

FALKIRK COUNCIL

Subject: **ERECTION OF DWELLINGHOUSE AT LAND AT WHINNIE MUIR
WOOD WEST OF TORWOOD HEAD COTTAGE, LARBERT FOR MR R
MCCLURG - P/09/0519/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **24 February 2010**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

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

Community Council: Larbert, Stenhousemuir and Torwood

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 27 January 2010 (copy of previous report attached), when it was agreed to continue the application and to undertake a site visit. This visit took place on 15 February 2010.
2. The agent, acting on behalf of the applicant, raised a number of points, most notably:-
 - the 'Goalposts have been moved' on the issue of a new dwellinghouse since the previous approval of planning permission for the commercial fishery;
 - the issue of the size, scale and massing of the dwellinghouse (notably the size of the dwelling in terms of accommodation) was not a significant consideration.
 - if planning permission was not granted, the commercial fishery may close;
 - the applicant has amended the business plan for the fishery to include an element where members of the public would be able to fish.
3. Various representations in support of and objection to the proposal were made by members of the public:
 - the proposal would encourage tourism in the area;
 - the proposal would detract from the visual amenity of the area, along with points already made in the planning officer's report;

- Larbert, Stenhousemuir and Torwood Community Council reiterate their objections;
 - the dwellinghouse is not of a size relative to the operation of a small commercial fishery;
 - a history of unauthorised felling within the protected woodland has occurred.
4. Councillor Tom Coleman commented on the scale and visual impact of the proposed dwelling and the previous felling of trees.
5. In response to these contributions, the following comments should be considered:-

- The previous planning report dealt with the issue of temporary accommodation under part 7b.5.

A permanent dwelling on the site of the commercial fishery is not justified. No financial or other justification has been presented to support the principle of development on this site, and the justification was not secured through the previous planning application for the fishery business.

- The agent has submitted the proposal “to provide staff accommodation in association with the operation of the commercial fishery”.
- The size, scale and massing of the proposed dwellinghouse is a material consideration of the application and forms a principal reason for the recommendation to refuse the planning application.
- The applicant is not the current occupant of the temporary caravan placed on site, nor have issues of major site security been raised. It is therefore unclear as to why the refusal of the proposed 7 bedroom dwelling would lead to the closure of a private fishery.
- The change in operation of the fishery business would have no impact on the current proposal beyond a change in the business plan presented. However, the business plan for the proposed fishery envisaged an income of £100,000 per year from a private consortium, over a 5 year period.

The income over the last 3 years has been £60,000 per year and, given the costs of establishing the fishery and employing an on-site manager, the project remains financially ‘fragile’, even with the limited opening of the fishery to members of the public.

- The previous felling of trees is not a material planning consideration in respect of this proposal.
- Representations are noted, with the following considerations:-
 - > No written representation regarding the tourism element has been received, but the inclusion or exclusion of a dwellinghouse would have no material change to the current fishery provision;

- > Other points have been addressed through the previous report;
- > For clarification, 2 letters of representation have been received from the same author, representing both the author and the Woodlands Trust;
- > The list of contributors has been amended accordingly.

4. RECOMMENDATION

4.1 It is recommended that Committee refuse planning permission for the following reasons:-

- (1) It is considered that the proposal is contrary to Falkirk Council Structure Plan Policy ENV.1 (Countryside and Protected Areas), Rural Area Local Plan Policy Rural 1 (New Development in the Countryside) and Falkirk Council Local Plan Finalised Draft Deposit Version Policy SC3 (Housing Development in the Countryside) in that the essential justification for the dwelling to serve the existing fishery business has not been established nor that the business as a whole is capable of providing the main source of income for the occupant.
- (2) The proposal is considered contrary to the Planning Advice Note 72 (New Housing in the Countryside), Rural Area Local Plan Policy Rural 1 (New Development in the Countryside) and Falkirk Council Local Plan Finalised Draft Deposit Version Policy EQ19 (Countryside), in that the size, scale and design of the dwellinghouse is not sympathetic to vernacular building style in the area and the siting potentially injurious to visual amenity.

Informatives:

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our reference number(s) 01, 02, 03, 04, 05, 06, 07 & 08.



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For Director of Development Services

Date: 16 February 2010

LIST OF BACKGROUND PAPERS

1. Planning Advice Note 72 – New Housing in the Countryside.
2. Falkirk Council Structure Plan.
3. Falkirk Council Rural Local Plan.
4. Falkirk Council Finalised Draft (Deposit Version).
5. Letter of objection received from Gordon Millar, Rowandale Glen Road Torwood, Larbert on 21 August 2009.
6. Letter of objection received from Larbert, Stenhousemuir & Torwood Community Council, Norvia c/o 92 Stirling Road, Larbert FK5 4NF on 14 September 2009.
7. Letter of objection from Ms Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert, FK5 4GR on 1 September 2009.
8. Letter of objection from Woodland Trust, Yew Bank, Central Park Avenue, Larbert FK5 4GR on 1 September 2009.

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

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE AT LAND AT WHINNIE MUIR
WOOD WEST OF TORWOOD HEAD COTTAGE, LARBERT FOR MR R
MCCLURG - P/09/0519/FUL
Meeting: PLANNING COMMITTEE
Date: 27 January 2010
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is adjacent to an existing commercial fishery. The commercial fishery comprises an area excavated for a pond with a grassed island feature, which has been flooded and stocked. The applicant has also installed a temporary caravan and related outbuilding, with roadway access.
- 1.2 The site of the dwellinghouse is an area of sloping ground, leading up to a landscaped ridgeline. Existing mature landscaping is augmented by introduced planting, yet to reach maturity.
- 1.3 The proposed dwellinghouse would be constructed over 2 floors and a basement, with the following provision: -
 - Basement, wine cellar and 2 double garages,
 - Ground floor comprising 1 bedroom, swimming pool, lounge, dining room, study, kitchen, breakfast room, family room and play room (potential further bedroom), utility room, pool plant room, hall and vestibule. Access to a verandah is also proposed.
 - Upper floor comprising 5 bedrooms and library.
- 1.4 The dwellinghouse would provide a security measure overseeing the function of the fishery business.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor J Blackwood.

3. SITE HISTORY

- 3.1 05/0853/FUL - Formation of Wetland Pond – Granted.
- 3.2 05/0422/FUL – Formation of Wetland Pond – Withdrawn.
- 3.3 06/1116/FUL – Change of Use of Wetland Pond to Class 11 (Assembly and Leisure) Fishery, Erection of Temporary Residential Unit and Storage Building and Formation of Access Road and Car Park – Granted.
- 3.4 F/2005/0009 – Formation of Commercial Fishery Pond, associated Car Parking and Manager's Accommodation – Withdrawn.

4. CONSULTATIONS

- 4.1 The Scottish Environmental Protection Agency considers the proposal relatively minor and has raised no objections.
- 4.2 The Roads Development Unit raise concerns that the car parking provision proposed through a previous planning permission has not been formed.
- A junction assessment for the access to the A9 roadway will be required, if the property is to be used in conjunction with commercial activity.
 - Foul drainage and effluent disposal requires to be satisfied.
- 4.3 Scottish Water raise no objections.
- 4.4 Environmental Protection Unit advise that, if unexpected contamination is encountered following commencement of development, all works on the affected part of the site should cease. Development should not recommence without the prior written approval of the planning authority.
- 4.5 An economic justification has been submitted where the applicant identifies that the fishery is under contract to a consortium of individuals who have a 5 year tenure. Economic Development have reviewed the supporting financial information and are concerned that the financial projections are already into year 2 of a 5 year forecast, where the current consortium client could disband and the proposed house remain without economic support from the fishery provision.
- The financial success of the fishery operation is extremely limited.

5. COMMUNITY COUNCIL

5.1 Larbert, Stenhousemuir and Torwood Community Council object to the application based on the following: -

- The application is contrary to the Local Plan, as there is no requirement for additional housing land in the Rural North area in the Local Plan period to 2012.
- Given the size of the proposed development, this would add to the ongoing creeping development and resulting infrastructure constraints within the area.
- In addition, the Community Council also has serious concerns with the application which will encroach on the woodland area which is understood to be protected.

6. PUBLIC REPRESENTATION

6.1 Two letters of objection have been received, commenting that:-

- The application site is in ground outwith the village limits, where there is a presumption against proposals for development.
- There is no need for additional housing in Torwood.
- Access to the proposed development is from the A9, which is already dangerous and further traffic will exacerbate this problem.
- The proposal is backland development and seems excessively large for a Manager's house.
- The proposal is contrary to Policy Rural 1 'New Development in the Countryside'.
- Existing woodland would be destroyed.

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

Approved 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 It is considered that permanent residential occupation of the site has not been established to be essential to the associated fishery business, given the financial background to the enterprise and limited tenure of current clients.

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 In this instance, the applicant has failed to demonstrate that the proposed housing element is absolutely essential to the pursuance of the economic activities of the commercial fishery.
- 7a.5 In terms of design, too grand a character is evident through the window and chimney details and the structure lacks authenticity both in its appearance and location. A landscaped country estate would seem more appropriate in terms of setting, rather than dedicated to a functioning fish farm. Overall, the building cannot be considered sympathetic to vernacular architectural form in the area.
- 7a.6 Accordingly, the proposed development does not accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be addressed are National Planning Advice, the Falkirk Council Local Plan Finalised Draft (Deposit Version), points raised by objectors and consultees and planning history.

National Planning Advice

- 7b.2 Planning Advice Note 72 – New Housing in the Countryside – advocates that there is a sturdy quality to much of the scale and shape of Scotland's domestic rural architecture. This is derived largely from the simplicity of the form and proportion, and in the arrangement of doors and windows. The main objective should be to adopt the best from the local elements and interpret traditional shapes and sizes into a modern context. Overall, the envelope (the width, height and depth of the walls) together with the roof pitch (angle) determine a building's proportions. In this instance, the size, scale and design of the dwelling does not evoke an impression of local vernacular or style and would, if presented on an unbiased basis, be difficult to identify as having as a traditional form as be identified as Scottish or, indeed, local to Torwood. Planning Advice Note 72 identifies that while there will be a continuing need for new houses in the countryside, changes in our landscape can be positive, if it is well planned. The location and appearance of each new house must be determined with care and thought, as short-term thinking can have a long term impact on the landscape.

Planning History

- 7b.3 It is acknowledged that the applicant previously achieved the benefit of planning permission for the introduction of a fishery business on 5 June 2007 (reference 06/1116/FUL).

7b.4 On submission of planning application 06/1116/FUL, the applicant offered a supporting statement and business plan which indicated that a private consortium would generate an annual income of £100,000 per year. The supporting information provided by Howiestoun Fishery suggested that the provision of a chalet style fishing lodge with toilet and washing facilities would be advantageous, to oversee the arrival and departure of clients, provide coaching and instruction. It was envisaged that the facility would provide employment for 1 manager.

7b.5 The planning report accompanying the recommendation to approve application reference 06/1116/FUL notes: -

"It is noted that the proposal includes a temporary residential unit for the purposes of management and security. In this respect the Economic Development Unit has been advised that, although the supporting business plan demonstrates that the proposed fishing business will be viable and of a high quality, there accommodation for a fishery manager is essential for the operation of the business. Evidence over and above the information included in the business plan is required."

"It is noted that the residential unit proposed is temporary in nature, the purpose of which is to provide an on-site managerial/ security presence whilst the proposed business is afforded the opportunity to become established."

7b.6 As part of this permission, it was considered reasonable by the planning authority to include consent for temporary accommodation (expires 31 May 2010) to allow a manager to oversee the construction and stocking of the fishery.

Points raised through objection and consultation

7b.7 The area of land subject to application is not a designated housing site and is outwith the village of nearway Torwood. However, Local Plan policies do support single dwellings in rural areas where considered appropriate and necessary.

7b.8 The application site has already been subject to development through the installation of the commercial fishery and no major tree loss is envisaged. However, the site is not covered by a Tree Preservation Order or any other status which would prevent any felling of trees.

7b.9 The Roads and Development Unit raises concern about the proposals in that the utilization of the potential 7 bedroom dwelling for commercial purposes would have an uncertain impact on the existing junction access. In addition, concern is raised over the drainage strategy and, for the avoidance of doubt, foul drainage and efficient disposal should be entirely separate from any drainage linked to the existing pond.

7b.10 The proposal is not considered backland development as there are no additional houses between the application site and the nearby roadway.

7b.11 The dwelling is considered to have a high level of occupancy capacity and provision, outwith that normally associated with the requirements of a fishery manager.

7b.12 Falkirk Council's Economic Development Unit does not consider the introduction of a permanent dwellinghouse to have a clear financial basis on the profit forecasts of the fishery business.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.13 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.14 In this instance, the applicant has failed to demonstrate that the proposed dwelling is essential to the pursuance of the fishery business through operational need and that the fishery business as a whole is capable of providing the main source of income for the occupant.

7b.15 Policy EQ19 - 'Countryside' states:

- "(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*
- it can be demonstrated that they require a countryside location;*
 - they constitute appropriate infill development; or*
 - they utilise suitable existing buildings.*

(2) *In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*

- *the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- *building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- *boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species."*

7b.16 It is the opinion of the planning authority that the applicant has not demonstrated that a rural location for a new dwellinghouse is required, given the lack of financial justification or operational need associated with the adjoining fishery business.

7b.17 In terms of physical form, the proposed dwelling could be considered visually intrusive and the building scale, massing and design is not considered sympathetic to vernacular building styles in the area.

7c Conclusion

7c.1 It is considered that the applicant has not demonstrated that the economic state of the existing fishery business is capable of providing the main source of income for the occupant, nor is the proposed dwelling essential for the operational need of the fishery. The scale, massing and design of the dwellinghouse is not considered to represent a sympathetic design to the countryside location.

8. RECOMMENDATION

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

- (1) **It is considered that the proposal is contrary to Falkirk Council Structure Plan Policy ENV.1 (Countryside and Protected Areas), Rural Area Local Plan Policy Rural 1 (New Development in the Countryside) and Falkirk Council Local Plan Finalised Draft Deposit Version Policy SC3 (Housing Development in the Countryside) in that the essential justification for the dwelling to serve the existing fishery business has not been established nor that the business as a whole is capable of providing the main source of income for the occupant.**
- (2) **The proposal is considered contrary to the Planning Advice Note 72 (New Housing in the Countryside), Rural Area Local Plan Policy Rural 1 (New Development in the Countryside) and Falkirk Council Local Plan Finalised Draft Deposit Version Policy EQ19 (Countryside), in that the size, scale and design of the dwellinghouse is not sympathetic to vernacular building style in the area and the siting potentially injurious to visual amenity.**

Informatives:

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For Director of Development Services

Date: 19 January 2010

LIST OF BACKGROUND PAPERS

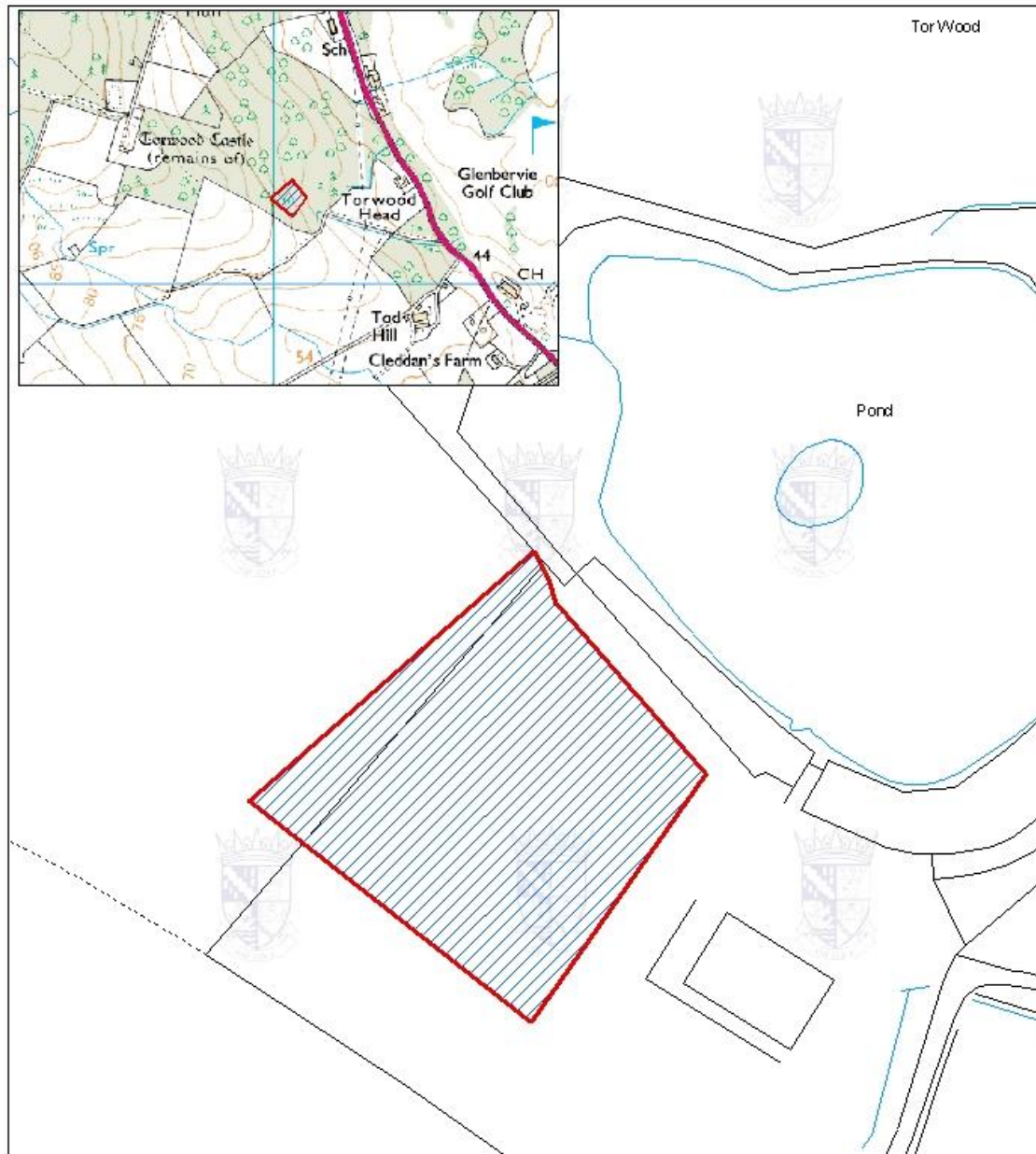
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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne (Senior Planning Officer).

Regulatory Committee

Planning Application Location Plan **P/09/0519/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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