

**FALKIRK COUNCIL**

**Subject:** ERECTION OF DWELLINGHOUSE AT LAND TO THE WEST OF  
WESTER BOWHOUSE FARM, BOWHOUSE, FALKIRK FOR MR I  
MCGILLIVARY (P/07/1208/OUT)

**Meeting:** PLANNING COMMITTEE

**Date:** 20 May 2009

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Member:** Councillor Gordon Hughes  
Councillor Stephen Fry  
Councillor John McLuckie

**Community Council:** Avonbridge and Standburn

**Case Officer:** John Milne(Senior Planning Officer), 4815

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 This is an outline planning application for the erection of a single dwellinghouse, to be used as a residence for an agricultural worker. The applicant is not the intended occupant of the property, the occupant being Mr Andrew McGillivary – the son of the applicant, Mr Ian McGillivary.
- 1.2 Mr Ian McGillivary is the owner and occupier of Bowhouse Farm with associated bed & breakfast facility on which the application site is located.
- 1.3 The application site itself comprises a 0.26 Ha area of land located on the south side of the B825 roadway, west of Bowhouse Farm, Falkirk.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in by Councillor Gordon Hughes.

**3. SITE HISTORY**

- 3.1 05/1076/FUL – Proposed erection of dwellinghouse and garage – withdrawn 2 August 2006.

#### **4. CONSULTATIONS**

- 4.1 Falkirk Council's Rural Business Consultants – Laurence Gould Partnership Ltd – considers that the agricultural operation of Bowhouse Farm only justifies one full time person and, if required, any additional seasonal increase could be met by the part-time participation of additional labour – a common approach undertaken within the farming community. Despite repeated approaches to justify an additional agricultural requirement from the applicant. Independent advice remains that an additional full-time worker is not required, nor justified in terms of securing an additional dwellinghouse.
- 4.2 The Scottish Environment Protection Agency has no objection in principle to the proposed development.
- 4.3 Scottish Water has no objection but advises that there are no public sewers in the vicinity and septic tank provision may be necessary.
- 4.4 Falkirk Council's Environmental Protection Unit considers that noise need not be a determining factor in considering the application. However, the applicant should undertake a site investigation to establish if contamination is present on site.
- 4.5 Falkirk Council's Roads Development Unit has no objections subject to conditions.
- 4.6 The Health and Safety Executive do not advise against the proposal.

#### **5. COMMUNITY COUNCIL**

- 5.1 Avonbridge and Standburn Community Council has not made representations.

#### **6. PUBLIC REPRESENTATION**

- 6.1 No representation received.

#### **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 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 applicant has failed to demonstrate that a countryside location is essential or that the dwellinghouse will contribute to the agricultural function of the nearby farm operation.

### ***Rural Area Local Plan***

#### 7a.3 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.4 It is not considered that the proposed dwelling is absolutely essential to the pursuance of agriculture or other economic activity appropriate to a rural location, all contrary to part (1) of the above policy.

7a.5 Policy RURAL 32 'Pipeline Corridors' states:

*"That within the Pipeline Consultation Zones generally indicated on the Policies and Proposals Map, development will not normally be permitted unless the District Council is satisfied that :-*

- 1. Future users or occupants will not significantly add to the number of people exposed to the existing risk from a pipeline.*
- 2. The development will not in any way affect the operational safety of a pipeline."*

7a.6 The application site sits on the edge of the shell north west pipeline – some 310 metres within the 320 metre zone of influence – and results in a 'do not advise against' from the Health and Safety Executive. The proposal therefore accords with this policy.

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

## **7b Material Considerations**

7b.1 The material considerations to be addressed are the policies contained within the Falkirk Council Local Plan Finalised Draft (Deposit Version) and points raised through comment.

### ***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 The application has failed to demonstrate that a new dwelling is essential in this rural location in terms of operational need associated with an existing business.

### ***Points Raised Through Comment***

7b.4 The applicant has submitted information, via the Scottish Agricultural College, in support of the proposals to justify an additional dwellinghouse.

7b.5 Falkirk Council’s Rural Business Consultants – Laurence Gould Partnership Ltd – considers that the agricultural business on its own represents no more than one and a half full time workers.

7b.6 Hence, in relation to the farming enterprise, only one dwelling can be justified, which is the one which Mr Ian McGillivray and his partner currently reside in.

7b.7 Mr Andrew McGillivray sheep scanning business does not require to be based at Wester Bowhouse Farm.

7b.8 Indeed, presumably part of the reason for Mr Andrew McGillivray undertaking the scanning operation is to enhance his income, since the farm is not large enough to give him full time remuneration.

7b.9 No round-the-year requirement for a second worker has been established.

### **7c Conclusion**

7c.1 The applicant has submitted statements of agricultural support from the Scottish Agricultural College which have been reviewed by Falkirk Council’s rural business consultant. The review determines that an additional full time employee on the farm has not been justified and, as such, there is a lack of justification and no requirement for an additional dwellinghouse. Therefore it does not accord with the Development Plan.

## **8. RECOMMENDATION**

- 8.1 It is recommended that outline planning permission be refused for the following reason:-

The proposal is contrary to the Falkirk Structure Plan Policy ENV.1 – Countryside and Protected Areas, the Rural Area Local Plan Policy Rural 1 – New Development in the Countryside and the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy SC3 – Housing Development in the Countryside – in that the applicant has failed to demonstrate that a new dwelling in a rural location is essential in terms of operational need associated with an existing agricultural business.

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Director of Development Services

Date: 13 May 2009

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Rural Area Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version)

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/07/1208/OUT**

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



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