



Agenda Item 1

**ENGINEERING OPERATION
INCLUDING INFILL AND REGRADING
OF FORMER QUARRY AT LAND TO
THE NORTH OF HILLVIEW, GLEN
ROAD, TORWOOD FOR MR GILLIES
GUTHRIE - P/21/0437/FUL**

FALKIRK COUNCIL

Subject: **ENGINEERING OPERATION INCLUDING INFILL AND
REGRADING OF FORMER QUARRY AT LAND TO THE
NORTH OF HILLVIEW, GLEN ROAD, TORWOOD FOR MR
GILLIES GUTHRIE - P/21/0437/FUL**

Meeting: **PLANNING COMMITTEE**
Date: **16 March 2022**
Author: **DIRECTOR OF PLACE 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-Gregory (Planning Officer), Ext. 4880**

[View this Application on Public Access](#)

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to an engineering operation to increase ground levels in land to the rear of Ochilview and Hillview, Torwood. The application site forms part of the former Torwood Quarry, which has been partially restored.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Provost Buchanan, to allow the Planning Committee to consider the potential impacts of the proposed development in relation to visual amenity and road safety.

3. SITE HISTORY

- 3.1 05/0788/OUT - Erection of Dwellinghouse, Garage and Workshop - refused on 17 January 2006.
- 3.2 05/1071/FUL - Change of Use of Derelict Land to Garden Ground and Erection of Domestic Garage and Workshop - granted on 16 March 2006.
- 3.3 P/07/0940/FUL - Engineering/Regrading Works and Change of Use of Former Quarry to Garden Ground - refused on 10 July 2008.

- 3.4 P/09/0159/FUL - Engineering/Regrading Works and Change of Use of Former Quarry to Garden Ground - withdrawn on 12 June 2009.
- 3.5 P/09/0405/FUL - Regrade and Landscape Disused Quarry - withdrawn on 29 October 2009.
- 3.6 P/09/0771/FUL - Regrade and Landscape Disused Quarry - granted on 23 May 2011.
- 3.7 P/12/0492/PPP - Erection of Dwellinghouse, Garage, Car Port and Studio - refused on 17 December 2012.
- 3.8 P/12/0493/PPP - Erection of 4 Holiday Lodges & Caretaker's Residential Accommodation - refused on 7 June 2013.
- 3.9 P/13/0465/FUL - Change of Use of Former Quarry to Provide Additional Garden Ground and Alterations to Roof of Existing Domestic Workshop - withdrawn on 10 December 2013.
- 3.10 P/17/0462/VRC - Remove Condition 2 of Planning Permission P/09/0771/FUL to Make Temporary Access Permanent - refused on 29 September 2017.
- 3.11 P/17/0779/VRC - Remove Condition 2 of Planning Permission P/09/0771/FUL to Make Temporary Access Permanent - application returned.
- 3.12 P/18/0009/VRC - Deletion of Condition 2 of Planning Permission P/09/0771/FUL to Make Temporary Access Permanent - refused on 26 June 2018.
- 3.13 P/18/0524/CPE - Use of Building as a Single Dwellinghouse (Class 9) - refused on 23 October 2018.
- 3.14 P/18/0606/FUL - Change of Use of Quarry to Garden Ground and Change of Use of Outbuilding to Form Dwellinghouse - review allowed on 7 January 2019.
- 3.15 P/19/0187/FUL - Change of Use of Quarry to Garden Ground - granted on 18 September 2019.
- 3.16 P/19/0268/MS - Application under Section 42 for the Removal of Condition 2 from Planning Permission P/09/0771/FUL which Required the Closing-off of the Temporary Vehicular Access - application returned.
- 3.17 P/19/0292/FUL - Deletion of Condition 2 of Planning Permission P/09/0771/FUL to Make Temporary Access Permanent - granted on 18 September 2019.
- 3.18 P/19/0547/FUL - Change of Use of Quarry to Garden Ground, Extension to Dwellinghouse, Erection of Outbuilding with Ancillary Living Accommodation and Erection of Fence and Woodstore - granted on 11 December 2019.
- 3.19 P/20/0083/PPP - Erection of Dwellinghouse and Associated Infrastructure - refused on 25 June 2020.
- 3.20 P/20/0352/FUL - Extension and Alteration to Outbuilding (Amendment to P/19/0547/FUL) - granted on 2 October 2020.

- 3.21 P/21/0558/FUL - Change of Use from Quarry to Garden Ground, Extension to Outbuilding, Erection of No.2 Outbuildings and Fence - invalid on receipt.

4. CONSULTATIONS

- 4.1 Falkirk Council's Roads Development Unit have not objected to the application.
- 4.2 Falkirk Council's Environmental Protection Unit have not objected to the application, subject to a condition in relation to ground contamination.
- 4.3 SEPA offer no comment.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council are inactive.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, one contributor submitted objections to the Council. The salient issues are summarised below:-
- The drawings do not appear to be accurate and it is difficult to understand the extent of the proposals based on the submitted drawings;
 - There have been previous applications relating to this area where work started and was not completed;
 - The development would have a significant impact on local residents, as well as the surrounding country roads which are busy and could lead to a safety issue. There are no details regarding how safe access to the area would be obtained to enable the infilling;
 - The development would have a detrimental impact on the countryside;
 - Property surrounding this area creates rain water waste and soakaway from biodisc (septic tank) waste management that goes directly into the application site area. How would development affect existing drainage provision;
 - Questions in relation to the overall purpose of the infilling, noting the considerable financial costs and disruption to surrounding residents.

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 \(LDP2\)](#) was adopted on 7 August 2020. The proposed development was assessed against the following policy or policies:

PE14 - Countryside

- 7a.2 The application site is located in the countryside, outwith the village limit of Torwood, as identified in the LDP2. It is considered that the specific countryside policies (HC05 'Housing Development in the Countryside' and JE05 'Business Development in the Countryside') are not relevant to this proposed development. Development proposals in the countryside for uses not covered by policies for specific uses, will only be permitted where:
- It can be demonstrated that they require a countryside location;
 - They constitute infill development; or
 - They utilise appropriate existing buildings.
- 7a.3 In this instance, the proposed engineering operation does not accord with any of the above criteria. Policy PE14 'Countryside' additionally requires development proposals in the countryside to demonstrate that the proposed scale, siting and design of development is such that there would be no significant adverse impact on the rural environment.
- 7a.4 In this instance, it is considered that planning permission P/09/0771/FUL approved an acceptable restoration plan for the former quarry (this application site plus adjoining land). The approved plan included gentle slopes and landscaping to integrate the site with surrounding countryside (the planning history of the site is discussed in Section 7b.4 – 7b.5 of this report). This application proposes the importation of a significant quantity of new infilling material to raise the land above that agreed by the approved restoration plan. The new levels would bring the application site up to a level similar to adjacent residential properties. It is considered that the new gradients would result in an area of land which would appear an engineered platform and would visually 'jar' with the character and levels of surrounding countryside. It is also noted that the new proposal does not include any tree planting. Grassing the engineered site without any landscaping could further contribute to an urban rather than countryside appearance.
- 7a.5 It is considered that the levels shown on the approved restoration plan (P/09/0771/FUL) would provide a suitable transition between residential properties off Glen Road and surrounding countryside to the west and north of the site. The applicant has not provided a reasonable justification for further engineering activities in the rural area. The application is contrary to policy PE14.

PE18 - Landscape

- 7a.6 It is considered that the proposed development would have a landscape impact, however, not to a significant degree over a wide enough area such that a Landscape and Visual Assessment is required. There is no conflict with policy PE18 'Landscape'.

PE27 - Vacant, Derelict, Unstable and Contaminated Land

- 7a.7 Policy PE27 'Vacant, Derelict, Unstable and Contaminated Land' does not give support to the application, as there is an approved restoration plan in place.
- 7a.8 Accordingly, the application does not accord with the Development Plan.

7b Material Considerations

- 7b.1 The material consideration to be assessed are consideration of the site in relation to coal mining legacy, Falkirk Council Supplementary Guidance, site history, assessment of public representations and information submitted in support of the proposal.

Falkirk Council Supplementary Guidance

- 7b.2 Supplementary Guidance in association with LDP2 is at various stages of preparation. Largely consisting of the updating and consolidation of Supplementary Guidance prepared alongside LDP1, a number of Supplementary Guidance notes have been adopted, while the others are being finalised or consulted on prior to adoption.
- 7b.3 There is no guidance for this specific type of development in SG01 'Development in the Countryside'.

Site History

- 7b.4 There is extensive planning history relating to this application site and surrounding land. Some of the planning history is detailed in Section 3.01 – 3.21 of this report. The most relevant planning application, to the assessment of this proposal for further infilling and land raising activities, is P/09/0771/FUL. The 2009 planning permission agreed suitable site levels and landscaping for the former quarry. By the applicants own admission (and documented on the proposed plan) the restoration of the former quarry has not been completed. The site levels do not match the approved site levels across the whole of the former quarry site and it appears that top soil and the approved tree planting/landscaping has not been implemented.
- 7b.5 This current application seeks to import further materials into the area of the quarry behind Ochilview (the applicants former house). As discussed earlier in this report, it is not clear why the proposed development is needed, when there is a suitable restoration plan in place which has not been completed in accordance with the approved plans. It is considered that the development constitutes unjustified development in the countryside.

Assessment of Public Representations

- 7b.6 It is considered that the submitted plans are reasonably accurate and legible for the purposes of assessing this application.
- 7b.7 It is noted that there is extant planning permission for the infilling and restoration of the quarry which has not been completed.
- 7b.8 It is accepted that the engineering activities would have a detrimental impact on the residential amenity of surrounding residents by virtue of noise and disturbance.
- 7b.9 The Roads Development Unit do not agree that there would be an unacceptable impact on road safety.
- 7b.10 Questions in relation to the justification and purpose of the proposed development are noted.
- 7b.11 Comments in relation to the impact on the countryside are noted.

7b.12 The applicant has submitted drainage information which was agreed as part of P/09/0771/FUL. It concluded that the limited importation of materials (proposed in 2009) would not impact the current drainage arrangements, where surface water free flows to the Tor Burn. The new proposals propose a significant importation of materials from the previous agreed levels and as such a new Drainage Impact Assessment would be required to assess drainage arrangements at the site. Objectors have also raised concerns about domestic sewage treatment run off into the site and this would require further investigation if Members were minded to grant planning permission.

Information Submitted in Support of the Proposal

7b.13 The following information was submitted with the application:

- There will be a maximum of 25 lorries per day carrying inert material only. A banksman will be in operation. Plant machinery will be required when necessary to grade site to proposed levels. No ancillary buildings will be required. Working hours will be 8.00am to 5.00pm, Monday to Friday. 8.00am to 1.00pm on Saturdays and closed Sundays;
- Drainage arrangements are identical to application P/09/0771/FUL. Please find attached a statement from Dalgleish Associates Limited addressing Condition 8 of the application. This statement is also valid for the current application;
- Access will be through existing entrance to quarry infill site. Vehicle movements will be as per existing Planning Permission for previous quarry infill with up to 25 lorries per day. Vehicles will be tipper lorries, entering the site from the east and leaving to the west;
- A tree survey is not applicable as there are no trees present on the site;
- Ecology survey is not applicable as at present ground is as it was after previous infill, with some patches of wild grass and gorse;
- Restoration plan is to cover the final 600mm of the site with topsoil and grass. Boundary is to be made up with newly planted trees and bushes.

7b.14 The applicant was asked for a supporting statement, to explain the background to previous restoration activities carried out at the site to date and to provide a justification for this new application. The applicant did not submit a supporting statement. Through email exchange the applicant indicated that the development was required to make the land more 'amenable and ecological', so the applicant and his family can enjoy it.

7b.15 The comments from the planning agent in relation to access, the number of lorries per day and hours of operation are noted. A supporting statement was requested to gain an understanding of the requirement for considerable further infilling, when there is a restoration plan in place (which has not been completed in a period exceeding 10 years). It is considered that the applicant's claim that the development is required to make the site more 'amenable and ecological' could be achieved by P/09/0771/FUL. The justification provided does not give weight to further development / engineering activities in this countryside location. This is on the basis that any benefit of development to the applicant, would not outweigh the impact on the residential amenity of neighbouring properties and the character and appearance of the rural area.

Consideration of the Site in relation to Coal Mining Legacy

- 7b.16 The application site falls within or is partially within the Development Low Risk Area as defined by the Coal Authority. However, as coal mining activity was undertaken at depth, no recorded surface hazards currently exist which could pose a risk to new development. Unrecorded coal mining related hazards could still exist. It is not necessary to consult the Coal Authority on any planning applications which fall within the Development Low Risk Area.
- 7b.17 Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

7c Conclusion

- 7c.1 The application is assessed as being contrary to the Development Plan. It is considered that there is no justification for further engineering operations at the former quarry, to bring ground up to a level similar to surrounding residential properties. A restoration plan was agreed for the former quarry and it should be completed in full by the applicant (noting that planning permission has been in place for the restoration since 2011).
- 7c.2 It is considered that the proposed development would have a detrimental impact on the residential amenity of surrounding properties by virtue of noise and disturbance. This type of infilling activity, and the associated disturbance, is tolerated for a temporary period where the activities are required to facilitate development supported by the Development Plan. In this instance, there is no justification other than to make the land more 'amenable and ecological', both of which can be achieved by completing the approved restoration plan. It is also noted that the quarry infilling, subject to the earlier permission, took place over a number of years and there is other unfinished development at the wider site. The potential for prolonged completion of this engineering proposal could further impact the reasonable enjoyment of neighbouring residential properties.

8. HUMAN RIGHTS AND EQUALITY ASSESSMENT

- 8.1 Officers have considered the Human Rights Act 1998 in making this recommendation. It is considered that the proposed recommendation would not adversely impact on any protected characteristic groups as identified within the Equality Act 2010.

9. RECOMMENDATION

- 9.1 **It is therefore recommended that the Committee refuse planning permission for the following reason(s):-**
- 1. The proposed engineering operation does not accord with any of the circumstances where development in the countryside is supported. There is no justification for the proposed development which would outweigh the adverse impact on the character and appearance of the rural environment. The application is contrary to policy PE14 'Countryside' of the Falkirk Local Development Plan 2.**

2. The proposed development would increase the site levels from that agreed by the former quarry restoration plan (P/09/0771/FUL), to a level similar to neighbouring residential properties. The proposed engineering intervention would be an incongruous and urban form of land raising which would not help to integrate the former quarry (or other built development at the wider site) into surrounding countryside. It is considered that the proposal would result in further sporadic development at the western approach to the village of Torwood and would have an unacceptable impact on the rural character of the area.
3. The proposed engineering operation would impact the residential amenity of neighbouring properties by virtue of noise and disturbance. It is accepted that this type of activity is often tolerated for temporary periods where required to facilitate development which accords with the Development Plan, however, in this instance there is no reasoned justification. Development (including quarry infilling) has been ongoing at the wider site over a number of years and it is not considered justified or reasonable in this instance to permit further engineering activities which could impact the reasonable enjoyment of neighbouring residential properties.
4. There is insufficient information submitted with the application to assess how the proposed engineering operation would impact drainage at the site and wider area. The information submitted with the application relates to planning permission P/09/0771/FUL, where only a limited volume of soil importation was proposed and the site levels sloped gently to the Tor Burn. This application includes substantial infilling and regrading. It is also noted that there is additional built development to the south of the site which could affect surface water runoff and requires to be considered.

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 Place Services

Date: 4 March 2022

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan 2.
2. Objection received from Dr Deborah Wilson, Ochilview, Glen Road, Torwood, Larbert, FK5 4SN on 17 January 2022.

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

Policy Schedule

PE14 Countryside

1. 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. Development in the countryside will be assessed in terms of the relevant countryside policies for specific uses (HC05 and JE05);
2. Development proposals in the countryside for uses not covered by policies for specific uses will only be permitted where:
 - It can be demonstrated that they require a countryside location;
 - They constitute infill development; or
 - They utilise appropriate existing buildings.

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 Development in the Countryside;

3. Development proposals in the countryside should additionally demonstrate that their scale, siting and design is such that there will be no significant adverse impact on the rural environment, having regard to other policies on the natural and historic environment, and design guidance in Supplementary Guidance SG01 'Development in the Countryside'.

PE18 Landscape

1. The Council will seek to protect and enhance landscape character and enhance landscape quality throughout the Council area in accordance with Supplementary Guidance SG09 'Landscape Character Assessment and Landscape Designations';
2. Development within Local Landscape Areas should be designed to minimise any adverse effects on the landscape character and scenic interest for which the area is designated ; and
3. Development proposals which are likely to have significant landscape and visual effects must be accompanied by a landscape and visual assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit will be achieved.

PE27 Vacant, Derelict and Contaminated Land

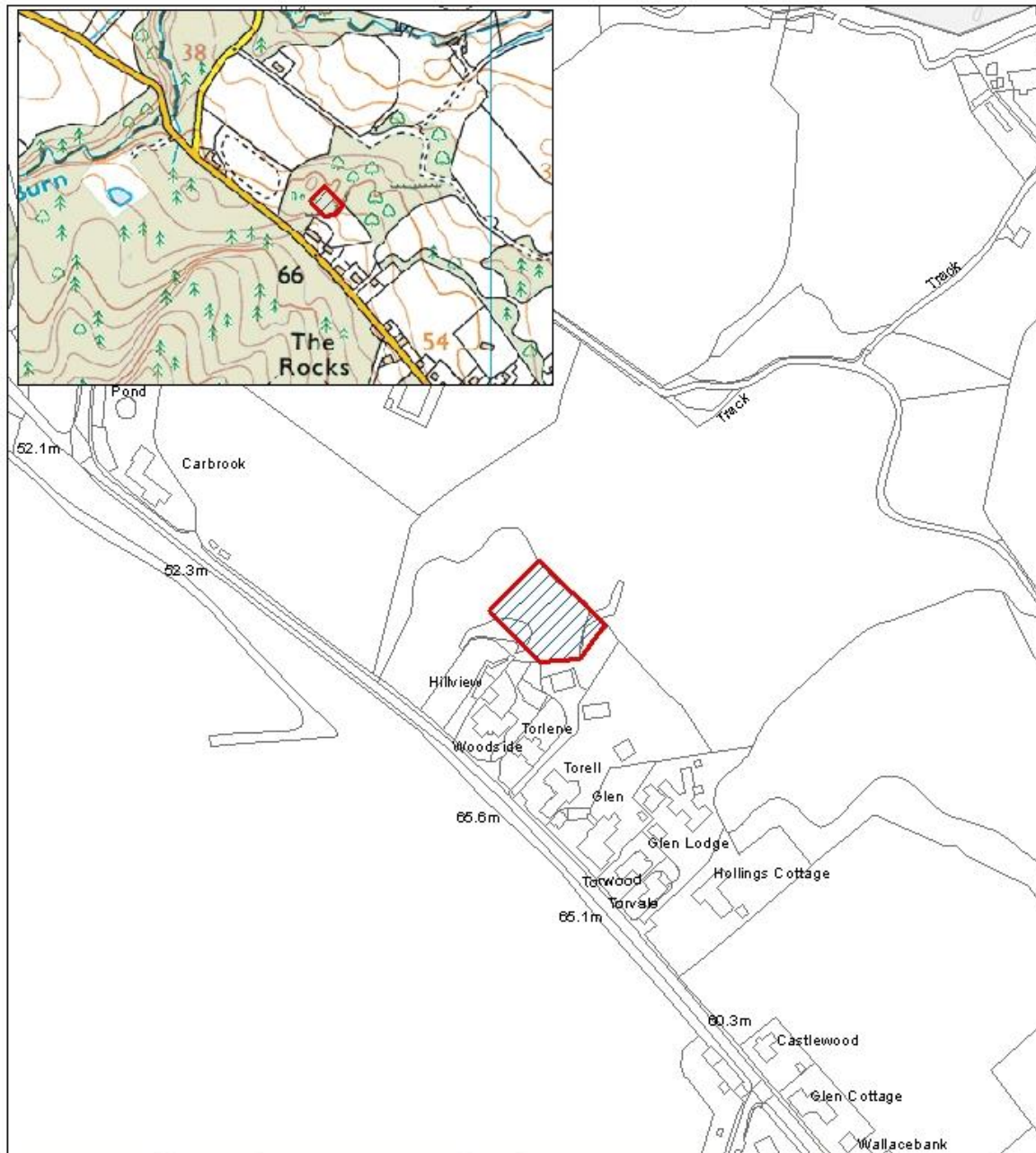
Proposals that reduce the incidence of vacant, derelict, unstable and contaminated land will be supported, subject to compliance with other LDP policies, particularly those related to development in the countryside. Where proposals involve the development of unstable or contaminated land, they will only be permitted where appropriate remediation or mitigation measures have been undertaken, and proposals are consistent with the requirements of PAN 33.

Planning Committee

Planning Application Location Plan

P/21/0437/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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