

FALKIRK COUNCIL

Subject: **ERECTION OF BED AND BREAKFAST ACCOMMODATION AND SELF CATERING RESIDENTIAL FACILITIES (RENEWAL OF PLANNING PERMISSION 06/0973/OUT) AT LAND NORTH OF 1 NORTH INCHES, FALKIRK FOR MR ANDREW YOUNG HENDERSON - P/12/0163/PPP**

Meeting: **PLANNING COMMITTEE**

Date: **22 August 2012**

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: **Katherine Chorley (Assistant Planning Officer), Ext. 4704**

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site forms an area of agricultural land located adjacent to existing residential properties at 1-3 North Inches, Larbert. There is a fairly small agricultural shed towards the south east corner of the site. The shed is in need of some maintenance and building materials were also seen being stored on the site. Much of the site has become overgrown, although an access way to the site remains clear.
- 1.2 The site is located adjacent to another area of agricultural land which was granted outline planning permission for the erection of bed and breakfast accommodation and self catering residential facilities in 2010 (ref P/08/0034/OUT).
- 1.3 Planning Permission in Principle is now sought for a proposal to erect bed and breakfast accommodation and self-catering residential facilities on the site. The application constitutes a renewal of an application (ref 06/0973/OUT) which was approved in 2009 and expired shortly after the submission of the application under consideration.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application is recommended for approval but is considered to be contrary to the Falkirk Council Development Plan.

3. SITE HISTORY

3.1 There have been a number of previous applications on this site and the adjacent site, which are summarised below:

- 05/1104/OUT Outline permission was refused on this site, on 29 March 2006 for the erection of bed and breakfast accommodation and self catering residential facilities for the following reason:

'It is considered that the proposed development, in the absence of a justification requiring a rural location, would be contrary to Policy ENV1 of the Falkirk Council Structure Plan, Policy Rural 1 of the Rural Local Plan and Policies EQ19 and EP16 of the Falkirk Council Local Plan (Consultative Draft) in that it would relate to unjustified development and intrusion into the countryside.'

- 06/0973/OUT Outline permission was granted on this site, 6 April 2009 for the erection of Bed and Breakfast accommodation and Self Catering residential facilities.
- P/07/0797/OUT Outline permission was refused at the adjacent site on the 8 November 2007 for the erection of bed and breakfast accommodation. Permission was refused for the following reason:

'The proposed development does not require a rural location. The proposal is contrary to the terms of policy ENV1 'Countryside and Protected Areas' of the Falkirk Council Structure Plan, Rural 1 'New Development in the Countryside' of the rural local Plan and Policies EQ16 'Leisure and Tourism Development in the countryside' and EQ19 'Countryside' of the Falkirk Council Local Plan Finalised Draft (Deposit Version).'

- P/08/0034/OUT Outline permission was granted at the adjacent site on the 17 February 2010 for the erection of Bed and Breakfast accommodation and Self Catering residential facilities.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have requested that the application is only approved if the development is essential. However, if the application is approved, they have recommended a number of conditions.
- 4.2 The Environmental Protection Unit have recommended noise and contaminated land conditions.
- 4.3 The Scottish Environmental Protection Agency (SEPA) has provided its 'standing advice' on the scheme.
- 4.4 Visit Scotland has made no comments on the proposal.
- 4.5 The Coal Authority has no objections subject to an informative.

5. COMMUNITY COUNCIL

5.1 No comments have been received.

6. PUBLIC REPRESENTATION

6.1 1 objection to the application has been received. The concerns raised in the objection can be summarised as follows:

- Issues associated with determination of original application;
- Concerns over access and road safety;
- Use is agricultural and was not added to Local Development Plan;
- Concerns over noise and smells;
- Concerns over attitude of applicant and existing use of the land;
- This letter also included a petition of 5 signatures although this is dated 18.10.06.

6.2 As this application constitutes a renewal of outline planning permission there is no requirement to consult neighbouring properties. However, comments have been received from one neighbour and these comments are noted above.

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 ECON.7 'Tourism' states:

"The Council will support the development of sustainable tourism in the Council area, through the provision of an improved range and quality of attractions and supporting infrastructure. Accordingly:

- (1) the key locations for development will be the Millennium Canals, Falkirk Town Centre/Callendar Park and Bo'ness;*
- (2) development which supports and expands the main target markets of day trips, short breaks, visiting friends and family and business tourism will be particularly encouraged; and*

- (3) *tourism development must be environmentally sustainable, in terms of its location and design. In particular, any development outwith the urban areas must demonstrate that a countryside location is essential.*”

7a.2 Policy ECON7 of the Falkirk Council Structure Plan advises that the Council will support the development of sustainable tourism in the Council area, through the provision of an improved range and quality of attractions and supporting infrastructure. It adds that the key locations for development are the millennium canals, Falkirk town centre/Callendar Park and Bo'ness. In addition, development which supports and expands the main target markets of day trips, short breaks, visiting friends and family and business tourism will be particularly encouraged. Finally tourism development must be environmentally sustainable, in terms of its location and design. In particular, any development outwith the urban areas must demonstrate that a countryside location is essential. The sentiments of this policy are reiterated in the Local Plan policies discussed in further detail below.

Falkirk Council Local Plan

7a.3 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.”*

7a.4 The application site lies beyond the urban and village limits and as such policy EQ19 applies. This advises that the urban and village limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. It also advises that schemes such as that currently proposed should be assessed against policy EP16 'Leisure and tourism developments' where they are within a countryside location. This requires that the development will only be permitted where the use demonstrates a particular need for a countryside location and could not more appropriately be located within the urban or village limits. In particular, proposals for small-scale self-catering chalet developments may be acceptable, subject to appropriate siting and compliance with policy EP15. Proposals for new B&Bs will generally only be permitted where existing buildings are being utilised or where a specific opportunity is identified in the Local Plan.

7a.5 Policy EP15 'Tourism Development' states:

"Proposals for tourism development will be supported where:

- (1) they will support the strategic tourism priorities set out in Policy ECON.7 of the Structure Plan, and the tourism strategies of the Council and VisitScotland;*
- (2) they will complement the existing pattern of provision;*
- (3) the quality of development will be such as to enhance the image and tourism profile of the area; and*
- (4) they comply with other Local Plan policies."*

7a.6 Policy EP15 advises that proposals will be approved where they support the strategic tourism priorities set out in ECON7 and the tourism strategies of the Council and Visit Scotland. They must complement the existing pattern of provision and the quality of the development should enhance the image and tourism profile of the area. They must also comply with any other relevant Local Plan Policies.

7a.7 Policy EP16 'Leisure and Tourism Development In The Countryside' states:

"Leisure and tourism development within the countryside will only be permitted where the use demonstrates a particular need for a countryside location and could not more appropriately be located within the Urban or Village Limits, or where existing buildings are to be utilised. In particular:

- (1) Proposals for small-scale self-catering chalet developments, caravan and camping sites may be acceptable, subject to appropriate siting and compliance with Policy EP15. Proposals for new hotels, B&Bs, guest houses and pubs/restaurants will generally only be permitted where existing buildings are being utilised or where a specific opportunity is identified in the Local Plan;*
- (2) Proposals for outdoor sport and recreation which require a countryside location may be acceptable, subject to appropriate siting. Associated built development will be limited to that which is directly ancillary to the activity (e.g. clubhouses, changing facilities, parking);*
- (3) Proposals for new visitor attractions, heritage and interpretative centres may be acceptable, subject to appropriate siting and compliance with Policy EP15. The nature and theme of the facility must provide a clear rationale for the countryside location chosen; and*
- (4) Proposals for new roadside facilities will not be permitted unless it is demonstrated that there is a clear need for additional services. Proposals for facilities on motorways and the trunk road network should comply with the guidance in the SPP".*

7a.8 Policy EP16 requires that new B&Bs will generally only be permitted where existing buildings are being utilised or where a specific opportunity is identified in the Local Plan. The proposal does not utilise existing buildings and no specific opportunity has been identified. As such the use is considered contrary to policy EP16. Although the 06/0973/OUT application has expired, the application on the adjacent site remains valid and an application to consider the matters specified in the conditions could still be submitted. It would therefore be appropriate to consider the justification used to approve the previous applications as the policy documents have not significantly changed since approval of development on the adjacent site.

- 7a.9 The previously approved application was accompanied by a comprehensive supporting statement to justify that a rural location was essential for the development to succeed. As the current application is a renewal of this permission, this statement has been carried over. Within this, the applicant advises that he proposes to offer high quality accommodation for short stay and longer stay visitors. The applicant also provided an update taking into account the changes to the economy and added that the original plan was produced based on low average occupancy levels and that there would not appear to be a reduction in overall occupancy levels of such accommodation in Scotland. It considered that the current economic position would not have an overall effect on the original business plan.
- 7a.10 It was accepted at that time that the proposal was generally supported by Scottish Planning Policy and this, combined with the agreed need for a rural location were considered to outweigh the position held by policy EP16.
- 7a.11 As was concluded with the previous applications, there is general support for self-catered tourist accommodation in Falkirk and the small element of bed and breakfast accommodation, when considered with the self-catering element are acceptable. It is felt that a countryside location is appropriate and necessary for this type of development, as established with the previously approved applications.

7b Material Considerations

- 7b.1 The material considerations to be assessed are contamination, coal risk, legal agreement, design, roads, noise and smells and action plan.

Contamination

- 7b.2 The Environmental Protection Team have requested a condition regarding contamination due to the presence of two mine entries, a clay brick and tiles works, unknown filled ground, made ground and potential other contaminative activities within 250m of the site.

Coal Risk

- 7b.3 The Coal Authority have advised that as the site falls within a referral area a full coal mining risk assessment should have been produced. However, The Coal Authority have considered the fall-back position in that the original permission was extant at the time of the submission of this application and work could have commenced without a risk assessment. The Coal Authority have therefore recommended that an informative be added to the decision notice if approved.

Legal Agreement

- 7b.4 A legal agreement was concluded as part of the previous application to ensure that the bed and breakfast establishment and self catering residential facilities remain as a single business operation under one ownership. The existing legal agreement refers to the previous planning application, but the restriction on the use will continue to apply even where there is a new permission, provided it relates to the same site. As such a new legal agreement or variation to the existing agreement would not be required in this case.

Design

- 7b.5 Basic details of the design have been submitted, however, as the application is for permission in principle full designs would be given further consideration following the submission of detailed plans.

Roads

- 7b.6 The advice from the Roads team is noted. However, in previous applications it was considered that the rural location had been justified and was appropriate. Access, parking and surface water drainage issues can be dealt with by condition.
- 7b.7 The Transport Planning Unit have advised that Hamilton Road will form part of the access to the Bellsdyke Hospital development and will eventually be closed off to through traffic. Any access required following this closure would be via the new junction of Bellsdyke Road and Tryst Road.

Noise and Smells

- 7b.8 The Environmental Protection Team have advised that a noise impact assessment would be required, to assess the impact of transportation noise on the development. Depending on the outcomes of this assessment noise protection measures may be required. The submission of such a document could be dealt with by condition.
- 7b.9 It is not considered that the proposals would impact on smells in the area to the detriment of neighbouring properties.

Action Plan

- 7b.10 The Council produced an action plan to deal with the economic downturn in 2008. This included a section on sites for tourism development. It advises that tourism is an increasingly important contributor to the local economy. The provision of additional tourism accommodation is supported in the Falkirk area.

7c Conclusion

- 7c.1 It is considered that, despite not strictly according with policy EP16, the proposals are generally supported by other policies in the Local Plan and Structure Plan and in the Economic Downturn Action Plan. This support combined with the previous planning permissions on this and the adjacent site would outweigh the failure to meet policy EP16. It is considered that the proposed development would meet the remaining requirements of the relevant policies in the Structure Plan and Local Plan and is therefore recommended for approval. There are no material considerations which would warrant refusal of planning permission in this case.

8. RECOMMENDATION

- 8.1 It is therefore recommended that the Planning Committee grant planning permission in principle subject to the following conditions:-

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.

- (3) All drainage shall comply with the requirements of the Scottish Environmental Protection Agency and Scottish Water and evidence of such compliance shall be submitted to the Local Planning Authority prior to first occupation of the development.
- (4) Any subsequent application for the approval of matters specified in conditions shall be accompanied by details of the existing and proposed ground levels, and finished floor levels in relation to a fixed datum, preferably ordinance survey datum.
- (5) Parking facilities shall be provided in accordance with the Falkirk Council Design Guidelines and Construction Standards for Roads in the Falkirk Council Area as amended January 2000.
- (6) The access to the site from Hamilton Road shall be constructed in accordance with Falkirk Council Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000.
- (7) Any subsequent application for the approval of matters specified in conditions shall be accompanied by details of the proposed visibility splays along Hamilton Road, within which there will be no obstruction to visibility above existing carriageway level.

- (8) The proposed self catering facility shall not exceed one and a half storeys in height.
- (9) The bed and breakfast accommodation shall not be available for occupation until the self catering residential facilities are complete.
- (10) Any application for approval of matters specified in conditions shall be accompanied by:
 - (a) A noise survey to determine the impact of transportation noise on the development. The survey shall be conducted in terms of PAN 56. The survey shall identify the noise category within which the development will fall. If it falls within Category B or C then a scheme for protecting the proposed units from transportation noise should be included as part of the noise survey and the scheme shall ensure that the internal levels, with the windows closed, do not exceed 45dB daytime and 35dB night-time when measured as LAeq,T. The survey shall be submitted to, and approved by, the Planning Authority.
 - (b) A site investigation to establish if contamination (as defined in Part IIa of the Environmental Protection Act 1990) is present on site. Where contamination is identified, development shall not begin until a scheme has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
 - 1. The nature, extent and type(s) of contamination on the site.
 - 2. Measure to treat/remove contamination to ensure site is fit for the use proposed.
 - 3. Measures to deal with contamination during construction works.
 - 4. Condition of the site on completion of decontamination measures.
 - 5. Details of monitoring programme following site redemption.

Before any unit is occupied, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason(s):-

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (3) To ensure that adequate drainage is provided.
- (4) To safeguard the visual amenity of the area.
- (5) To ensure adequate parking is provided.
- (6-7) To safeguard the interests of the users of the roads.

- (8) To safeguard the visual amenity of the area.
- (9) To ensure the proposal operates as a single planning unit.
- (10) To ensure the site is suitable for the proposed development.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02, 03 and 04.
- (2) The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include; mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Standards approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, pilling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's property search service on 0845 762 6848 or at www.groundstability.com

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Director of Development Services

Date: 14 August 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Action Plan for the Economic Downturn.
4. Letter of Objection from Maureen Murphy and David Usher, 3 North Inches, Falkirk, FK2 8RQ on 11 April 2012.

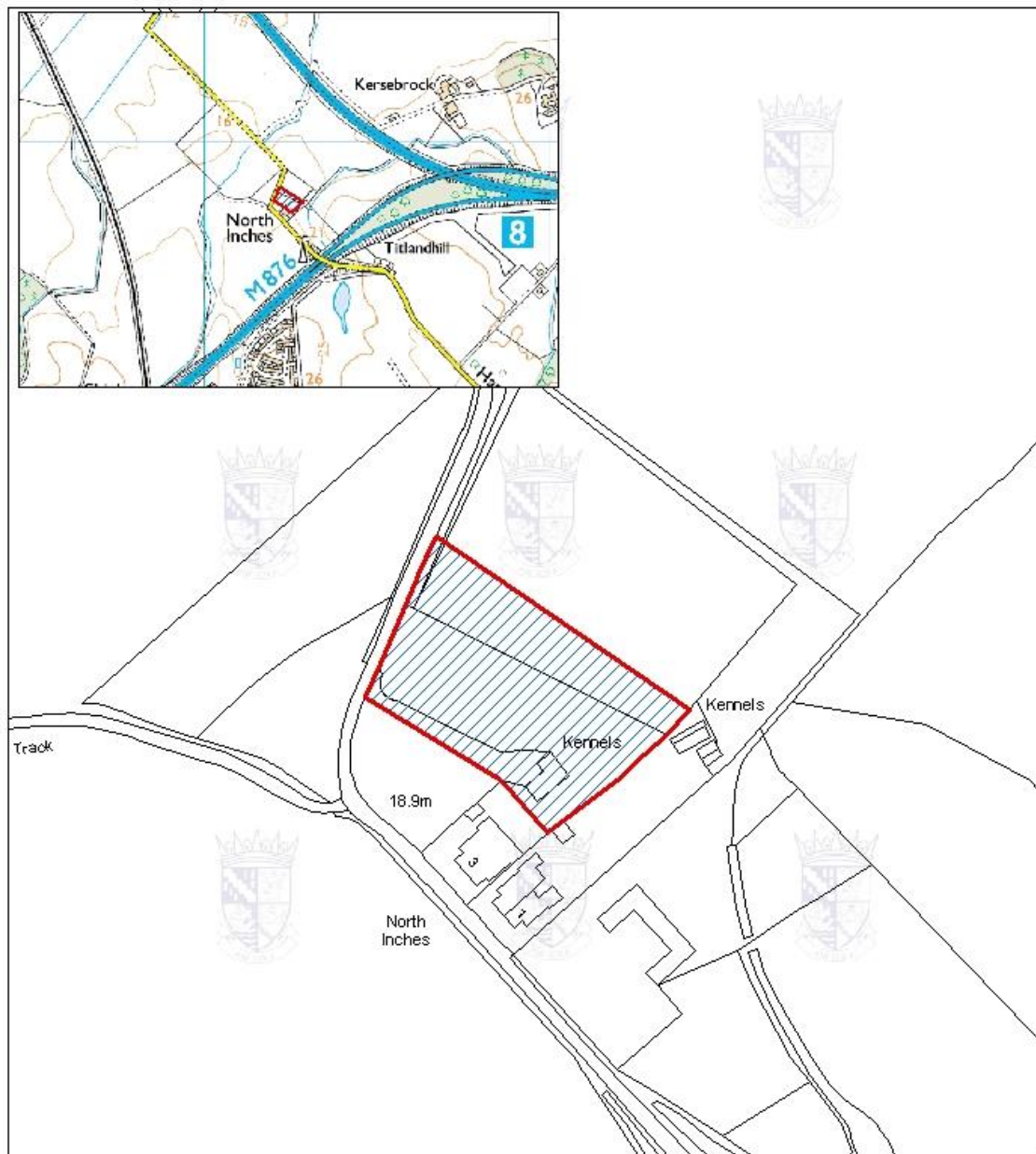
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Katherine Chorley, Assistant Planning Officer.

Planning Committee

Planning Application Location Plan

P/12/0163/PPP

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



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