

FALKIRK COUNCIL

Subject: ERECTION OF AGRICULTURAL WORKERS DWELLINGHOUSE
AT HOUSEHILL FARM, LARBERT, FK5 4RZ FOR JOHN
POLLOCK AND SONS LTD - P/08/0874/OUT

Meeting: PLANNING COMMITTEE

Date: 23 March 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Brent Vivian (Senior Planning Officer), ext. 4935

UPDATE REPORT

1. Members will recall that this application was considered by the Planning Committee on 17 June 2009 (copy of previous report appended). The application was recommended for refusal by the Director of Development Services and the Committee indicated that it was minded to Grant the application subject to the satisfactory conclusion of a Section 75 Legal Agreement restricting the occupation of the proposed dwellinghouse to an agricultural worker.
2. Following the resolution of the Committee and, as part of initial proceedings to progress the legal agreement, the applicant advised, in November 2009, that there is a standard security over the property in favour of Scottish Ministers. Consent of Scottish Ministers would therefore be required in relation to the legal agreement.
3. In May 2010, the applicant advised that Scottish Ministers were seeking a substantial clawback in respect of the legal agreement. In June 2010, the applicant advised that they were seeking to negotiate a reduced clawback with Scottish Ministers. In October 2010, the applicant advised that the clawback expires on 14 May 2012 and queried whether the application could be held until then. The applicant was subsequently advised in October 2010 that it would not be acceptable to hold an application for this length of time. No further information regarding how the applicant wishes to progress matters had been received at the time of writing this report.
4. Members considered that the legal agreement was necessary to make the application acceptable in planning terms. They supported the proposed dwellinghouse at this countryside location provided it is occupied by an agricultural worker and this is secured by legal agreement. It is considered that a reasonable timescale has been afforded to complete the legal agreement and that, in the absence of any evidence to support the prospect of its conclusion in the near future, the application should now be determined.

5. The application is therefore recommended for refusal, for the reason detailed below. If or when the circumstances of the applicant changes in respect of the clawback issue, the application could make a further application for the proposed dwellinghouse.

6. RECOMMENDATION

6.1 It is therefore recommended that the Committee refuse planning permission for the following reason:-

- (1) The application is considered to be contrary to Policy ENV.1 'Countryside and Protected Areas' of the approved Falkirk Council Structure Plan and Policy SC3 'Housing Development in the Countryside' of the adopted Falkirk Council Local Plan as the essential need for a countryside location for the proposed dwellinghouse, to accommodate an agricultural worker, has not been demonstrated or secured by the satisfactory conclusion of a Section 75 Legal Agreement. The proposed development therefore represents unjustified development in the countryside.**

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For Director of Development Services

Date: 15 March 2011

LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan
2. Adopted Falkirk Council Local Plan

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian (Planning Officer).

FALKIRK COUNCIL

Subject: ERECTION OF AGRICULTURAL WORKERS DWELLINGHOUSE AT
HOUSEHILL FARM, LARBERT, FK5 4RZ FOR JOHN POLLOCK AND
SONS LTD (OUTLINE) – P/08/0874/OUT
Meeting: PLANNING COMMITTEE
Date: 17 JUNE 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Larbert, Stenhousemuir & Torwood

Case Officer: (Planning Officer) Brent Vivian, ext 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks outline planning permission for the erection of a dwellinghouse for an agricultural worker.
- 1.2 The application site lies to the east of the existing farmhouse at Househill Farm near Larbert. The site is some 900m² in area, square shaped and currently in open farmland. There is an existing stone wall along the road frontage to the site.
- 1.3 An Agricultural Labour Requirement Report has been submitted with the application. In summary it states: -
 - The applicant runs an agricultural business based at Bonnyhill Farm. The business also farms several other sites in the Falkirk area. The main ones are Bonnyside Farm and Househill Farm.
 - The business is run as a dairy and arable cropping farm with all calves born to the dairy cows reared as dairy herd replacements or as finished cattle for the beef market. In addition, winter sown cereals, spring cereals and grass for silage are grown.
 - The business processes and retails all the milk produced by the dairy herd. The processing and distribution operation is based at Bonnyhill Farm and employs 8 full time people. There has recently been a substantial investment in the dairy buildings and new milking parlour at Bonnyhill Farm.
 - The dairy herd at Bonnyhill has been expanded, necessitating the movement of the rearing of the heifers and beef cattle to the other farm sites owned by the business.

- The business has a requirement to comply with animal welfare regulations. A failure to meet those requirements would jeopardise membership of the Quality Assurance Scheme for livestock. To fulfil those requirements it is necessary to have appropriately qualified people resident on the site where the livestock are kept.
- The business currently has 8 houses available to it with one house occupied by Mrs Pollock (Senior) who is no longer actively involved in the business.
- In order to have key personnel situated at the sites where livestock are kept it has been identified that the business requires a further two houses to fulfil this function.
- The labour requirement of the current farming business has been calculated at 13.42 labour units.
- It is concluded that there is an agricultural justification to support an additional 2 houses for key workers based on the labour requirements for the business using standard labour data.

1.4 The applicant's agent has confirmed that the farming operation (excluding the milk processing operation) employs 12 full time workers. He has named these workers and advised that 7 of them occupy dwellinghouses owned by the business and that the remainder live in a variety of other houses, some of which are not very convenient to the farm operation.

2. REASON FOR COMMITTEE CONSIDERATION

2.1 The application has been called in by Councillor Coleman.

3. SITE HISTORY

3.1 There is no planning history for the application site.

3.2 Planning application ref: P/08/0866/OUT for the erection of a dwellinghouse for an agricultural worker at Bonnyside Farm has also been submitted and is pending consideration.

4. CONSULTATIONS

4.1 The Roads Development Unit has advised that access to the proposed development would be by means of an existing private access road of restricted width and alignment, that lacks footway and lighting provision. Development accessed by a private road is contrary to this department's practice.

4.2 The Environmental Protection Unit has advised that the undertaking of a Contaminated Land Assessment will be required. Its database shows the application site to be within 250 metres of a working farm and other potential sources of land contamination.

4.3 Scottish Water has no objection to the application. It has noted that there are no public sewers in the vicinity of the proposed development.

- 4.4 Museum Services have advised that the site lies at the centre of a large Roman temporary camp dating to the 3rd century AD, such that a condition should be attached to any permission to require an archaeological survey. It is advised that Roman temporary camps are generally devoid of internal structures other than ovens and pits and that the visual impact of the proposed development on the archaeological setting would be minimised by its proximity to the existing farm buildings.
- 4.5 The Council's Rural Business Consultant has raised concerns in relation to the operational need for the proposed dwellinghouse. In particular, he considers that the system of measurement used to justify a requirement for 13.42 labour units is outdated and not appropriate in this instance given the size of the farm (giving rise to efficiencies through economies of scale), family involvement and the likelihood that the hours worked are longer than the standard labour unit. In addition, he is not aware of the current location of the 8 existing farm dwellinghouses because the applicant has not provided this information despite being asked to do so. The consultant considers that, unless there are a significant number of animals at a particular location, it may not be feasible to justify a dwellinghouse on site for welfare reasons if the stock can be looked after in a satisfactory fashion from nearby.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 No public representations have been received to the application.

7. DETAILED APPRAISAL

7a The Development Plan

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: -

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 This policy requires consideration of whether the proposed dwellinghouse is essential to a countryside location. The justification put forward is that the proposed dwellinghouse is required for an agricultural worker, and an Agricultural Labour Requirement Report has been submitted in support of this. The ‘essentiality’ test in respect of the proposed dwellinghouse is considered to require assessment of the operational need for the proposed dwellinghouse, whether there is an existing dwellinghouse that could meet that need or there is an opportunity for an existing building to be converted to meet that need, and whether the business as a whole is capable of providing the main source of income for the occupant.
- 7a.3 The operational need for the proposed dwellinghouse requires consideration of whether the agricultural worker needs to be resident on the site rather than somewhere else and whether the business provides sufficient full-time employment to support an additional dwellinghouse. In this instance insufficient information has been submitted in regard to how the animal husbandry currently takes place across the different farm units, the location of the existing dwellinghouses owned by the business and the place of residence of the regular staff. It has therefore not been demonstrated that the stock could not be looked after in a satisfactory fashion without the need for the proposed dwellinghouse. With regard to employment, the concerns raised by the Council’s Rural Business Consultant are noted, however it is accepted that the labour unit requirement of 13.42 has been calculated in accordance with agreed labour data requirements. It is therefore considered that the application could not be properly opposed on these grounds.
- 7a.4 The existing cluster of buildings at Househill Farm includes a dwellinghouse. It has not been demonstrated that this dwellinghouse could not meet any operational need at this location. In addition, there are a number of existing buildings at this location. It has not been demonstrated that there is no opportunity to convert an existing building to meet any operational need.
- 7a.5 No information has been submitted to demonstrate that the business could provide the main source of income for the occupant of the proposed dwellinghouse.
- 7a.6 It is therefore considered that it has not been demonstrated that a countryside location is essential for the proposed dwellinghouse. Accordingly, the application does not accord with this policy.

Adopted Rural Local Plan

- 7a.7 The application site lies within the countryside under the adopted Rural Local Plan.
- 7a.8 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.9 This policy presumes against new development in the countryside except in limited circumstances. The relevant potential exception in this instance is criteria 1. For the reasons detailed in relation to Policy ENV. 1 of the approved Falkirk Council Structure Plan it has not been demonstrated that the proposed dwellinghouse is absolutely essential to the pursuance of an economic activity appropriate to a rural location. The application therefore does not accord with this policy.

7a.10 The policy requires strict control of the siting, scale and design of those developments in the countryside which are granted planning permission. In this instance the location of the application site is considered to be acceptable given its proximity to the existing farm buildings. The design and layout of the proposed dwellinghouse would be considered as part of a detailed application should permission be granted. Boundary treatments would be important given the open nature of the site. There would be a preference for stone walling and hedging using native species and a presumption against timber fencing.

7a.11 Accordingly, the application does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations in respect of this application are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the consultation responses and the submissions by the applicant.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 The application site lies within the countryside under the Falkirk Council Local Plan Finalised Draft (Deposit Version).

- 7b.3 The relevant policies under this plan are Policy EQ19 (Countryside) and Policy SC3 (Housing Development in the Countryside). These policies are similar to Policy ENV.1 of the approved Falkirk Council Structure Plan and to Policy Rural 1 of the adopted Rural Local Plan and do not raise any additional issues. For the reasons detailed in relation to Policy ENV 1 of the Falkirk Council Structure Plan, the application is similarly considered to be contrary to Policy EQ19 and SC3 of the emerging replacement Local Plan.

Consultation Responses

- 7b.4 The consultation responses are summarised in Section 4. of this report. The comments of the Roads Development Unit, Scottish Water and Museum Services are noted, however it is considered that the concerns of the Roads Development Unit concerning access to the site could not justify refusal of the application in this instance.
- 7b.5 The request by the Environmental Protection Unit for a contaminated land assessment could be the subject of a condition of any approval of the application.
- 7b.6 The concerns of the Council's Rural Business Consultant regarding the operational need for the proposed dwellinghouse are noted and are reflected to a large extent in assessment of the application against the relevant Development Plan policies.

Submissions by the Applicant

- 7b.7 The submission by the applicant is set out in paragraph 1.3 of this report. The applicant contends that appropriately qualified people require to be resident where livestock is kept, in order to comply with animal welfare regulations. However, the Council's Rural Business Consultant has advised that there are plenty of farm units carrying livestock that do not have farm staff resident on the site. The applicant has not detailed how the animal husbandry currently takes place across the different farm units, the location of the existing dwellinghouses owned by the business and the place of residence of the regular staff, in spite of this information having been requested. If a case could be made that there are no existing dwellinghouses occupied by a regular staff member or family member within close proximity of the livestock accommodation, then this Planning Service may be able to accept an operational need for the proposed dwellinghouse on welfare grounds. In addition, cash flow accounts would need to be submitted to demonstrate that the business would provide the main source of income to the occupant of the proposed dwellinghouse.

7c Conclusion

- 7c.1 This application, for the erection of an agricultural workers dwellinghouse, is considered to be contrary to the Development Plan for the reasons detailed in this report. The application is therefore recommended for refusal. There are considered to be no material planning considerations to justify setting aside the terms of the Development Plan in this instance. The application founders on a deficiency of information as detailed in this report.
- 7c.2 If the Committee is of a mind to support this proposal it is considered that this would not constitute a significant departure to the Development Plan because of the minor nature of the development.

8. RECOMMENDATION

8.1 It is therefore recommended that planning permission be refused for the following reasons:

- (1) The application is considered to be contrary to Policies ENV.1 (Countryside and Protected Areas) of the approved Falkirk Council Structure Plan, Rural 1 (New Development in the Countryside) of the adopted Rural Local Plan and EQ19 (Countryside) and SC3 (Housing in the Countryside) of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouse. In particular the operational need for the proposed dwellinghouse, whether any existing dwellinghouse or conversion of an existing building could meet that need, and whether the existing business would provide the main source of income for the occupant of the proposed dwellinghouse have not been demonstrated. The proposed dwellinghouse is therefore considered to represent unjustified development in the countryside.**

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For Director of Development Services

Date: 10 June 2009

LIST OF BACKGROUND PAPERS

- 1. Approved Falkirk Council Structure Plan**
- 2. Adopted Rural Local Plan**
- 3. Falkirk Council Local Plan Finalised Draft (Deposit Version)**

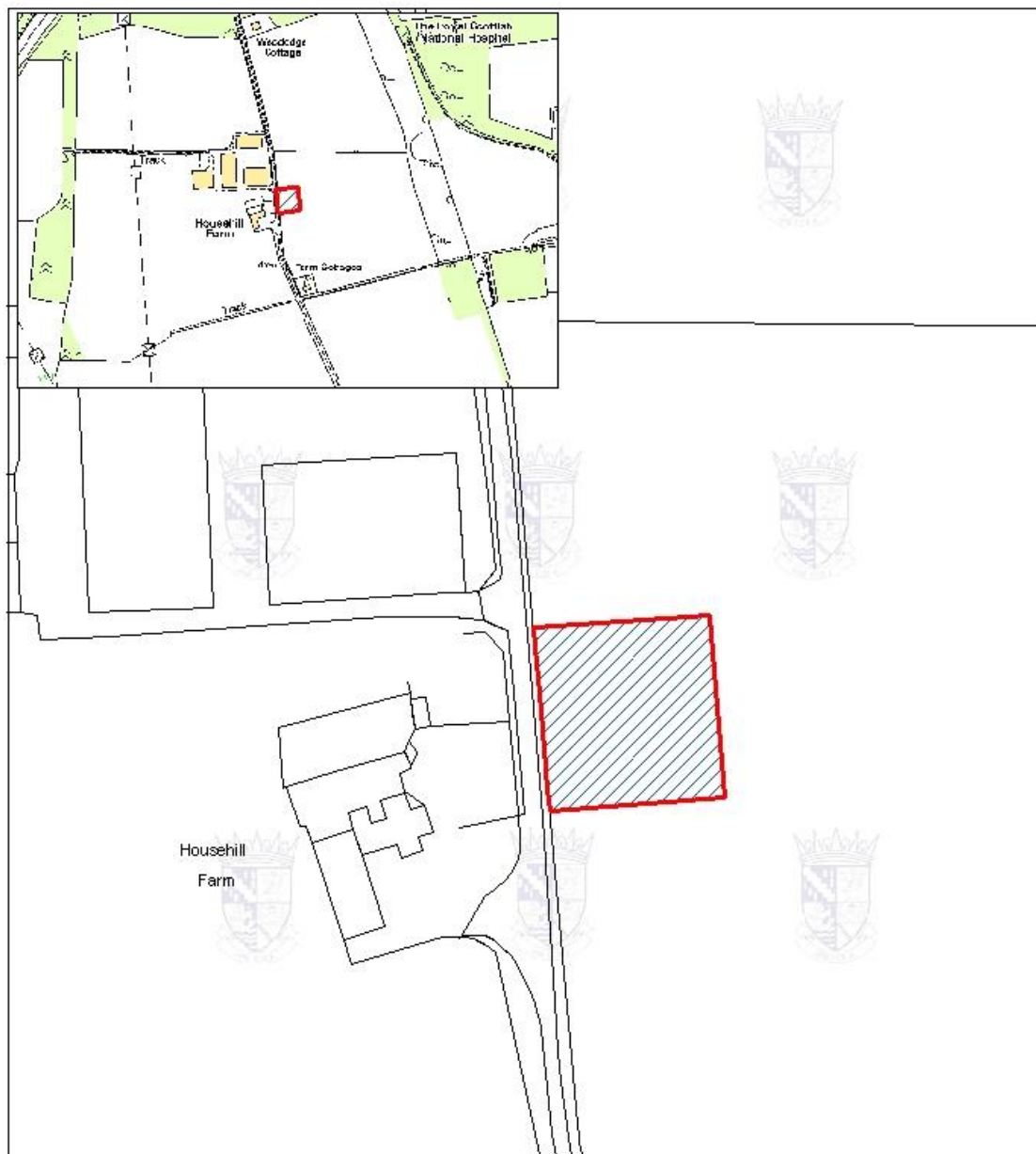
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian (Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0874/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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