

FALKIRK COUNCIL

Subject: ERECTION OF AGRICULTURAL WORKERS DWELLINGHOUSE AT LAND TO THE WEST OF 2 PYETREE COTTAGE, DUNMORE FOR MR & MRS WILLIAM & GINNY SUTHERLAND - P/10/0065/FUL

Meeting: PLANNING COMMITTEE

Date: 25 August 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site comprises an area of 5,050 square metres of agricultural land at the west side of 2 Pyetree Cottage, Dunmore Home Farm, Airth.
- 1.2 It is proposed to erect a detached two storey dwellinghouse of contemporary design character consisting of 3 bedrooms, external terrace, study, sittingroom, living area, dining area, kitchen, utility room, garage and store room with internal lift provision.
- 1.3 The application is not supported by an agricultural labour requirement report but is accompanied by a supporting statement, which is summarised in part 7b.13 of this report.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 This planning application has been called in by Councillor Craig Martin.

3. SITE HISTORY

- 3.1 F/92/0907 - conversion of an agricultural building to form five dwellinghouses at Dunmore Home Farm which lies to the west of the site, - approved 1 February 1993. This has not been implemented and has now lapsed.
- 3.2 06/0057/OUT - erection of agricultural worker's dwellinghouse (outline) - refused 10 January 2007.

- 3.3 P/08/0288/OUT - erection of dwellinghouse (outline) - refused 4 December 2008 as being contrary to Development Plan policy as no justification for the dwellinghouse had been made.
- 3.4 Also relevant to the proposal is planning application 06/1099/FUL - Restoration of Dunmore Park House to form 15 dwellings, conversion of stable to form 10 dwellings, erection of 45 dwellinghouses, associated landscape works, amendments to A905 and site access road. On 28 February 2008 the then Regulatory Committee agreed that it was to be minded to grant planning permission subject to an agreement under S75 of the Town and Country Planning (Scotland) Act 1997 relating to the developer making contributions in respect of education and the provision of mains gas. This has not been concluded.

4. CONSULTATIONS

- 4.1 The Scottish Environment Protection Agency recommend that the finished floor levels of 6.15 m AOD, as proposed in the submitted Flood Risk Assessment, are adhered to. In addition, a suitable Sustainable Urban Drainage scheme should be implemented.
- 4.2 Scottish Water does not object to the planning application, but does not guarantee a connection to Scottish Water infrastructure.
- 4.3 The Roads and Development Unit advise that access to the site would be by means of an existing private road of restricted width and alignment lacking footway and lighting provision.
- 4.4 Scottish Gas Networks advises the presence of a number of High Pressure Gas Transmission Pipelines in the vicinity of the application site, the closest of which is some 50 metres.
- 4.5 The Environmental Protection Unit request a condition regarding a remediation strategy should contaminated land be encountered through the development of the site.
- 4.6 An independent Rural Business Consultant has advised that in view of the limited information submitted about the agricultural business, he is unable to comment meaningfully. For the avoidance of doubt, the applicant's agent was approached and invited to submit such information. This has not been forthcoming.

5. COMMUNITY COUNCIL

- 5.1 Airth Parish Community Council objected to the submitted planning application on 11 May 2010, and raised the following concerns:-
- The applicant has failed to justify the need for the house on the basis of land management for agricultural purposes. There is little evidence on the basis of the number of labour units and functioning of the farm to back up the requirement for the house.
 - The house has not been situated to integrate into the surrounding landscape and causes a detrimental change to the rural character of the area. Any additional farmhouse should be sited adjacent to and integrated with the principal group of farm buildings. Moreover, the size and style of the proposed house would result in an intrusive and conspicuous development to the detriment of the visual amenity of the area, and would establish a precedent for developments of a similar nature.

- The proposal would be contrary to the provision of the Local Plan, which contains a presumption against proposals for development which would extend the village area beyond the boundary, as defined on the Dunmore Village Map and would constitute sporadic development in the countryside.
- The thinning or removal of the trees from the wooded area on the site would result in a loss of privacy to the occupants of the existing cottages.
- There may be a detrimental effect on birds and wildlife.

5.2 Airth Parish Community Council made additional comment on 23 July 2010 to the effect that additional information had been received and, it would appear that some objections from affected neighbours had been addressed. The Community Council advise that whilst having sympathy with the applicants requirement for a new house and acknowledging that there is a degree of Community support, they maintain their original objection.

6. PUBLIC REPRESENTATION

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

- The proposed location of the dwellinghouse will have no detrimental effect on the conservation village of Dunmore, and is set adjacent to the existing houses.
- Access to the proposed dwellinghouse will not result in an increase in traffic past the existing Pyetree Cottage or through Dunmore Village.
- The dwellinghouse has been designed to have no detrimental effect on adjacent properties.
- Issues regarding trees can be resolved.
- The applicant is a popular and prominent member of the community and has contributed to the Parish in various forms.

6.2 Four letters of objection have been received, commenting that:-

- The applicant already owns 3 other properties which are rented out to non-farming tenants. Concern is raised that the matter should be investigated prior to any planning permission being granted.
- Whilst the principle of a new dwelling may be acceptable, concern is raised that:-
 - The farm is worked by another party, not the applicant;
 - Tree removal from the site will be to the detriment of wildlife and the outlook from the rear of the existing cottages;
 - The access road to Pyetree Cottage is not suitable for heavy traffic. Upgrading the road should be made a planning condition.
 - The water supply to Pyetree Cottage is a private supply.
 - The proposed location of the new house would obstruct the view from existing property.

- In both size and style, the new development would be at odds with the traditional style of Pyetree Cottage. A small building of more traditional design would be preferable.
- The design of the building is not sympathetic to the village of Dunmore, and would be a very obvious modern addition to this unique setting. In addition:-
 - The area of trees to be cleared is a habitat for bats.
 - The dwelling is being erected for an agricultural worker and yet the farmhouse at Dunmore Home Farm is rented out and the land is contract-farmed. The dwelling at Dunmore Park (formed as one unit with Dunmore Home Farm) is also rented out to a non-agricultural worker.
 - What are the circumstances which make this application viable when two earlier applications have been refused?

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

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 to the siting of a new dwellinghouse, beyond an interest in supervising an agricultural unit which is being contracted out to a second party.

Rural 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 The applicant has failed to demonstrate that the proposal is absolutely essential to the pursuance of agriculture and is not considered an appropriate infill development.

7a.5 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.6 The trees on the application site are not covered by a Tree Preservation Order and, as such, may be vulnerable to felling outwith planning control.

7a.7 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.8 The application site is within close proximity of a pipeline corridor, but not within its zone of influence.

7a.9 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material planning considerations to be addressed are the policies within the Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications, the planning history, information submitted by the applicant and points raised through comment.

Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010)

7b.2 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.3 In this instance, the proposal fails to meet any of the stated policy criteria in part (1), while concern is expressed over the building design and materials as stipulated in part (2).

7b.4 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.5 The applicant is at liberty to fell the existing woodland outwith the control of the planning authority, and has not proposed any major replanting strategy through the planning application.

7b.6 Policy EQ28 ‘The Coastal Zone’ states:

“The Council will promote an integrated approach to the management of the coastal zone, and will support the provisions of the Forth Integrated Management Strategy. Development and other land management proposals within the coastal zone will be assessed in terms of:

- (1) Impacts on the amenity, ecology and water quality of the coastal environment (see Policies EQ 24 and EQ25);*
- (2) The requirement to safeguard the undeveloped coast, as defined on the Proposals Map, from further development unless it is proven that the development is essential, a coastal location is essential, and no suitable sites exist within the developed coast;*
- (3) Long-term flooding risk (see Policy ST12), and compatibility with existing coastal defence strategies, including the desirability of working with natural coastal processes where possible and the need to recognise the wider impacts where intervention is unavoidable; and*
- (4) Appropriate promotion of the recreational potential of the coastal zone, including the development of the Forth Foreshore Path and linked coastal access networks, providing it is compatible with Policy EQ24 and the protection of coastal habitats and species.”*

7b.7 The application site may be at risk from flooding, although the applicant has indicated a finished floor level which should avoid flood damage to the property.

7b.8 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.9 The proposal fails to meet the criteria of the above policy, specifically in relation to:-

- The operational need for the dwelling has not been established, as the related farm is contracted out to another party and the applicant's role is one of supervision.
- The holding benefits from existing residential premises, leased and occupied by non-agricultural inhabitants.
- No reasonable opportunity for re-using or converting existing buildings have been explored.

7b.10 Policy ST14 ‘Pipelines’ states:

“The preferred location for new pipelines will be in the existing Pipeline Consultation Zones shown on the Proposals Map. The routing of all new pipelines should minimise the impact on protected nature conservation areas, important areas of woodland and Scheduled Ancient Monuments, having regard to policies EQ24, EQ25 and EQ16.”

7b.11 The proposed dwellinghouse is outwith the zone of influence of the nearby gas pipeline.

Planning History

7b.12 As can be identified in part (3) of this report, there has been a history of refusals of planning permission on this site, where the applicant has failed to show agricultural justification for a new dwellinghouse. It is also recognised that an outstanding planning application for a nearby site at Dunmore Park within which there is an existing single storey dwelling in the control of the applicant, and if situated less than 1 km (0.6 miles) from the application site. In addition, a previous planning permission to convert outbuildings at Dunmore Home Farm (F/92/0907) to five dwellinghouses has lapsed and without prejudice on further application would probably receive a favourable recommendation. It is also understood that there are 2 dwellings within the control of the applicant at Dunmore House Estate.

Information Submitted by the Applicant

7b.13 The applicant has submitted a statement to the effect that the sale of the farming business has left a remaining area (Dunmore Home Farm) requiring management some distance from his existing dwellinghouse 2.5 km (1.5 miles) away. In addition, failing health requires a dwellinghouse specifically designed for his mobility needs.

7b.14 Dunmore Home Farm is operated by contract farm agreement, and currently houses an agricultural worker in one annex and a non-agricultural tenant in the main house. The applicant contends that residency in Dunmore Home Farm would not be conducive to his health, due to the presence of a grain processing plant and existing property would not be suitable for conversion to address his mobility requirements.

Points Raised Through Comment

- 7b.15 The applicant contends that an existing dwelling at Dunmore Park is occupied to prevent fly tipping on the site, and is due to be demolished as part of the development plans for the site.
- 7b.16 Falkirk Council's Rural Business Consultant requested information on a number of issues, however the submitted information does not address the issues raised. In conclusion, little information has been submitted about the agricultural business itself, and the consultant is unable to comment fully on the application. Should a justification statement be submitted, incorporating a business plan, set of accounts or whole farm review, additional assessment would be possible.
- 7b.17 In relation to matters relevant to planning:-
- Neither details of the agricultural farm business, nor details of the ownership of additional property has been submitted.
 - It is agreed that the proposal is contrary to Development Plan policy, as no essential justification for a dwellinghouse has been established.
 - The siting of the dwellinghouse does not follow the linear setting of the existing Pyetree Cottage and is incongruous in design and materials. It is considered that the design of the dwelling is not of a sufficiently special or sympathetic character to overcome the underlying land use issue.

7c Conclusion

- 7c.1 The applicant has submitted a proposal where he considers an agricultural report as unnecessary, but has endeavoured to reflect changing circumstances that now require his presence at a site some 1.5 km away from where he currently resides. This is coupled by a desire to create a dwellinghouse bespoke to address his health needs.
- 7c.2 The applicant has previously endeavoured to develop a property on the site, and has been met with refusal on two occasions. In addition, a development proposal some 1 km away from the site, on land owned by the applicant, would allow such a bespoke dwelling to be constructed within the terms of the development plan. Alternative development opportunities within land/buildings currently owned by the applicant have not been explored, such as the lapsed conversion of outbuildings at Dunmore Home farm for five dwellinghouses.
- 7c.3 Whilst there is sympathy for the health circumstances of any applicant, it is understood that in this instance the applicant has a limited managerial role including the buying of seed, fertilizer and other farm products and advising when these products should be applied. This, in itself, does not require an active continual presence on the site.
- 7c.4 Subsequently, it is considered that the applicant has failed to show essential justification for a dwellinghouse in a rural environment and, if approved, would create an unwarranted precedent which would erode the standing of Development Plan policies and create disparity with similar planning applications, where agricultural justification is more apparent.

8. RECOMMENDATION

8.1 It is recommended that the application is refused for the following reasons:

- (1) The proposal is considered to be contrary to Structure Plan Policy ENV.1. 'Countryside and Protected Areas', Rural Local Plan Policy Rural 1 'New Development in the Countryside' and Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010), Policy EQ19 'Countryside' and Policy SC3 'Housing Development in the Countryside', in that the applicant has failed to demonstrate the essential need for a new dwelling in the countryside, supported by agricultural or other business need.

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Director of Development Services

Date: 18 August 2010

LIST OF BACKGROUND PAPERS

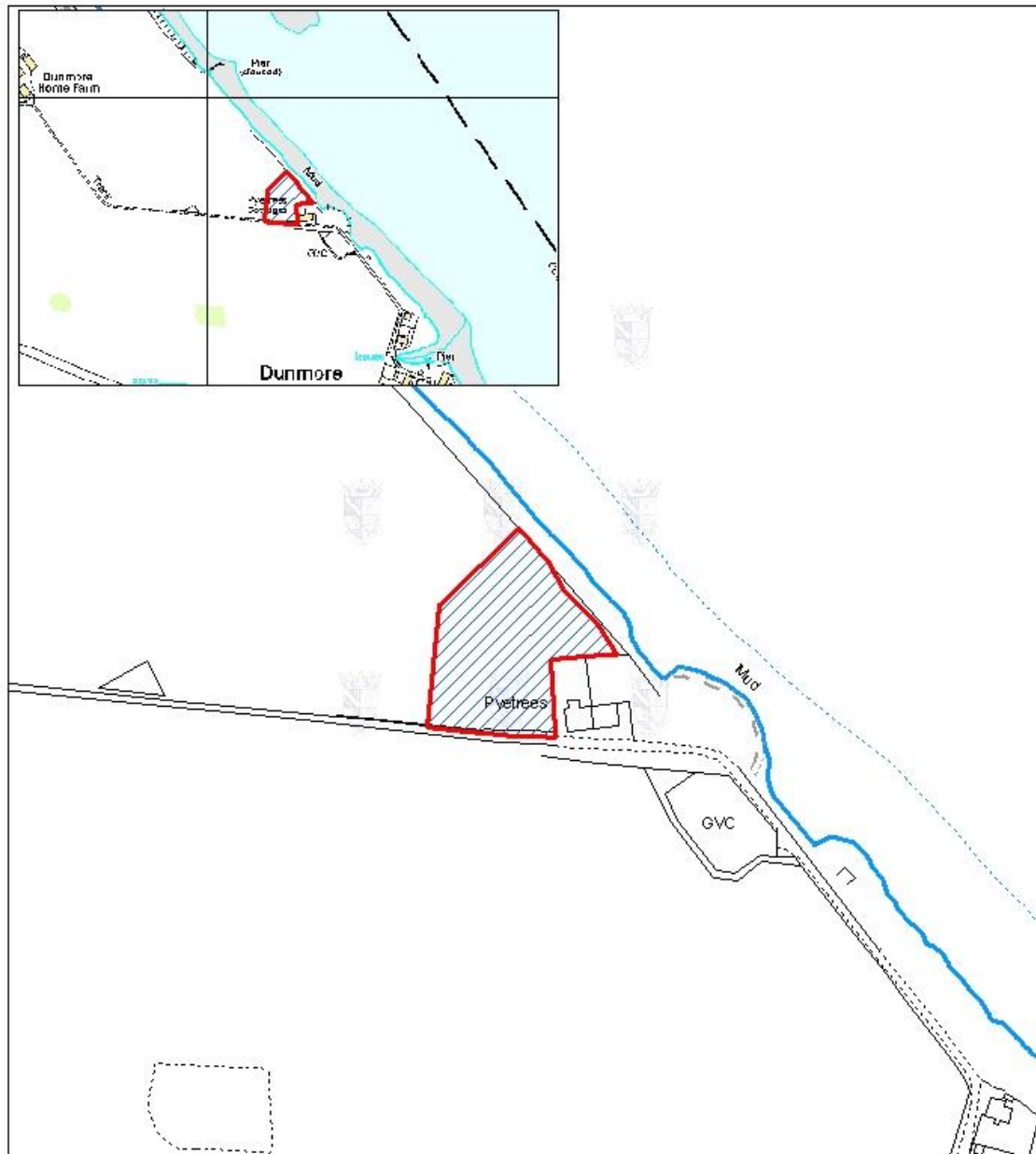
1. Falkirk Council Structure Plan.
2. Rural Area Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Modifications (June 2010).
4. Letter of Objection received from Mr and Mrs Graeme Parker, 1 Pyetree Cottage, Dunmore, Falkirk FK2 8LX on 3 April 2010.
5. Letter of Support received from Robert B Smith, 100 South Green Drive, Airth, Falkirk FK2 8JR on 14 June 2010.
6. Letter of Objection received from Mrs Shona Mitchell, 2 Pyetree Cottage, Dunmore, Falkirk FK2 8LS on 11 April 2010.
7. Letter of Objection received from McLean & Stewart, Solicitors and Estate Agents, 51/53 High Street, Dunblane, Perthshire, on 13 April 2010.
8. Letter of Objection received from Airth Parish Community Council, F.T.A.O. Walter Douglas, Secretary, Aileen.amos@tiscali.co.uk on 13 May 2010.
9. Letter of Support received from Mr and Mrs Watson, Riverbank Cottage, Dunmore, Falkirk, FK2 8LY on 2 August 2010.
10. letter of Representation received from Airth Parish Community Council on 28 July 2010.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 50815 and ask for John Milne (Senior Planning Officer).

Planning Committee

Planning Application Location Plan **P/10/0065/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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