

FALKIRK COUNCIL

Subject: DISCHARGE OF SECTION 75 AGREEMENT ON PLANNING PERMISSION F/2001/0293, WHICH RESTRICTED OCCUPATION OF THE DWELLINGHOUSE APPROVED UNDER THAT PERMISSION TO A PERSON OR PERSONS RESPONSIBLE FOR THE MANAGEMENT OF THE MILNHOLM EQUESTRIAN CENTRE COMPLEX AT MILNHOLM FARM, REDDOCH ROAD, POLMONT, FALKIRK, FK2 0YD, FOR SUSAN BUCHANAN – P/11/0214/75D

Meeting: PLANNING COMMITTEE

Date: 1 February 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Lower Braes
Councillor Steven Jackson
Councillor Malcolm Nicol
Councillor Alan Nimmo

Community Council: Polmont

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 75 of the Town and Country Planning (Scotland) Act 1997, relating to restrictions on the occupation and sale of an existing dwellinghouse at Milnholm Farm, Reddoch Road, Polmont.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The original planning application for this dwellinghouse, F/2001/0293, was considered by the Regulatory Committee on 13 June 2001. The current scheme of delegation requires applications of this nature, which were previously considered by Committee, to be returned to the Planning Committee for determination when modification or discharge of legal agreements are proposed.

3. BACKGROUND TO SECTION 75 AGREEMENT/SITE HISTORY

- 3.1 The Regulatory Committee on 13 June 2001 considered planning application F/2001/0293 for the erection of a dwellinghouse and were minded to grant detailed planning permission subject to the applicant entering into an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, restricting occupancy of the proposed dwellinghouse to a person or persons responsible for the management of the Milnholm Equestrian Centre Complex. This legal agreement was completed in May 2002 with planning permission issued on 8 May 2002.

4. REQUEST TO DISCHARGE SECTION 75 AGREEMENT

- 4.1 The applicant has advised of a change in circumstances since the granting of the original planning permission and has advised that the riding school business is no longer viable.
- 4.2 At the time of the original application the riding school was run by the applicant and her then husband. He took many of the riding lessons. The applicant's husband suffered ill health which prevented him from working for long periods of time, putting pressure on the financial side of the business at a time when the economic situation in the UK worsened. Poor weather and the lack of indoor facilities when compared with competitors' riding schools have been cited as other reasons for the decline in business over recent years.
- 4.3 The applicant has informed the Council that she has now separated from her husband and business partner. The separation has meant that the land associated with the wider unit has had to be divided up thus putting more pressure on the business. Accountancy records have been submitted in support of the application demonstrating the steady decline in revenue in recent years heading to the eventual closure of the riding school business in March 2010.

5. CONSIDERATION OF REQUEST

- 5.1 The applicant has demonstrated that, for a variety of reasons, the riding school is no longer a viable business. Given that nearly 10 years has passed since the granting of the original planning permission, it is not unreasonable to accept that there has been a material change in circumstances and it is therefore no longer considered reasonable or necessary to tie the occupation and sale of the dwellinghouse to the historical business use at the site.
- 5.2 Further to 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 in rural areas 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 75 Agreement in question.

6. RECOMMENDATION

- 6.1 It is recommended that Committee agree to the Section 75 Agreement restricting the occupancy and sale of Milnholm Farm being discharged.**

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Director of Development Services

Date: 24 January 2012

LIST OF BACKGROUND PAPERS

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

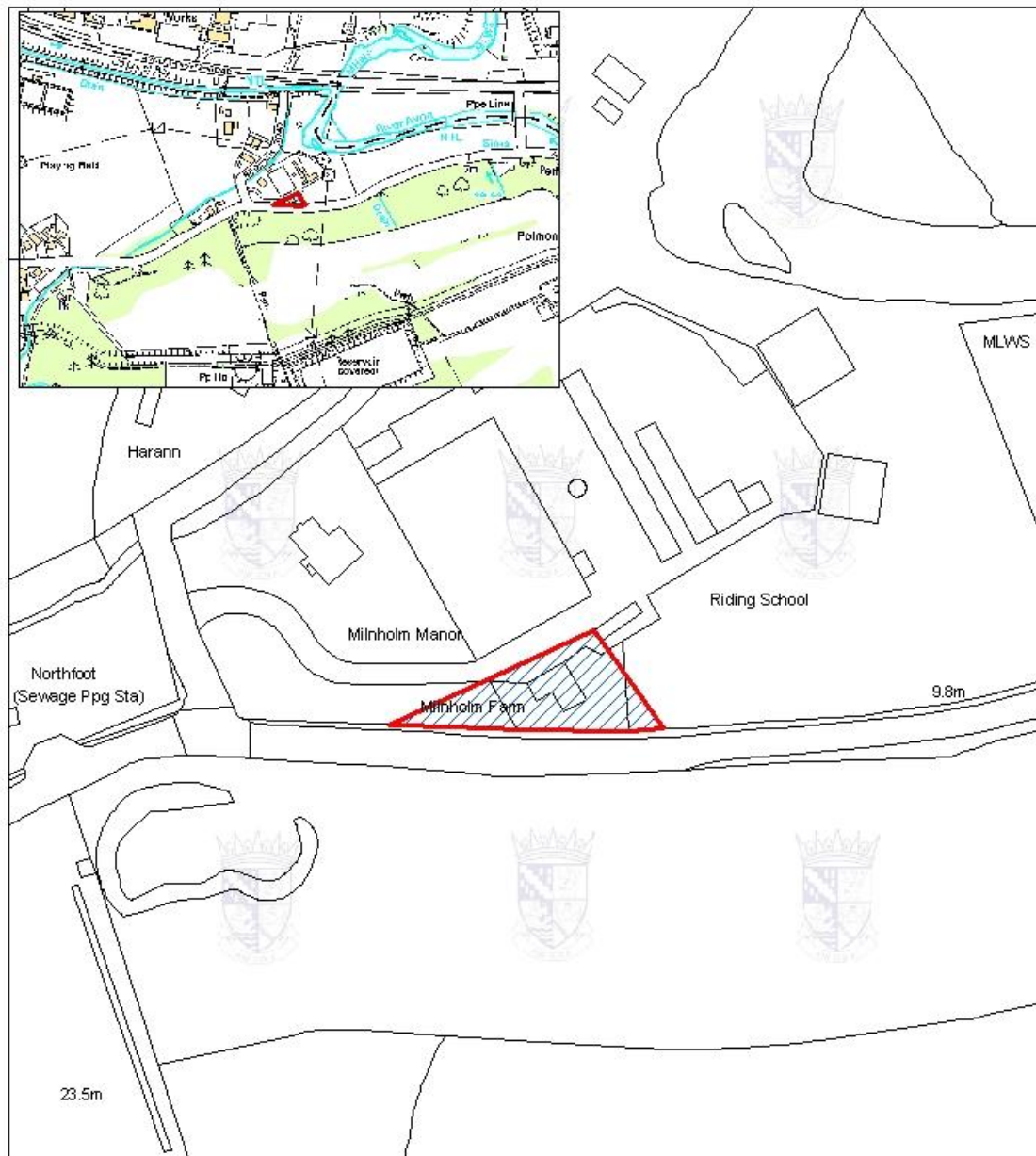
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown, Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0214/75D

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



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