection to the Council. The salient issues are summarised below:
- The access was agreed on a temporary basis only, under the supervision of a 'banksman' in order to implement quarry infill and site restoration in relation to P/09/0771/FUL. Numerous vehicles enter and exit with no 'banksman' and represent a danger to road safety;
 - The infill is now completed and the land should be left to settle for the required 10 year period;
 - The national speed limit will not be extended to cover the site; and
 - The Roads Development Unit have consistently raised road safety concerns to previous development proposals, as the access is on the crest of a hill on a restricted section of Glen road and visibility concerns.

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

- 7a.1 The Falkirk Local Development Plan was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies:

- 7a.2 Policy CG01 - 'Countryside' states:-

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

- 7a.3 There are no policies of specific relevance to this planning application. The site is located in the countryside and the application does not offend policy CG01 'Countryside'.

- 7a.4 Accordingly, the application does not offend the Falkirk Local Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be assessed are the assessment of public representation, the response to consultations received and information submitted in support of the application.

Assessment of Public Representations

- 7b.2 The comments received in relation to road safety are noted.

Responses to Consultation

- 7b.3 The Roads Development Unit advise that deletion of the condition, which would result in the establishment of a permanent access, is not in the best interests of road safety. They advise that road safety concerns could be used in support of a recommendation to refuse planning permission.
- 7b.4 Planning application P/09/0771/FUL dealt with the regrading and landscaping of the disused quarry. The access was proposed to allow the delivery of infill materials for the duration of restoration works. In addition to condition No.2 there were other planning conditions, which required the submission of details in relation to vehicle generation, hours of operation, storage of vehicles and wheel cleaning. Thereafter, deliveries were to be supervised by a 'banksman' at all times. These conditions were applied to mitigate road safety concerns raised by the Roads Development Unit.
- 7b.5 The access is located in a rural location, on a section of carriageway subject to the national speed limit. A traffic survey has been undertaken by Falkirk Council to obtain current vehicle speeds adjacent to the application site. Informed by the survey, visibility splays measuring 2.4m x 93m and 2.4m x 109m are required to the north-west and south-east respectively. The vertical alignment of Glen Road restricts visibility to the south-east, where the required level of visibility cannot be achieved.
- 7b.6 Planning permission was granted subject to planning condition that would allow the access to operate for a temporary period only to allow the quarry restoration. The temporary condition allowed the access and infilling operations to be monitored and requires the access to be closed when infilling operations are completed.
- 7b.7 The Roads Development Unit maintain their concerns in relation to road safety. The applicant has not submitted any information to demonstrate a change in circumstance since the application was determined in 2011. As such there is no justification for deletion of the planning condition.

Information Submitted in Support of the Proposal

- 7b.8 The applicant has submitted a Supporting Statement raising the following issues:
- The Planning condition is flawed and should never have been allowed in the first place;
 - It is not a new entrance, as there has been a historic entrance on the site for decades and the current access has being in place for 6 years;
 - The land use has changed over the last 6 years, part of it is now garden ground housing a caravan, cars, and the like;

- Permanent vehicular access is required to the land as it cannot be accessed via the driveway for the house;
- Falkirk Council conducted a road speed survey and deemed the access safe;
- Planning permission allowed for 25 lorry deliveries per day. There has not been a single incident and it is also used for domestic purposes;
- The location of the site to the 30MPH allowed adequate stopping distance;
- Having two vehicular accesses is established elsewhere in the village; and
- The applicant would be happy to pay for any changes to the roadway to improve safety.

Response to the Supporting Statement

7b.9 The applicant claims that the planning condition is flawed. Planning obligations and conditions should only be sought where they meet all of the following tests:

- Necessary to make the proposed development acceptable in planning terms;
- Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to Development Plans;
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
- Fairly and reasonably relate in scale and kind to the proposed development; and
- Be reasonable in all other respects.

7b.10 In this instance planning condition allowing a temporary access only was applied to the planning permission to make the proposed development acceptable in planning terms. Significant concerns were raised by the Roads Development Unit in relation to road safety. Without the planning condition road safety concerns would not be mitigated and the application would likely have been recommended for refusal of planning permission on grounds of road safety concerns. As such, it is considered that the condition serves a planning purpose, relates to the proposed development, is reasonable in scale and kind to the development and clearly reasonable in all other respects.

7b.11 The applicant's statement suggests that the access requires to be made permanent so that he has vehicular access to an outbuilding and garden ground, via the quarry. When the part change of use of the quarry to garden ground was granted planning permission, the applicant resided in the adjacent property Woodside. There is a planning condition (No. 5) on planning application Ref: 05/1071/FUL which states that access to the outbuilding and garden ground should be via Woodside only. There is also a condition which requires the erection of a fence along the western boundary which has not been complied with. Woodside was sold to a third party and the applicant now lives in a converted and extended outbuilding to the rear of Woodside, Ochilview. This has resulted in an unusual arrangement for the garden ground of the applicant's property Ochilview and a complicated accompanying planning history.

7b.12 Falkirk Council carried out a traffic survey (see section 7b.5 of this report). The access is not considered to be safe and the location of the change of speed limit to 30MPH does not allow adequate stopping distance at the access. The applicant refers to paying for changes to the roadway to improve safety (i.e. moving the 30MPH sign and adding footway and lighting provision). The 30MPH sign marks the village limit of Torwood. The application site is out with the village, in the countryside, and there is no justification for extending the village limit. Further the changes referred to, would not improve visibility at the access or improve safety.

7b.13 The applicant was asked for a statement in relation to the current position of the quarry restoration works. A response was received as follows:

- The quarry infill is not completed and is currently at a standstill. A new SEPA license will be obtained before restarting;
- Future work to the quarry will be determined following the outcome of this application;
- Since the granting of planning application Ref: P/09/0771/FUL for the regrade and landscape of the disused quarry, the aim for the brownfield land and adjoining garden ground has changed. It would be pertinent to have beautifully manicured garden at the front and possibly build in the garden ground. This would enhance dramatically the ambience and views coming into Torwood from the west.

7b.14 The applicant advises that the infilling of the quarry has currently stopped, it is claimed, without being completed. The current use of the access (at the time of writing this report) is to gain access to an area of garden ground and outbuilding granted planning permission in 2006 (Ref: 05/1071/FUL, referred to in section 7b.11 of this report). The use of this area of land is currently being investigated, to ensure compliance with the planning permission drawings and conditions. Building Standards and the Planning Authority are also investigating other possible breaches at the applicant's property.

7b.15 The applicant indicates in his statement that the intentions for the quarry have changed since the access was approved on a temporary basis in 2011. Members should note that there have been a number of applications for the development of the quarry (see the site history in section 3 of this report), including a planning application for a dwellinghouse with garage, car port and studio (Ref: P/12/0492/PPP) and the erection of 4 holiday lodges with caretaker's residential accommodation (Ref: P/12/0493/PPP). The applicant was advised to complete the quarry restoration, including closing off the access in accordance with the planning condition, before approaching the Council for pre-application advice in relation to the possible redevelopment of the quarry.

7b.16 It is considered that a temporary access (required for the restoration of a quarry), should not be accepted by default as a suitable permanent access, owing to road safety concerns. It is considered that the applicant's supporting statement does not lend support to the deletion of the planning condition that allows temporary access only.

7c Conclusion

7c.1 The application does not offend the Falkirk Local Development Plan, although it is noted that there are no planning policies specific to the planning application. The comments in relation to road safety from the objectors are noted. The Roads Development Unit maintain their concerns in relation to road safety. There has been no change in circumstances since the granting of planning permission and therefore, there is no justification for deleting the planning condition.

- 7c.2 The access is not suitable as a permanent access or for domestic access to an outbuilding and garden ground. The applicant states that his intentions for the site have changed since 2011. The access should not be accepted, by default, as it was allowed on a temporary basis only with 'banksman' supervision to mitigate the road safety concerns. If the applicant wishes to develop the quarry, access should be examined as part of any development proposals, as the current location and design of access is not suitable in terms of road safety and visibility.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Planning committee refuse planning permission for the following reason(s):-
1. The deletion of planning condition No. 2 of planning application Ref: P/09/0771/FUL, requiring the vehicular access to be of a temporary period and closed off within 3 months of the cessation of the infilling of the existing quarry, would not be in the best interests of road safety.

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02 and Supporting Documents.

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Pp Director of Development Services

Date: 21 May 2018

LIST OF BACKGROUND PAPERS

1. The Falkirk Local Development Plan.
2. Objection received from Mr David Aitchison, Carbrook, Glen Road, Torwood, FK5 4SN on 4 February 2018.
3. Objection received from Mrs Alison Masterson, Woodside, Glen Road, Torwood, FK5 4SN on 28 January 2018.

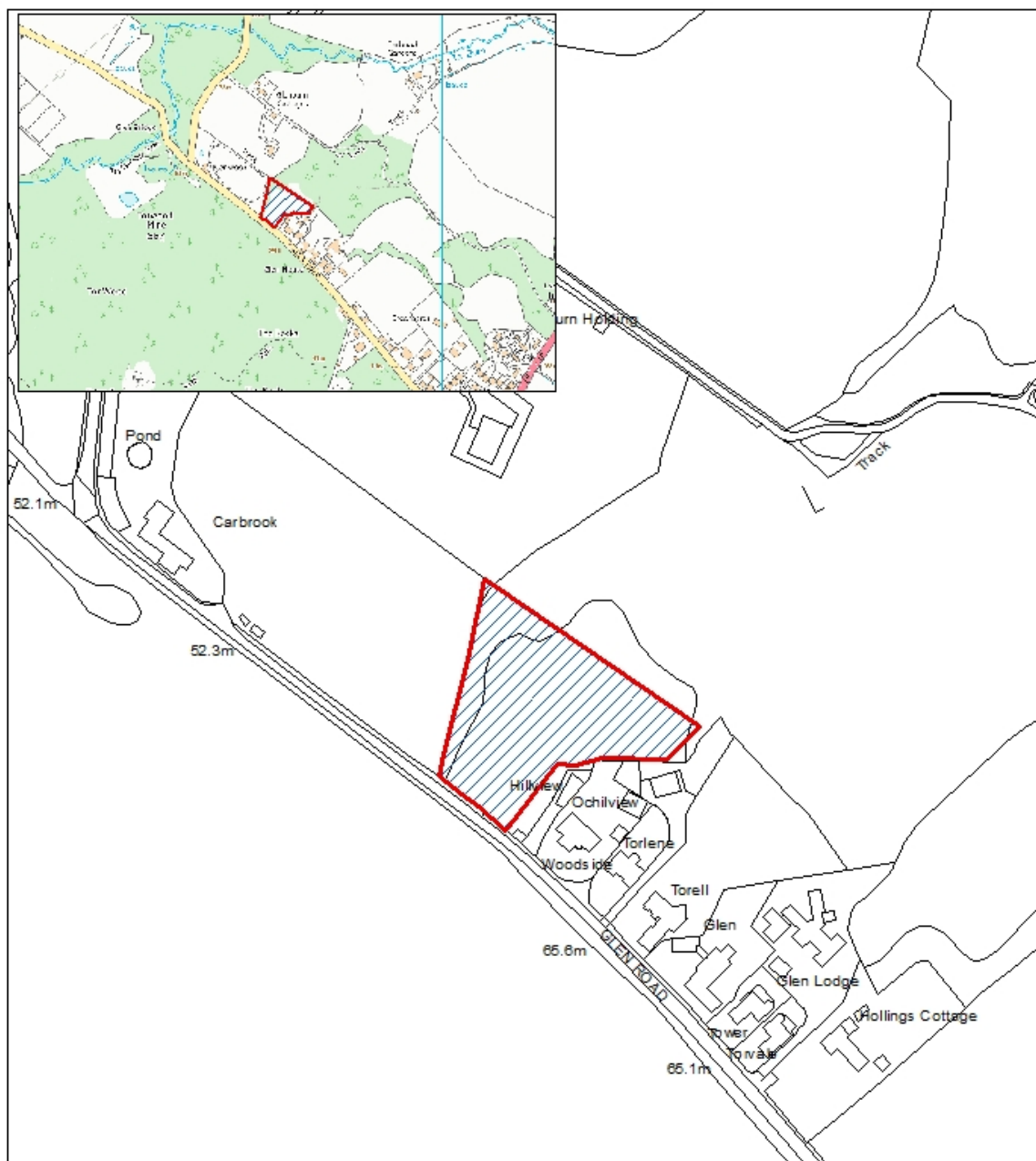
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/18/0009/VRC

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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