

FALKIRK COUNCIL

Subject: DISCHARGE OF AGREEMENT ON PLANNING PERMISSION F/86/514, REMOVING THE RESTRICTION ON (A) THE OCCUPATION OF THE DWELLINGHOUSE TO A PERSON CONNECTED WITH OR EMPLOYED IN AGRICULTURE AND THE DEPENDENTS OF SUCH A PERSON; AND (B) THE SALE OF THE DWELLINGHOUSE TO A PERSON EMPLOYED IN OR CONNECTED WITH AGRICULTURE AT ALMONDHALL FARM, FALKIRK, FK2 0YG FOR MR JAMES D SMITH - P/11/0551/75D

Meeting: PLANNING COMMITTEE

Date: 5 December 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Maddiston

Case Officer: Kevin Brown (Planning Officer), Ext. 4701

1. INTRODUCTION

- 1.1 A request has been submitted to discharge an agreement made under the terms of Section 50 of the Town and Country Planning (Scotland) Act 1972 (now Section 75 of the Town and Country Planning (Scotland) Act 1997) relating to restrictions on the occupation and sale of the existing farmhouse at Almondhall Farm, Falkirk. The site is located to the east of Falkirk, on the southern bank of the Union Canal, and is accessed directly from the A801.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The original planning application for this dwellinghouse, F/86/0514, was considered by the Planning Committee on 4 March 1987 and by a site investigation sub-committee on 20 March 1987. The Current Scheme of Delegation requires applications of this nature which were previously considered by Planning Committee to be returned to Planning Committee for determination when amendments or discharge of legal agreements are proposed.

3. BACKGROUND TO SECTION 50 AGREEMENT/SITE HISTORY

- 3.1 Planning application F/86/0514 was granted outline planning permission on 1 June 1987, subject to the applicant entering into an Agreement under Section 50 of the Town and Country Planning (Scotland) Act 1972, restricting occupancy of the dwellinghouse to a person connected with or employed in agriculture and restricting the sale of the dwellinghouse to a person employed in or connected with agriculture.
- 3.2 The Reserved Matters from this outline permission were approved on 22 July 1987 by way of application F/87/0380, and the terms of the Section 50 Agreement apply to this property. It is understood that construction of this dwellinghouse was completed by March 1988, and the property has been occupied by Mr Smith as an agricultural farmhouse since this time.

4. REQUEST TO DISCHARGE SECTION 50 AGREEMENT

- 4.1 The applicant has advised of a change in circumstances since the granting of the original planning permission over 20 years ago. The main changes relate to the area of the agricultural land associated with Almondhall Farm. The agricultural unit consisted of around 34.5 hectares in 1986, 13 hectares of which were owned by the applicant, with the remainder of the land having been tenanted by the family for many years. The current situation is drastically different, with only 1.2 hectares remaining within the ownership of the applicant. The remainder of the farm unit has been depleted over a number of years, with large sections being taken back by Falkirk Council for non-agricultural purposes, including a cemetery. Other portions of the site have been sold by the original landowner for future development or have actually been developed for housing. The portion of land immediately adjacent to the site at Lathallan House ceased to be included on the death of the landlord, and Almondhall Farm has further been restricted by the granting of planning permissions to the north and west for the Manuel Works and Union Canal Marina projects.

5. CONSIDERATION OF REQUEST

- 5.1 The original planning permission was granted on the basis that the dwellinghouse was required to support the extensive agricultural unit at that time. The dwellinghouse has been present at the site for over 20 years, and has served to support the agricultural unit over this time. Given the length of time since the grant of outline planning permission in 1987 it is not unreasonable to accept that there has been a material change in circumstances, and indeed the applicant has submitted evidence to confirm this. The information provided by the applicant is noted, and it is considered that it is no longer reasonable to tie the occupancy and future sale of this dwellinghouse to the now vastly depleted agricultural unit.
- 5.2 Further to the consideration in paragraph 5.1 above, the Scottish Government has recently produced guidance on occupancy restrictions and rural housing, in the form of a letter from Jim Mackinnon, Chief Planner, to Heads of Planning, dated 4 November 2011. This letter states that Scottish Planning Policy does not promote the use of occupancy restrictions, and advises Planning Authorities that occupancy restrictions are rarely appropriate and so should generally be avoided. This recent guidance is considered to add more weight to the argument for the removal of the Section 50 Agreement in question.

6. RECOMMENDATION

- 6.1 It is recommended that Committee agree to the Section 50 Agreement restricting the occupancy and sale of Almondhall Farm, Falkirk being discharged.**

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Director of Development Services

Date: 24 November 2011

LIST OF BACKGROUND PAPERS

1. Letter from Jim MacKinnon, Chief Planner to Heads of Planning, dated 4 November 2011.
2. Scottish Planning Policy, 2010.

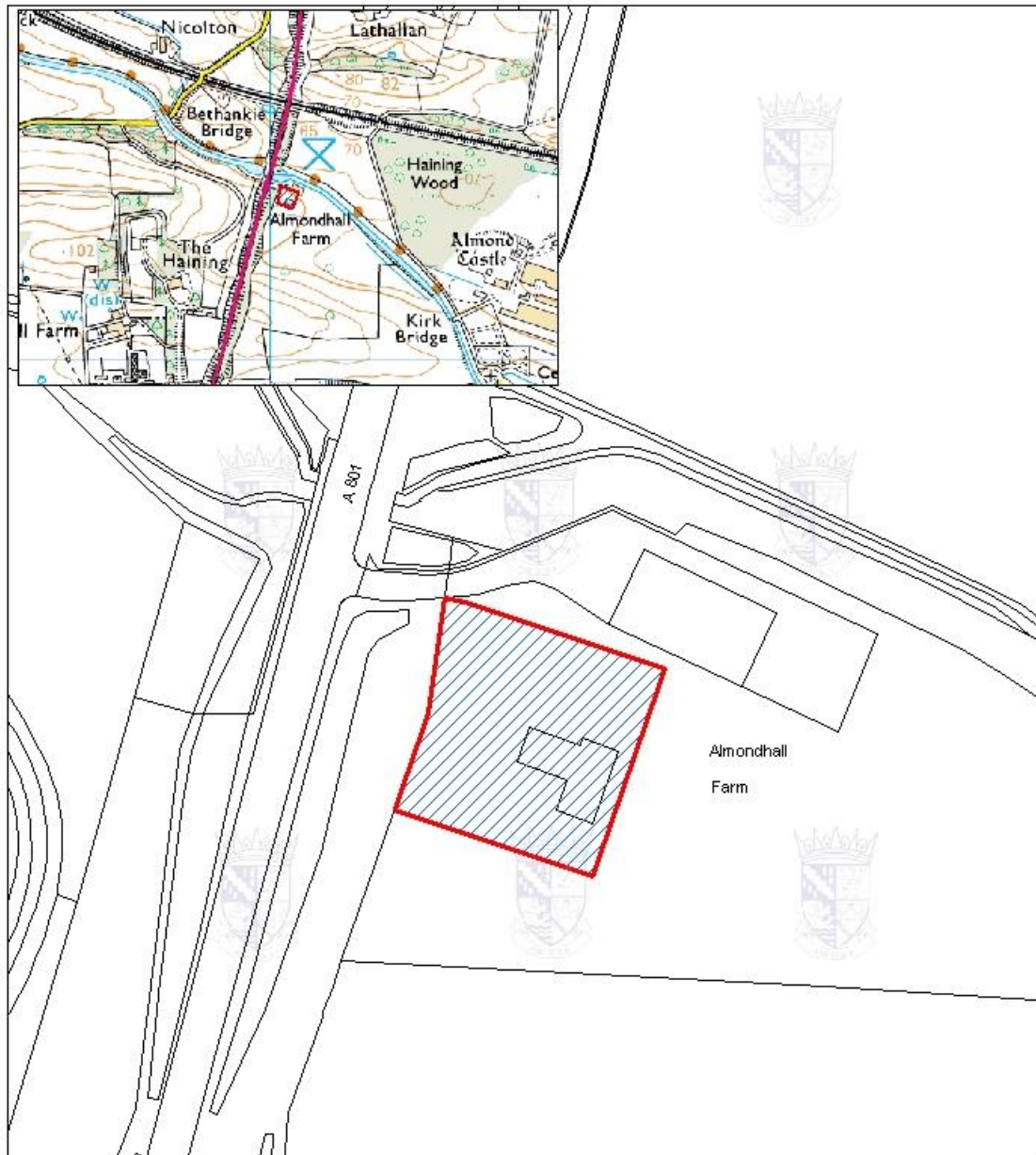
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0551/75D

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



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