

FALKIRK COUNCIL

Subject: **ERECTION OF 5 DWELLINGHOUSES AT LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LTD – P/08/0377/FUL**
Meeting: **PLANNING COMMITTEE**
Date: **20 May 2009**
Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor Billy Buchanan**
 Councillor Tom Coleman
 Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: David Paterson (Planning Officer), ext 4757

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall this application was originally considered at the meeting of the Planning Committee on 22 April 2009 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This took place on 5 May 2009.
2. The applicant was heard, in support of the proposal, and referred to the recently submitted petition from 50 households in Torwood in favour of the proposal. He stated that this equated to some 60% of the village population. He referred to the petitions against the proposal and noted that many signatures were from locations far removed from Torwood and outwith the Falkirk Council area. The applicant highlighted that the application site forms a very small peripheral part of the woodland in the Torwood area and would not impact on the setting of Torwood Castle and Broch. He advised that the design and layout of the proposal had taken account of the setting of the site and the existing trees and it has been revised in consultation with planning and landscape officers of the Council. He also advised that felling on the site had been by a previous landowner.
3. A forestry adviser was heard on behalf of the applicant. The applicant's adviser displayed documentation which supported the view of Scottish Natural Heritage that the application site is in an area of commercial forestry and is not recorded as an area of "ancient woodland".
4. A number of objectors, the majority being residents of Torwood and members of the Torwood Community Group were heard in opposition to the proposal and referred to the following:
 - Petitions totaling 456 signatories opposing the proposal on the grounds that it would result in the loss of an ancient woodland of historic importance and impact on the setting of Torwood Castle and Broch.
 - Previous illegal felling of trees on a larger area included the site.

- The proposed development would set a precedent for further development in the area.
 - The proposal is contrary to the provisions of the development plan as it lies outwith the Torwood village limit and has not been identified for housing purposes.
 - There has been no change in circumstance since the previous refusals on the site and the site does not represent an infill or gap site.
 - The proposal should be resisted as the economy is experiencing difficulties, and opportunities for countryside recreation should be safeguarded.
 - The Council should be encouraging recreational pursuits in the area.
 - The need to preserve the rural village character of Torwood.
 - Roads safety concerns in relation to additional traffic generation on Glen Road.
 - Concerns regarding drainage.
 - The woodland is classed as being within an ancient woodland and the records of Scottish Natural Heritage (SNH) are not correct in that SNH does not have the woodland recorded as such.
 - There is no need for additional housing in Torwood.
6. A member of the Woodlands Trust also spoke against the proposal as did a representative of the Larbert, Stenhousemuir and Torwood Community Council.
7. A statement was read on behalf of Councillor Tom Coleman as Local Member. Councillor Linda Gow, also a Local Member, was also heard in relation to the proposal.
8. It should be noted that following the Planning Committee's original consideration of the proposed development, the Keeper of Archaeological and Local History has advised that the application site is far enough removed from Torwood Castle and Broch to have a negligible impact on their setting.

9. RECOMMENDATION

- 9.1 It is recommended that Committee grant planning permission subject to the following conditions:-**
- (1) The development to which this permission relates must be begun within five years from the date of this permission.**
 - (2) Prior to the commencement of any work on site the location and construction of a fence to protect existing trees at the site shall be approved in writing by the Planning Authority.**

- (3) Prior to commencement of any work on site, the tree protection fencing shall be erected at the site with the written approval of the Planning Authority and shall remain in situ until the completion of the last dwellinghouse.
- (4) There shall at no time be any materials stored or deposited in any way, plant or equipment of any kind stored or deposited in any way or vehicles parked within the area of tress to be retained.
- (5) The landscaping at the south boundary shall be completed prior to the occupation of any dwellinghouse at the site.
- (6) Prior to the commencement of any work on site a tree and landscaping management plan shall be approved in writing by the Planning Authority.
- (7) Should any part of the existing boundary wall at Glen Road which is to be retained be demolished or become damaged in any way, the breach or damage shall be repaired and made good within 14 days of the notification of the breach by the Council.
- (8) Prior to the commencement of any work on site the applicant shall undertake, and have approved in writing by the Planning Authority a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination is identified the site investigation shall include:-
 - (a) The nature, extent and type(s) of contamination.
 - (b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - (c) Measures to deal with contamination during construction works.
 - (d) The condition of the site on completion of decontamination measures.
 - (e) Timescales for dealing with contamination.
 - (f) Details of a monitoring programme following site redemption.
- (9) Driveways shall be constructed with a gradient no greater than 1 in 10 and in a manner to ensure that surface water run-off does not discharge, or loose material is not carried out onto the public highway.
- (10) All access gates shall open inwards.
- (11) There shall be no construction or planting of any kind or placement or deposit of any materials, plant, equipment or machinery at any time between the boundary wall fronting Glen Road and the public highway.
- (12) Prior to the commencement of works on site a walkover survey of the site for badgers shall be carried out and if setts are identified, mitigation measures shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.
- (13) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To ensure the protection of existing trees at the application site.
- (5-8) To safeguard the environmental amenity of the area.
- (9-11) To safeguard the interests of the users of the highway.
- (12) To safeguard the environmental amenity of the area.
- (13) To ensure that the development is carried out to the satisfaction and approval of the Planning Authority.

Informative(s)

- (1) In respect of the Badger Survey requirement, where existing infrastructure and development allows, the survey should be conducted out to 30m beyond the site boundary. A licence may be required for any badger mitigation - please contact SNH for further advice.

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Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

- 1. Letter of representation from Alison Neilson, Willowdene, Glen Road, Torwood, Larbert on 02 May 2008
- 2. Letter of representation from R.G. Phillips, "Byways", Glen Road, Torwood, FK5 4SN on 8 May 2008
- 3. Letter of representation from Mr & Mrs Laing, Bracken Lea, Glen Road, Torwood, Larbert on 8 May 2008
- 4. Letter of representation from J Paton, Wallacebank, Glen Road, Torwood, Larbert on 9 May 2008
- 5. Letter of representation from Torwood Community Woodlands, FAO Isobel Lawton, Willowdene, Glen Road, Torwood on 14 May 2008
- 6. Letter of representation from Mr Stuart McConnell, Newington, Glen Road, Torwood, Larbert on 14 May 2008
- 7. E-mail dated 3 April 2009 from Christina Byrne of The Woodlands Trust.
- 8. Letter dated 12 9 March 2009 from Mr Gordon Millar, Rowandale, Torwood, Larbert, FK5 4SN.
- 9. E-mail dated 6 April 2009 from Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert, FK5 4GR.

10. Petition objecting to the proposed development containing 450 signatories, from Torwood Community Woodland Group on 16 April 2009.
11. Petition objecting to the proposed development containing 6 signatories, from Isabel Lawton, Hollings Cottage, Glen Toad, Torwood on 21 April 2009 on behalf of Torwood Community Woodland Group.
12. Petition in support of the application from the applicant containing 50 signatories on 5 April 2009.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson (Planning Officer).

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is located on the south side of Glen Road, Torwood south east of the dwellinghouse known as Byways.
- 1.2 The site is undeveloped land (previously in forestry use) which is located outwith the village boundary of Torwood as defined in the Rural Local Plan. The site is covered by mixed nature broadleaf woodland with a mixture of mature trees and shrub species (including birch, rowan, cherry and hawthorn).
- 1.3 It is proposed to erect five 1½ storey dwellinghouses of traditional design character with access via three new vehicular accesses from Glen Road.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposal constitutes a departure from the Development Plan.

3. SITE HISTORY

- 3.1 Planning application F/2002/0881 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of this application site and extending significantly more to the rear.
- 3.2 Planning application F/2002/0882 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of the current application site and extending significantly more to the rear.

- 3.3 Planning permission was refused in respect of the above planning applications on grounds that:-
- The proposals were not considered to be absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The proposals did not therefore accord with Policy Rural 1 of the Rural Local Plan 'New Development in the Countryside' and Policy Rural 2 of the Rural Local Plan 'Village Limits'.
 - The proposals would be detrimental to the character of the landscape as the site is part of a historically wooded area. The proposals did not therefore accord with Policy Rural 20 of the Rural Local Plan 'Trees and Woodland'.
- 3.4 Both refusals of planning permission were subject to appeal to the Scottish Executive and the appeals were considered together. The Reporter concluded that:-
- The proposed developments would accentuate the ribbon character along Glen Road contrary to Policy Rural 1 of the Rural Local Plan 'New Development in the Countryside'.
 - The developments lies outwith the village limit and would not therefore accord with Policy Rural 2 of the Rural Local Plan 'Village Limits'.
 - There is a need to preserve the rural character of the application sites and implementation of the proposals would undermine Policy Rural 20 of the Rural Local Plan 'Trees and Woodland'.
- 3.5 The Reporter dismissed the appeals. The Reporter also made comment that the decision was reached in the absence, at that time, of any policies of the emerging Falkirk Council Local Plan.
- 3.6 It is noted that the above application site extended beyond the south west boundary of the application site to which this report refers by a distance of between 35 metres and 60 metres.
- 3.7 Planning application F/2002/0846 was refused planning permission on 18 February 2003 for the provision of an access and a hardstanding/turning area in connection with a timber extraction operation; this being the same site as that covered by F/2002/0881 and F/2002/0882. The reasons for refusal related to the lack of justification and contravention of Local Plan Policy.
- 3.8 Also relevant is planning application P/08/0688/FUL which was approved on 11 December 2008 for the demolition of an existing dwellinghouse and erection of a new dwellinghouse at Byways, Glen Road, adjacent to the current application site to the west. This site forms part of the established pattern of buildings within which the current application site sits.
- 3.9 It is also noted that this development is currently being implemented. The dwellinghouse at Byways has been demolished and is to be redeveloped with the dwellinghouse approved under the terms of planning permission P/08/0688/FUL

4. CONSULTATIONS

- 4.1 The Roads Development Unit has raised no objections. It is noted that the existing stone wall which runs along the development site frontage at Glen Road is to remain. The wall sits at a distance of 2.7 metres from the road edge. There would be no obstruction to visibility between the existing wall and the public road edge and as such satisfactory visibility for vehicular traffic entering and leaving the site can be achieved. The Roads Development Unit has provided advice with respect to the formation of driveways and the erection of entrance gates.
- 4.2 The Environmental Protection Unit has advised that databases indicate that there has historically been potentially contaminative activity within 250 metres of the application site. The applicant should undertake a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site.
- 4.3 Scottish Water has raised no objection.
- 4.4 The Scottish Environment Protection Agency has raised no objection. It is noted that the Roads Development Unit has raised no objection in respect of drainage or flooding.
- 4.5 Central Scotland Police has raised no objection.
- 4.6 Scottish Natural Heritage (SNH) has raised no objection. SNH has advised that a walkover survey for badgers should be carried out and has advised that conditions be attached to protect trees which it is proposed to retain on site.
- 4.7 Education Services has raised no objection.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has objected to the proposed development on the following grounds:-
- The proposed development does not accord with the Development Plan.
 - There is no capacity in the drainage and water supply infrastructure of the area to accommodate the proposal.
 - The application site is not a gap site.
 - The proposed development would be detrimental to road safety.
 - The proposed development would result in the loss of woodland which is of historic importance and makes a positive contribution to the amenity and recreational opportunities of the area.

6. PUBLIC REPRESENTATION

- 6.1 Nine letters of objection have been received. The objectors' concerns partially reflect the concerns raised by the Community Council detailed in section 5 above.

- 6.2 In addition the following concerns have also been raised:-
- 6.3 The application site lies outwith the Torwood Village Limit as defined in the Rural Local Plan. The proposal does not therefore accord with Policy Rural 1 of the Rural Local Plan, “New Development In The Countryside”.
- 6.4 In 2002 another party carried out illegal felling of trees in an area to the south west of the application site. This resulted in prosecution.
- 6.5 At the time of the illegal felling, a colony of bats in the area was lost.
- 6.6 There is no recognized need for additional housing in Torwood.
- 6.7 The existing trees at the application site were planted historically as a buffer zone to prevent the spread of tree diseases to the village of Torwood. Felling the trees at the site would leave the village of Torwood vulnerable to the spread of tree diseases.
- 6.8 It is noted that the proposed development is for the erection of five 1½ storey dwellinghouses although the application form refers to the erection of 1½ storey bungalows. The objectors note that a bungalow is a single storey dwellinghouse.
- 6.9 The proposed development constitutes inappropriate ribbon development.
- 6.10 There would be unacceptable noise pollution during construction.
- 6.11 The construction works at the site would result in restriction of access to residential properties in Glen Road.
- 6.12 The existing wall at the site adjacent to Glen Road should not be breached.
- 6.13 The proposed development would result in the loss of an area of ancient woodland. The application site is not identified in the Rural Local Plan as an area of ancient woodland.
- 6.14 The tree survey submitted by the applicant does not address biodiversity issues.
- 6.15 The proposed development would compromise the preservation and setting of an Iron Age broch and the 17th Century Torwood Castle located in the woodland in the Torwood area.
- 6.16 It is noted that an extract from a Scottish Inquiry Reporters letter in respect of a development in a countryside area, which recommends refusal of planning permission has been submitted in support of the objections raised. It is not clear to which development this letter extract relates.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 The proposed development does not raise any matters of a strategic nature and does not require to be assessed under the terms of the Falkirk Council Structure Plan.

Rural Local Plan

- 7a.2 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

- 1. Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
- 2. On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*
- 3. Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
- 4. Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
- 5. Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council’s Tourism Strategy are particularly welcomed.*
- 6. Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

The scale, siting and design of those developments which are granted permission will be strictly controlled. Building designs compatible with the District Council’s “Design Guide For Buildings In The Rural Areas” and sympathetic to vernacular architectural forms will be expected.”

- 7a.3 The proposal is not absolutely essential to the pursuance of agriculture, forestry or other economical activity appropriate to a rural location.
- 7a.4 The application site is located between the residential properties at Aonach – Mor and Byways. The application site is considered to be an identifiable gap site between these properties albeit an extended gap. It is not considered that the proposal constitutes ribbon development as the proposed development is in keeping with the well established settlement pattern which has developed on both sides of Glen Road.

7a.5 Due to the extended nature of the gap site it is not considered that the proposed development fully accords with Policy Rural 1.

7a.6 Policy RURAL 2 ‘Village Limits’ states:

“That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside.”

7a.7 It is noted that the proposed development would extend the village limit, as defined in the Rural Local Plan to include the gap between the residential properties at Aonach – Mor and Byways. However, infilling the gap would not constitute undesirable sporadic development in the countryside. It is noted that the western limit of Torwood village would not be extended as a result of the proposal.

7a.8 The proposed development does not fully accord with Policy Rural 2.

7a.9 Policy RURAL 20 ‘Trees and Woodland’ states:

“That the District Council recognises the economic, landscape, ecological and recreational importance of trees, woodland, afforested land and hedgerows and accordingly :-

- 1. Felling detrimental to the character of the landscape or to the economic, nature conservation or recreational value of the planted area itself will be discouraged. The enhancement and management of existing woodland and other natural landscape features will be encouraged.*
- 2. Where necessary, endangered areas and trees will be statutorily protected through the designation of Tree Preservation Orders. Within an area covered by a T.P.O. there will be a presumption against development unless it can be proven that the proposal would not adversely affect the stability or appearance of protected species. Where permission is given to fell a tree within a Conservation Area or an area covered by a T.P.O., the District Council will normally require the provision of replacement planting appropriate in terms of number, size, species and position.*
- 3. Appropriate proposals for community woodlands and amenity planting will be encouraged, in particular within and adjacent to the rural villages, along urban fringes and transport corridors, within the Green Belt and in relation to derelict and industrial sites and farmed landscapes.*
- 4. When consulted on forestry planting proposals the District Council will support the provisions of the indicative forestry strategy as outlined by Central Regional Council in its approved Structure Plan.*

The District Council favors the use of appropriate native species of trees and shrubs in new planting.”

7a.10 It is noted that the proposal includes the clearing of small trees and shrubs within the less dense planted southern section of the site. The proposal would also include the removal of a minimal number of trees adjacent to Glen Road in order to accommodate the three vehicular access points proposed.

- 7a.11 A detailed tree survey has been undertaken by the applicant for all trees over 150mm stem diameter, in the application site plus trees over 75mm stem diameter that would be within 5 metres of the centre line of the proposed access driveways. A plan is included with the tree survey that shows trees to be removed, and trees to be retained together with the location of essential protective fencing (a construction exclusion zone). A total of 48 trees of varying sizes and conditions have been identified for removal in order to accommodate the proposed dwellinghouses and driveways. The tree survey provides arboricultural recommendations in light of the proposal and includes an arboricultural method statement to ensure the protection of the retained trees.
- 7a.12 An assessment of the submission has been undertaken and it is considered that the report is accurate, contains sound recommendations and the method statement is acceptable.
- 7a.13 It is considered that appropriate mitigation in the form of protection of existing trees and additional planting can be achieved by condition, and that subsequently the visual impacts of the proposed housing would be acceptable.
- 7a.14 It is not considered that the proposed development would be detrimental to the character of the landscape or to the economic nature or conservation or recreational value of the area.
- 7a.15 The proposed development accords with Policy Rural 20.
- 7a.16 Taking into the account the foregoing policy assessment, the proposed development does not fully accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Scottish Planning Policy (SPP) 3 “Planning for Housing”, SPP15 “Rural Development”, Supplementary Planning Guidance Note “Trees and Development”, Supplementary Planning Guidance Note “Housing Layout and Design”, the representation from the Larbert, Stenhousemuir and Torwood Community Council, the letters of public representation and the planning history.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 7b.2 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.”*

7b.3 It is not considered that the proposal is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a countryside location is essential.

7b.4 It is noted that the application is located within an existing well established linear pattern of buildings which have been developed along the south side of Glen Road, Torwood. It is not considered that the proposed development constitutes a ribbon development extension to the Torwood village limit. The proposal does not prejudice the well established western limit to the village defined by the track to Torwood Castle at the west side of the dwellinghouse known as Mar-Lea.

7b.5 The proposed development is considered to be an appropriate infill opportunity under the terms of Policy SC3.

7b.6 The proposed development is therefore considered to accord with Policy SC3.

7b.7 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.”*

7b.8 The scale, density, disposition and design of the proposed dwellinghouses respect the architecture and character of the housing pattern at Glen Road.

7b.9 Adequate garden ground would be provided in respect of the proposed dwellinghouses.

7b.10 Adequate privacy would be afforded to both the proposed dwellinghouses and existing dwellinghouses at Glen Road.

- 7b.11 It is noted that it has been advised that adequate protection of existing trees can be achieved by conditions. Section 7a.13 – 19 of this report are noted.
- 7b.12 It is noted that the Roads Development Unit has not objected in terms of access.
- 7b.13 The proposed development meets the principles emphasised in Policy SC8 and is in accordance with this policy.
- 7b.14 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.”*

- 7b.15 Sections 7a.13 – 7a.20 above referring to Policy Rural 20 of the Rural Local Plan “Trees and Woodland” are noted.
- 7b.16 The proposed development accords with Policy EQ26.
- 7b.17 It is therefore concluded that the proposed development accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Scottish Planning Policy (SPP) 3 “Planning for Housing”

- 7b.18 SPP3 states that planning policies have traditionally sought to restrict the development of new houses in the countryside to maintain the rural character and amenity and safeguard agricultural production. It is recognized, however, that major changes taking place in farming and the rural community mean that some aspects of housing policy may need adjustment. SPP3 also recognizes that an adjustment of housing policy could assist economic and social regeneration and the proposals for sustainable development using innovative energy efficient technologies with particularly low impacts on the environment may be acceptable at locations where more conventional buildings would not.
- 7b.19 SPP3 also states, however, that the control of innovative low impact uses through the planning system is best achieved by a Development Plan led approach. Proposals should be carefully assessed against specific sustainable development criteria and the wider policy objections of the Development Plan.

- 7b.20 It is noted that at present there are no Development Plan led initiatives for controlled regeneration of rural areas either by the consideration of single dwelling units in areas remote from existing settlements or in terms of specific sustainable development criteria.
- 7b.21 The terms of policies Rural 1 and SC3 above take precedence in relation to proposed development of this nature.

Scottish Planning Policy (SPP) 15 “Rural Development”

- 7b.22 SPP15 advances policy in respect of small scale rural housing development, including plots on which to build individually designed houses. The message is that there is scope for allowing more housing development of this nature. This should, however, be expressed in Development Plans. The plan led nature of the advice given in SPP15 is important if development is to be sustainable and residents are to have acceptable access to services. As detailed previously in this report, whilst the proposal does not fully accord with the Rural Local Plan, it is in accord with the Falkirk Council Local Plan (Finalised Draft) Deposit Version. It is considered that the proposal is in compliance with the aim of SPP15.

Supplementary Planning Guidance Note “Trees and Development”

- 7b.23 The SPG emphasises that existing landscaping and tree cover has a significant impact and role in terms of screening, shelter from the wind and visual impact and is considered to add design value to the development.
- 7b.24 Sections 7a.13 – 7a.20 of this report above are noted.
- 7b.25 The proposed development accords with the SPG.

Supplementary Planning Guidance Note “Housing Layout and Design”

- 7b.26 The SPG emphasises issues to be addressed and steps to be taken if good planning practice is to be adopted and a high level of design achieved.
- 7b.27 It is noted that the topography of the site has been incorporated into the design, the dwellinghouses are in keeping with houses at Glen Road in terms of scale, design and plot size and that there would be a high level of amenity landscaping and impact on neighbouring properties.
- 7b.28 It is considered that the proposal is in keeping with the planning practice and design advice emphasised in the SPG.
- 7b.29 Accordingly the proposed development accords with the SPG.

Representation From Larbert, Stenhousemuir and Torwood Community Council

- 7b.30 It is noted that the application site lies outwith the Torwood village limit as identified in the Rural Local Plan and that the development does not fully accord with the Development Plan.
- 7b.31 There is no evidence to support the view that the proposed development cannot be supported in terms of drainage and water supply infrastructure.

- 7b.32 The application site is an extended gap between the properties at Aonach – Mor and Byways. It is not considered that infilling the gap constitutes undesirable sporadic development and it is noted that the western limit of Torwood village would not be extended as a result of the proposal.
- 7b.33 There is no evidence to support the view that the proposal is detrimental to road safety.
- 7b.34 An assessment of the tree survey submitted in support of the proposed development has been undertaken. The survey concludes that tree cover at the site can be significantly retained to the extent that amenity would not be compromised. This is accepted and it is considered that the survey is accurate, and that sufficient landscaping/tree cover can be retained to safeguard amenity.

Public Representations

- 7b.35 Felling of trees in the area of the application in the past is not relevant to the proposal. The felling referred to relates to felling of commercial woodland. Sections 7a 13 – 19 of this report are noted in terms of trees and woodland.
- 7b.36 It is noted that the application site is not identified as a housing opportunity in the Rural Plan.
- 7b.37 The proposed development includes the significant retention of trees at the site.
- 7b.38 The comments regarding 1½ storey design housing are noted. The proposal is in keeping with houses at Glen Road in terms of scale, design and plot size.
- 7b.39 The proposed development is considered to constitute appropriate infilling of an extended gap which reflects the historic development of properties and land at Glen Road. It is noted however that the proposed development does not fully accord with the terms of policy Rural 1 of the Rural Local Plan, "New Development in the Countryside" as detailed in Section 7a of this report.
- 7b.40 There is no evidence to support the view that there would be significant pollution arising from development of the site.
- 7b.41 There is no evidence to support the view that the proposed development would have a detrimental impact on properties at Glen Road in terms of access.
- 7b.42 The existing wall forming the site frontage to Glen Road is to be, by and large, retained with the exception being the openings to achieve site access.
- 7b.43 It is not clear to which development the previous Reporter's letter extract refers. The proposed development should in any case be considered on its own merits.
- 7b.44 There has been no biodiversity concerns raised as a result of the consultation process.
- 7b.45 The Iron Age broch and 17th Century Castle in the Torwood Area are sufficiently isolated from the application site that the preservation and setting of these sites would not be compromised by the proposed development.

Planning History

- 7b.46 The planning history detailed in section 3 of this report is noted.

- 7b.47 It is considered that the proposed development differs from the dwellinghouses which were refused planning permission under the terms of planning applications F/2002/0881 and F/2002/0882.
- 7b.48 The application has less depth when measured from the public road at Glen Road by a distance of between 35 metres and 60 metres and integrates well with the established settlement pattern.
- 7b.49 The proposed development proposes to retain a significant tree cover at the site and is considered to be in accordance with Policy Rural 20 of the Rural Local Plan 'Trees and Woodland' and Policy EQ26 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) 'Trees, Woodland and Hedgerows'.
- 7b.50 It is noted that since the dismissal of appeals against refusal of planning permission F/2002/0881 and F/2002/0882 the Falkirk Council Local Plan has reached the finalised draft (deposit version) stage. Policies in respect of the emerging plan, which will replace the policies of the Rural Local Plan adopted in 1994, are now a material consideration. The Reporter noted at the time of appeal that such policies were not available for his consideration.
- 7b.51 The refusal of planning permission in respect of planning application F/2002.0846 is noted. At that time it was not considered that the formation of an access directly into Glen Road to service a hardstanding in associating with tree felling accorded with the Development Plan or was complementary to the character of the village. Tree felling which did not require authorisation by the planning authority has subsequently been carried out taking access from the track to Torwood Castle to the west of the application site.
- 7b.52 It is noted that felling of the trees has altered the character of the area of the application site.
- 7b.53 A detailed policy appraisal of the proposed development is addressed in Section 7a of this report.

7c Conclusion

- 7c.1 The proposed development does not fully accord with the Development Plan.
- 7c.2 It is noted however that the proposed development constitutes an appropriate infill development under the terms of Policy SC3 of the Falkirk Council Local Plan Finalised Draft (Deposit Version). Sections 7b.2 to 7b.6 of this report are noted. The proposed development fully accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7c.3 The proposed housing is in keeping with dwellinghouses at Glen Road in terms of scale, design and plot size.
- 7c.4 It has been demonstrated that significant tree cover at the site can be retained at the site to safeguard amenity.
- 7c.5 The existing boundary wall fronting Glen Road would be significantly retained with minimal removal to accommodate access to the site.
- 7c.6 The boundary with the countryside to the north would be well landscaped and no precedent for further development would be set.

- 7c.7 It is noted that the Rural Local Plan was adopted in 1994. Since that time the settlement pattern of Glen Road has developed considerably resulting in the well established linear pattern which now exists on both sides of Glen Road. Furthermore it is noted that the application site lies within a well established pattern of existing buildings on the south side of the road.
- 7c.8 It is considered that the policies of the Falkirk Council Local Plan Finalised Draft (Deposit Version) are more pertinent in respect of the proposed development. This is due to the time which has lapsed since the adoption of the Rural Local Plan and the linear settlement pattern which has become established at both sides of Glen Road since that time.
- 7c.9 On balance it is considered that there is justification for a departure from the Development Plan in this case. It is also considered that the proposed development does not represent a significant departure from the Development Plan as the site lies within a well established pattern of development and if Members accept the recommendation below, there would be no need to notify Scottish Ministers.

8. RECOMMENDATION

- 8.1 It is recommended that Committee grant planning permission subject to the following conditions:-
- (1) The development to which this permission relates must be begun within five years from the date of this permission.
 - (2) Prior to the commencement of any work on site the location and construction of a fence to protect existing trees at the site shall be approved in writing by the Planning Authority.
 - (3) Prior to commencement of any work on site, the tree protection fencing shall be erected at the site with the written approval of the Planning Authority and shall remain in situ until the completion of the last dwellinghouse.
 - (4) There shall at no time be any materials stored or deposited in any way, plant or equipment of any kind stored or deposited in any way or vehicles parked within the area of tress to be retained.
 - (5) The landscaping at the south boundary shall be completed prior to the occupation of any dwellinghouse at the site.
 - (6) Prior to the commencement of any work on site a tree and landscaping management plan shall be approved in writing by the Planning Authority.
 - (7) Should any part of the existing boundary wall at Glen Road which is to be retained be demolished or become damaged in any way, the breach or damage shall be repaired and made good within 14 days of the notification of the breach by the Council.
 - (8) Prior to the commencement of any work on site the applicant shall undertake, and have approved in writing by the Planning Authority a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination is identified the site investigation shall include:-

- (g) The nature, extent and type(s) of contamination.
 - (h) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - (i) Measures to deal with contamination during construction works.
 - (j) The condition of the site on completion of decontamination measures.
 - (k) Timescales for dealing with contamination.
 - (l) Details of a monitoring programme following site redemption.
- (9) Driveways shall be constructed with a gradient no greater than 1 in 10 and in a manner to ensure that surface water run-off does not discharge, or loose material is not carried out onto the public highway.
- (10) All access gates shall open inwards.
- (11) There shall be no construction or planting of any kind or placement or deposit of any materials, plant, equipment or machinery at any time between the boundary wall fronting Glen Road and the public highway.
- (12) Prior to the commencement of works on site a walkover survey of the site for badgers shall be carried out and if setts are identified, mitigation measures shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.
- (13) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To ensure the protection of existing trees at the application site.
- (5-8) To safeguard the environmental amenity of the area.
- (9-11) To safeguard the interests of the users of the highway.
- (12) To safeguard the environmental amenity of the area.
- (13) To ensure that the development is carried out to the satisfaction and approval of the Planning Authority.

Informative(s)

- (1) In respect of the Badger Survey requirement, where existing infrastructure and development allows, the survey should be conducted out to 30m beyond the site boundary. A licence may be required for any badger mitigation - please contact SNH for further advice.



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For Director of Development Services

Date: 15 April 2009

LIST OF BACKGROUND PAPERS

1. Letter of representation from Alison Neilson, Willowdene, Glen Road, Torwood, Larbert on 02 May 2008
2. Letter of representation from R.G. Phillips, "Byways", Glen Road, Torwood, FK5 4SN on 8 May 2008
3. Letter of representation from Mr & Mrs Laing, Bracken Lea, Glen Road, Torwood, Larbert on 8 May 2008
4. Letter of representation from J Paton, Wallacebank, Glen Road, Torwood, Larbert on 9 May 2008
5. Letter of representation from Torwood Community Woodlands, FAO Isobel Lawton, Willowdene, Glen Road, Torwood on 14 May 2008
6. Letter of representation from Mr Stuart McConnell, Newington, Glen Road, Torwood, Larbert on 14 May 2008
7. E-mail dated 3 April 2009 from Christina Byrne of The Woodlands Trust.
8. Letter dated 12 9 March 2009 from Mr Gordon Millar, Rowandale, Torwood, Larbert, FK5 4SN.
9. E-mail dated 6 April 2009 from Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert, FK5 4GR/

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson (Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0377/FUL

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



Falkirk Council

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