

FALKIRK COUNCIL

Subject: DEVELOPMENT OF LAND FOR HOUSING PURPOSES AT
LAND TO THE SOUTH OF THE STABLES, BRAEFACE ROAD,
BANKNOCK FOR MR JOHN PENMAN - P/12/0124/PPP

Meeting: PLANNING COMMITTEE

Date: 30 January 2013

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock
Councillor Jim Blackwood
Councillor Brian McCabe
Councillor John McNally
Councillor Martin David Oliver

Community Council: Banknock, Haggs and Longcroft

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

UPDATE REPORT FOLLOWING COMMITTEE CONTINUATION

1. Members will recall that this application was considered by the Planning Committee on 31 October 2012 (copy of report appended), where it was agreed to continue the application to the January Planning Committee to allow the previously requested additional information to be provided by the applicant and for the applicant to provide details showing how the proposals for engineering works could be completed to the satisfaction of the Council.
2. The application had originally been considered by the Planning Committee on 19 September 2012 (copy of report appended), where it was agreed to continue the application for a site visit. This visit took place on 8 October 2012.
3. The previous officer reports considered by the Committee recommended refusal of the application and the officer's report dated 19 September 2012 detailed the outstanding concerns and the matters the applicant had been invited to make further submission in relation to. However, as detailed in the report, no further submission had been forthcoming from the applicant at the time of writing the report.
4. Following the Committee decision on 31 October 2012 to continue the application the Development Management Unit decided to seek an independent review of the business use for the proposed enabling development. This was in part due to the applicant querying the financial expertise of the officers involved in assessing the business case.

5. The Development Management Unit (DMU) subsequently commissioned Laurence Gould Partnership Ltd to review the business case. Laurence Gould Partnership Ltd are a rural business consultancy company specialising in dealing with all business operating in the rural sector. Laurence Gould Partnership Ltd reviewed the original planning application at Cloybank (ref: P/07/0451/FUL) for the Council.
6. A finalised report from Laurence Gould Partnership Ltd was issued to the applicant's agent on 24 December 2012. This report reinforced the concerns raised by Council's officers regarding the business case presented to date for the proposed enabling development and the overall sustainability of the business, and set out the issues and further information required.
7. The applicant is currently involved with Falkirk Council's Growth and Investment Unit, Development Services, to develop a future strategy for the business. The most recent meeting of the parties involved in this strategy was held on 11 January 2013. The Council's Growth and Investment Unit have advised that the applicant indicated at the meeting that his agent is to revise the Business Plan, and resubmit it to DMU. In order to reflect this advice, it is recommended that the application be continued for consideration with the March Planning Committee meeting the earliest date likely for consideration.
8. In addition, it should be noted that, at the time of writing this report, no information had been submitted by the applicant in relation to the engineering works to improve visibility at the site entrance.

9. RECOMMENDATION

- 9.1 **It is therefore recommended that the application be continued to allow the applicant an opportunity to make further submissions regarding the business case and to provide details showing how the proposals for engineering works would be completed to the satisfaction of the Council.**

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Director of Development Services

Date: 22 January 2013

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Letter of Objection from Angela Kerr, angela.kerr@sky.com, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
10. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.

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

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Date: 31 October 2012

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Community Council: Banknock, Haggs and Longcroft

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered by the Planning Committee on 19 September 2012 (copy of previous report appended), when it was agreed to continue the application for a site visit. This visit took place on 8 October 2012.
2. At the site meeting, the case officer summarised the report, the applicant and his agent spoke in support of the application, objectors were heard and Members asked questions.
3. The applicant explained his original vision for the facility but highlighted that he has had to make changes to adapt to economic conditions which have constrained the availability of finance. He sees the current application, for house plots, as the only way to fund completion of the development works.
4. The objectors present reiterated and expanded on the concerns raised in their representations. They raised concerns that the development is not being run as a private estate, there is advertising e.g. of the coffee shop, and free visits by school children as was originally promised by the applicant did not take place. It was questioned what assurances could be given that funding from the proposed houses would be used to develop the business as it was originally intended. Concerns were raised that the estate essentially runs as a training facility. If this is the case, then an objector thought that presumably this could continue without the need for funding from the proposed houses. The viability of the business was queried and some objectors presumed that the banks would not lend because the current business plan does not work. Concerns were raised about a precedent being set for further housing, amenity impacts, the original planning permission not being complied with, the unsuitability of Braeface Road to take additional traffic, including construction traffic, poor drainage and arrangements for water supply.

5. Local Members present on the site visit spoke in support of the application. They considered that the facilities and training opportunities at Cloybank provide a valuable local asset. They acknowledged the applicant's aspiration to replace existing temporary buildings with permanent facilities to grow and enhance the business. The emphasis placed on the business plan and financial considerations in the planning assessment, and who scrutinised the financial information, were queried. A Local Member observed that the visual impact of the proposed dwellinghouses could be considered in the context of the visual impact of wind turbine proposals in the area and the Banknock SIRR development on the other side of Braeface Road. The same Local Member also observed that planning conditions could be attached to deal with road access and drainage problems.
6. The case officer advised that the application is to cross-fund the delivery of the development works granted by the original planning permission. In order to justify the seven house plots indicated in the application, the applicant submitted a Business Plan and financial modelling. Acceptance of the business case is fundamental to the principle of this application.
7. The case officer advised that the site lies within the countryside and that the boundary of the Banknock SIRR is Braeface Road. Housing development in the countryside is permissible under the Development Plan in limited circumstances but the application does not satisfy any of these circumstances. The application has therefore been assessed as contrary to the Development Plan.
8. The case officer highlighted that concerns were previously raised with the applicant regarding the detail within the business case and the applicant was invited to make further submissions but requested that the application be determined. The case officer at the site meeting advised that the financial information was assessed as failing to demonstrate (a) the need for the seven proposed dwellinghouses (to cross-fund the essential development works of the business); and (b) the prospect of a longer term sustainable rural business. The case officer advised that it had been suggested to the applicant that the financial model should be re-visited on a number of fronts. These for example included, the model could be revised so that the estate manager's house is not funded by enabling development, as it would be the private residence of the applicant rather than an essential development work for the business. Its removal from the model could, alone, question whether there is a case to justify seven dwellinghouses. The overall concerns raised with the applicant are summarised in Section 7b.9 of the previous report.
9. Since the site visit, three additional items of correspondence have been received. They can be summarised as follows:-
 - A letter of support received on 8 October 2012 (see the List of Background Papers). The reason given in support is that Cloybank is an important social enterprise as a source of local employment and in satisfying a training need for young people in the area who struggle within the conventional education system.
 - An e-mail from one of the objectors, who was unable to attend the site visit. In the e-mail, the objector reiterated the concerns raised in his objection, most of which were voiced by the objectors attending the site visit. The objector suggested that the case for enabling development is weak from a financial perspective and the source of income in the new business model, from Falkirk Council, is not guaranteed, therefore the continued viability of the business model is in doubt.

- An e-mail from one of the objectors who attended the site visit, raising additional concerns. In the e-mail, the objector queried whether any schools other than Bankier Primary School would be subject to future capacity issues which should be addressed by developer contributions.
10. Falkirk Council's Education Training Unit have confirmed that they have a 3 year Joint Working Agreement with Cloybank, which is put in place with all providers as it covers the standard contractual terms and conditions applicable to all programme delivery. The Agreement at Cloybank runs from 1 April 2011 to 31 March 2014. Within the terms of the Agreement, operational programmes are considered for approval but the Education Training Unit would not normally contract more than 3 programmes per year with the provider, at an overall value for the 3 programmes of £70,000 as a maximum spend. Cloybank is currently commissioned to deliver a Landscaping Programme. As detailed in the previous report, there is no long term contractual agreement between the Education Training Unit and Cloybank.
 11. Falkirk Council's Education Services considered the impact of the proposed development on Bankier Primary School, St Patrick's RC Primary School and Denny High School. As detailed in the previous report, a financial contribution would be required towards resolving anticipated capacity issues at Bankier Primary School. In relation to St Patrick's RC Primary School and Denny High School, Education Services advised that the size of the proposed development is below the threshold of consideration for these schools. St Modan's RC High School is within the Stirling Council area.
 12. As detailed in the previous report, compliance with the conditions of the previous permissions is currently being pursued with the applicant. This includes a potential breach of the condition which prohibits roadside advertising of the coffee shop. The coffee shop was granted on the basis that it operate as a welfare facility for staff and clients.
 13. Further to the Committee site visit the Roads Development Unit have surveyed the existing visibility at the junction of the Cloybank Estate access and Braeface Road. Condition 13 of planning permission ref: P/07/0451/FUL requires there to be no obstruction above 1 metre in height within 4-5 metres x 60 metres splay at this junction. Following the survey undertaken the Roads Development Unit advise that visibility at the junction falls short of the required dimensions and does not comply with condition 13 of planning permission P/07/0451/FUL. This issue is being raised with the applicant. The Roads Development Unit advise that subject to engineering measures being carried out (retaining walls etc) the required splays can be achieved. The poor visibility at this junction is a safety concern in respect of the current partially implemented planning permission and also the residential development now proposed. There is no proposal within the current application to improve the visibility at this junction. The poor visibility at the junction is an additional reason for refusal.
 14. It is considered that no matters were raised at the site visit which would alter the two refusal reasons recommended. In the light of the further assessment of visibility splays by the Roads Development Unit a third, additional, refusal is recommended.
 15. **RECOMMENDATION**
 - 14.1 It is therefore recommended that Committee refuse planning permission for the following reason(s):-

- (1) The application is considered to be contrary to Policy SC3 of the adopted Falkirk Council Local Plan as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouses.
- (2) It has not been demonstrated that the proposed dwellinghouses are essential to cross-fund the development of a sustainable rural business. The proposed dwellinghouses are therefore considered to represent unjustified development in the countryside.
- (3) The access to the site is not suitable to accommodate the traffic likely to be generated by the proposed development by reason of the substandard visibility at the junction of the Cloybank Estate access road and Braeface Road and this would cause danger and inconvenience to users of the adjacent road.

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Director of Development Services

Date: 23 October 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Email of Objection from Angela Kerr, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
13. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.
14. Letter of Support from Aggregate Industries, Central Belt and Borders Area Office, Duntiland Quarry, Salsburgh, Shotts, North Lanarkshire, ML7 4NZ on 8 October 2012.
15. Email of Objection from Graham Wright on 9 October 2012.
16. Email of objection from Isobel Craib on 10 October 2012.

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

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Date: 19 September 2012

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock
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Councillor John McNally
Councillor Martin David Oliver

Community Council: Banknock, Haggs and Longcroft

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks planning permission in principle for the development of land for housing purposes at Cloybank Estate, Banknock. An indicative site plan has been submitted with the application which shows seven dwelling plots. The development is described in the application as 'eco-friendly'. The basis of the application is to cross-fund the delivery of the development works granted under planning permission P/07/0451/FUL (see paragraph 3.1 of this report). Two of the proposed dwellinghouses would be built by Cloybank whilst the other five would be plot sales.
- 1.2 The application site mainly consists of grass enclosed by post and wire fencing. There is some new planting along the site boundaries and extensive new woodland planting to the south. The site is part of the eastern portion of Cloybank Estate, adjacent to Braeface Road.
- 1.3 The indicative site plan shows new hard and softwood perimeter planting to delineate the site and tie in with existing woodland planting. The indicative site plan shows the proposed dwellinghouses served by a new cul-de-sac, formed off the existing Cloybank Estate access road. The drainage strategy accompanying the application proposes discharge of the foul water to the existing sewer where the Doups Burn is culverted under Braeface Road. Alternatively, the strategy suggests that a private system with suitable maintenance arrangements could be considered.

- 1.4 A Business Plan and financial model have been submitted in support of the application. The financial model indicates that youth vocational training has been and is projected to continue to be the main source of Estate income by a significant margin. This represents a fundamental shift from the business plan accompanying the original application (P/07/0451/FUL), which proposed a private estate with a golf academy as a central aspect of the project, and the majority of income from golf membership, corporate membership and corporate days.
- 1.5 The information accompanying the application indicates that the youth training opportunities at Cloybank cover basic civil engineering, dry stone dyking, estate maintenance, woodland management, groundwork, joinery, plumbing and steelwork. Falkirk Council's Education Training Unit have had a working relationship in the placement and funding of trainees at Cloybank (see paragraph 4.7 of this report).
- 1.6 The information accompanying the application indicates that 10 full-time and 8 part-time jobs would be created by the Estate activities including the youth vocational training. This includes four trainers/supervisors to work with young people directed to them by Falkirk Council, four staff employed in the proposed hospitality suite, two part-time staff employed in the golf academy, and opportunities to place young people in employment at the Estate after they complete their training. In addition, the information states that the proposed dwellinghouses would provide an opportunity to train four modern apprentices in joinery, plumbing, bricklaying and electrical work.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as it has been called in by Councillor Oliver and Councillor McNally.

3. SITE HISTORY

- 3.1 Planning application ref: P/07/0451/FUL for a mixed use development was granted in January 2009. The development granted by the permission comprised: a dwellinghouse, estate office, staff facilities, produce handling area, golf academy (indoor), artists studio/workshop and a hydroponicum; the use of land for fruit production, woodland, archery, clay pigeon shooting, soft fruit production (polytunnels) and a bee/honey farm; and the formation of a fishery pond and golf academy (outdoor). The application was subject to a Section 75 Planning Agreement (Planning Obligation), which committed the landowner to making the development available free of charge for visits by children attending schools within the Falkirk Council area, in accordance with a visit protocol attached to the Agreement. Education Services have advised that Bankier Primary School and other local schools have visited the site but compliance with the terms of the visit protocol is not monitored at present.
- 3.2 Development of the Estate is ongoing with the overall layout and a number of the various land uses largely established. These include the fishery pond, the golf facility, the archery and shooting areas and new woodland planting. However, the permanent estate buildings have not yet been constructed apart from a building approved as a private garage and golf academy office which is presently being used to administer the Estate's activities.

- 3.3 The proposed dwellinghouses would displace part of the soft fruit farm (partly polytunnels) granted under the original permission (ref. P/07/0451/FUL). To compensate for this, the applicant has advised that an area to the south, approved under the original planning permission for woodland, would be used for soft fruit production. This may be acceptable subject to a suitable woodland buffer being maintained along the Doups Burn to provide effective visual screening, protect the burn and ensure there is a continuous wildlife corridor.
- 3.4 There would appear to be a number of outstanding issues with respect to the conditions of the previous planning permission (ref. P/07/0451/FUL). Most notably, a programme of completion for the various approved habitats (e.g. wetland, moorland and wildflower meadow) and a Biodiversity Management Plan have not been submitted. In addition, it is understood that the intrusive site investigations recommended in the Geo-Environmental Desk Study have not been undertaken.
- 3.5 Planning application ref: P/10/0524/FUL for the erection of a timber cabin for residential purposes and use of a temporary building as a coffee shop (retrospective) was granted in August 2012. The coffee shop was granted on the basis of it operating as a welfare facility for staff and clients. A condition of the permission prohibits roadside signs advertising the coffee shop. This condition is in breach as there is a sign at the Estate entrance advertising the coffee shop. Conditions of the permission require removal of the temporary buildings following completion of the approved hospitality facilities and estate manager's house.
- 3.6 Compliance with the conditions of the previous permissions is currently being pursued with the applicant.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have advised that the section of the existing access road to serve the proposed dwellinghouses would need to be upgraded to adoptable standards, in accordance with the Falkirk Council Design Guidelines and Construction Standards (DGCS). In addition, the internal road layout (cul-de-sac) would need to comply with the DGCS. They are satisfied with the Flood Risk statement accompanying the application. They have reviewed the Drainage Strategy accompanying the application and advise that the options for stormwater (discharge into the ground through infiltration or directly into a watercourse) would require further consideration at detailed planning stage.
- 4.2 Scottish Water have no objection to the application, and have advised that there are no public sewers or public water mains in the vicinity of the proposed development.
- 4.3 The Environmental Protection Unit have reviewed a Phase 1 Geo-Environmental Desk Study submitted for planning permission ref: P/07/0451/FUL. They are satisfied that this report provides an adequate preliminary risk assessment to satisfy current legislation and statutory guidance. This report covers the site subject to the current application. They agree with the recommendations of the report to carry out further limited intrusive investigations at the site.
- 4.4 SEPA have referred the Council to their standing advice which is applicable to this type of small scale local development. This advice covers a range of matters, including waste water drainage, surface water drainage and their regulatory functions.

- 4.5 The Transport Planning Unit have not made any comments.
- 4.6 Education Services have advised that there are currently no capacity issues at Bankier Primary School but the collective impact of current housing permission and further allocated housing areas will require the school to be extended. They request the payment of a pro-rata financial contribution towards resolving anticipated capacity pressures at this school, at the rate of £2600 per dwellinghouse. They have not identified any other school capacity issues within the Falkirk Council area.
- 4.7 The Education Training Unit (ETU) have advised that they have a good working relationship with Cloybank which has supported many trainees in work placements whilst the business has been developing. To date, 3 Modern Apprentices have been employed to undertake landscaping/greenkeeping qualifications (with funding support from ETU). They are confident that Cloybank would work closely with them to maximise opportunities for young people in all aspects of their business should this application be successful. However, they advise that there is no long term contractual agreement between ETU and Cloybank (nor are they aware of any similar arrangement with other Falkirk Council Services), so the references (in the Business Case) to the employment of four supervisors based on referrals from Falkirk Council is based on a projection (which is by no means guaranteed) that the current level of business from the Council as a whole would be maintained or increased over time. If the applicant has other contractual agreements with other parties, they would have expected this to have been mentioned in the business forecast. They have reviewed the financial model accompanying the application and consider the level of projected training income is high taking into account the total contract spend between Cloybank and ETU over the last two years. They have not had any detailed discussions with Cloybank in regard to training delivery related to this application, other than an indication that Cloybank would be keen to offer relevant Modern Apprenticeship opportunities if the proposed development is approved.
- 4.8 The Coal Authority have reviewed the submitted mining information and are satisfied with the broad conclusions that there are no significant coal mining legacy issues at the application site. They advise that no specific mitigation measures are required as part of the development to address coal mining legacy issues.

5. COMMUNITY COUNCIL

- 5.1 The Banknock, Hags and Longcroft Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 Seven objections to the application have been received. The main grounds for objection are:
- The proposal is contrary to the local plan;
 - The land is Green Belt;
 - The existing use was only granted based on it being a private estate, with only estate working buildings permitted;
 - Despite previous assurances by the application, the Estate does not operate by 'invitation only' e.g. there is a coffee shop;

- There is no guarantee that the profit/cash realised from the proposed development would be used to sustain the Estate as a going concern, let alone preserve a rural business/jobs;
- An independent chartered accountant should be engaged to assess whether the proposed development can overwhelmingly satisfy a sustainability argument or wider economic benefit;
- Granting the application would lead to a precedent for further housing development of the land;
- Disruption/loss of privacy, views and peace and tranquility;
- Loss of trees as a consequence of the proposal;
- Braeface Road is unsuitable to serve the proposed development due to its condition, narrow width and restrictions;
- The existing entrance does not support two vehicle widths; and
- Poor water pressure in the area.

6.2 One letter of support has been received. The reasons in support are:

- The self worth and achievement afforded to the children/young people who use the facility; and
- Granting the application would go some way to ease the financial constraints which no doubt hinder the expansion and continuing success of this much need facility.

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 The proposed development is not considered to have any strategic implications therefore the policies of the approved Falkirk Council Structure Plan are not relevant.

Falkirk Council Local Plan

7a.2 The application site lies outwith the urban limits, within the countryside, as defined in the adopted Falkirk Council Local Plan. Adjacent to the application site, on the other side of Braeface Road, is land included within the Banknock and Haggs Special Initiative of Residential Led Regeneration (SIRR). In time, Braeface Road would therefore define the boundary of an expanded Banknock settlement.

7a.3 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."*

7a.4 This policy only permits housing development in the countryside in limited circumstances. These circumstances are where the housing is essential for the pursuance of a business requiring a countryside location, where the proposal involves the rehabilitation of former residential properties or the conversion of farm buildings to residential use, or where the proposal represents an appropriate infill opportunity. The proposed development is not considered to reflect any of these circumstances. Accommodation for the estate manager is currently catered for by a timber cabin and a permanent dwellinghouse was approved in grant of planning permission ref: P/07/0451/FUL. There is no suggestion that additional accommodation is required on the site to meet an operational need. The proposed development is therefore contrary to this policy.

7a.5 Policy SC13 'Open Space and Play Provision in New Development' states:

"New development will be required to contribute to open space and play provision. Provision should be informed by the Council's open space audit and strategy and the SPG Note on 'Open Space and New Development', once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:

- (1) Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*
- (2) Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where*
 - existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
 - in residential developments, the size of the development falls below the threshold of 10 houses indicated in Table 4.2, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
 - as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*
 - The required financial contribution per house will be set out in the SPG Note on 'Open Space and New Development'.*
- (3) The location and design of open space should be such that it:*
 - forms an integral part of the development layout, contributing to its character and identity;*
 - is accessible and otherwise fit for its designated purpose;*
 - links into the wider network of open space and pedestrian/cycle routes in the area;*
 - sensitively incorporates existing biodiversity and natural features within the site;"*
 - promotes biodiversity through appropriate landscape design and maintenance regimes; and*
 - enjoys good natural surveillance;*
- (4) Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it."*

7a.6 This policy requires new development to contribute to public open space and play provision. In this instance, the policy supports the payment of a financial contribution towards off-site provision, upgrading and maintenance as an alternative to on-site provision, as the proposed development falls below 10 dwellinghouses. The required amount of the contribution, as detailed in the Council's Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development is £1820 per dwellinghouse. Options for use of the contribution include improvements to Hollandbush Park in Banknock, or improvements to the nearest play park at Viewfield Road. This matter would be subject to a Section 75 Planning Obligation if planning permission were to be granted. Satisfactory conclusion of this matter in the Planning Obligation would ensure compliance with this policy.

7a.7 Policy SC14 'Education and New Housing Development' states:

"Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one, the basis of which will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."

7a.8 This policy indicates that developer contributions will be sought where there is insufficient capacity within the catchment school to accommodate children from the proposed development. In this instance, as detailed in paragraph 4.6 of this report, Education Services have identified a future capacity issue at Bankier Primary School. A pro-rata contribution at the rate of £2,600 per dwellinghouse would be required in accordance with the Council's Supplementary Planning Guidance Note for Education and New Housing Development. This matter would be the subject of a Section 75 Planning Obligation if planning permission were to be granted. Satisfactory conclusion of this matter in the Planning Obligation would ensure compliance with this policy.

7a.9 In light of the fundamental conflict with Policy SC3 of the adopted Falkirk Council Local Plan, the application does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations in respect of this application are National Planning Policy Guidance, the case for enabling development, landscape and visual impacts, the consultation responses and the representations received.

National Planning Policy Guidance

7b.2 Paragraph 94 of Scottish Planning Policy (February 2010) states that:

"Development plans should support more opportunities for small scale housing development in rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing plots in which to build individually designed houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding".

7b.3 A review of the Council's current policy on housing development in the countryside is currently taking place as part of the preparation process for the new Local Development Plan.

- 7b.4 As can be seen, Paragraph 94 of Scottish Planning Policy (SPP) supports opportunities for new housing in rural areas to fund rural businesses. The context is to ensure that the planning system supports sustainable economic growth in rural areas. It is important to note that SPP sets national policy for the whole of Scotland and therefore the reference to 'rural areas' needs to be taken in context. It is a matter for the new Local Development Plan to translate national policy within SPP into a local context. It is arguable whether the Falkirk Council area contains any rural areas in a national context. In this particular case, the application site is an accessible urban fringe location in a populated area and this can be distinguished from less populated areas where SPP recognises that *"new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal"*. The relevance of Paragraph 94 of SPP to the application is therefore arguable and is not considered to be a strong material consideration in support of this application.

The Case For Enabling Development

- 7b.5 The case for the application is to cross-fund the delivery of the development works granted under the previous planning permission (ref: P/07/0451/FUL). The applicant has stated that all other avenues of raising capital to move forward with completion of the works have been exhausted, although no evidence has been submitted to substantiate this statement.
- 7b.6 Notwithstanding the relevance of SPP, it is considered that there may be a case in principle for cross-funding the essential development works by enabling development if this can be justified in the circumstances and in order to support a sustainable rural business. The essential development works are the permanent Estate working buildings and the golf tuition station. The Estate working buildings provide for a range of facilities including offices, a private hospitality suite, an artist's studio/workshop, a machine and tool shed, store rooms, a fresh produce preparation area and a hydroponicum. The approved estate manager's house is not considered to be an essential development work as it is a private residence rather than development essential to the business (in the interim, there is an approved timber cabin on the site providing residential accommodation to meet any security or operational need).
- 7b.7 The financial model accompanying the application projects revenue to 2015, which coincides with the timescale for completion of the development works (including the proposed dwellinghouses). As youth vocational training is projected to be the main source of Estate income by a significant margin, and the future training opportunity would appear to be strongly linked to construction related trades, the longer term sustainability of youth training opportunities beyond the construction period, and the sustainability of the private estate, as originally envisaged, are questioned.
- 7b.8 A review of the financial model has revealed that there may be an opportunity to sustain the development programme for the essential works without the need for enabling development. This takes into account a number of factors and assumptions. These include funding by grants from the Scottish Rural Development Programme, reinvestment of operating profit back into the business, an assumed opportunity to significantly reduce some of the projected overhead costs, and changes to the phasing of the essential development works (and exclusion of the estate manager's house as an essential work). If this is the case, the benefits to the community in terms of the projected employment and training opportunities could be sustained without the need for enabling development.

- 7b.9 It is therefore considered that the essential need for the proposed dwellinghouses, to cross-fund the development of a sustainable rural business has not been demonstrated. The applicant has been advised of the concerns as detailed above, and invited to make further submissions. In particular, we have queried:-
- The long-term sustainability of youth training opportunities once construction work is completed i.e. after 2015;
 - The projected income from youth training and the nature of youth training opportunities beyond the projected build period i.e. after 2015;
 - The long-term sustainability of the private estate as originally envisaged;
 - Whether the development programme for the essential works could be sustained without the need for enabling development, by modifying the financial model; and
 - Whether the projected revenue from youth training could be sustained without the training opportunity that would be provided by construction of the proposed dwellinghouses.
- 7b.10 No response from the applicant has been received on the above matters and the applicant has requested that the application be determined.

Landscape and Visual Impacts

- 7b.11 The application site is elevated and visually exposed from the south, so that the proposed development would be visible from the south side of Banknock, the Kelvin Valley and higher ground further to the south in the environs of Castlecary and Cumbernauld. The site is also higher than the adjacent SIRR housing part of the site to the east. However, there is established young woodland on the sloping land to the south which could mitigate the visual impact of the proposed dwellinghouses once the trees have gained sufficient height in 15 to 20 years' time.
- 7b.12 The visual impact of the proposed development has been raised as a concern with the applicant. It has been suggested to the applicant that single storey dwellinghouses may be appropriate and that the site may not have the capacity to accommodate seven dwellinghouses due to concerns with the visual massing of built form. The proposed perimeter planting is supported, although the width of the planting may need to increase (to provide at least 3 to 4 lines of trees at 3 metre spacing), and a strengthening of the woodland screening on the south side may be required.
- 7b.13 The applicant has not responded to these concerns or provided any indication of the design of the proposed dwellinghouses. If planning permission were to be granted, a condition could be imposed to limit the height of the proposed dwellinghouses and specify the roof finishes, whilst the implementation and retention of suitable landscaping screening would be integral to mitigating landscape and visual impacts.

Consultation Responses

7b.14 The consultation responses are summarised in section 4 of this report and have been referred to, as appropriate, in other parts of this report. The requirements of the Roads Development Unit could be subject to conditions of any grant of planning permission. The financial contribution sought by Education Services would be the subject of a Section 75 Planning Obligation. The comments of the Education Training Unit are noted, and are important to understanding a fundamental aspect of the current business (youth vocational training) and the situation with regard to the contractual arrangement.

Representations Received

7b.15 The representations to the application are summarised in section 6 of this report. In response, the following comments are considered to be relevant:-

- The application is considered to be contrary to the adopted Local Plan for the reasons detailed in this report;
- The site lies within the countryside but is not designated as Green Belt;
- It is acknowledged that the previous planning permission was granted based on the development being a private estate;
- Planning permission has been granted for the use of a temporary building as a coffee shop. The coffee shop was granted based on it operating as a welfare facility for staff and clients;
- This report has assessed in detail the case for enabling development and the sustainability of the business as a source of employment and training opportunities;
- Every application is considered on its individual merits so it is not anticipated that granting the application would set a precedent;
- The proposed development is relatively small scale and no material impacts on amenity are anticipated. Perimeter planting, to provide visual screening, is proposed.
- Some young tree planting may be lost as a consequence of the proposed dwellinghouses. This would be more than compensated for by the proposed new planting;
- The Transport Planning Unit has not raised any safety or capacity issues in the use of Braeface Road to serve the proposed development;
- The existing Cloybank Estate access road to serve the proposed dwellinghouses would need to be upgraded to adoptable standards. This would include a requirement for widening the entrance;
- The benefits afforded through the training opportunities at the Estate are acknowledged.

7c Conclusion

- 7c.1 The proposed development is considered to be contrary to the Development Plan for the reasons detailed in this report. There are not considered to be any material considerations to justify setting aside the terms of the Development Plan. Whilst the applicant's case for the proposed dwellinghouses is to cross-fund the delivery of the development works granted by planning permission ref: P/07/0451/FUL, the determining issues of whether there is an essential need for the proposed dwellinghouses to fund the essential development works and the longer term sustainability of a rural business at this location have not been demonstrated. Importantly, the applicant has failed to respond to a number of queries in relation to these fundamental concerns as detailed in paragraph 7b.9 of the report. In conclusion, the application is recommended for refusal.

8. RECOMMENDATION

- 8.1 It is therefore recommended that Committee refuse to grant planning permission for the following reason(s):-
- (1) The application is considered to be contrary to Policy SC3 of the adopted Falkirk Council Local Plan as it has not been demonstrated that a countryside location is essential for the proposed dwellinghouses.
 - (2) It has not been demonstrated that the proposed dwellinghouses are essential to cross-fund the development of a sustainable rural business. The proposed dwellinghouses are therefore considered to represent unjustified development in the countryside.

Pp

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Director of Development Services

Date: 12 September 2012

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Planning Guidance Note for Public Open Space, Falkirk Greenspace and New Development.
4. Falkirk Council Supplementary Planning Guidance Note for Education and New Housing Development.
5. Scottish Planning Policy, February 2010.
6. Letter of Objection from Mr Stuart Thomson on 23 March 2012.
7. Letter of Objection from Mr and Mrs L Dunsmore, Victoria House, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 26 March 2012.
8. Letter of Objection from Ms Catherine Craib, Burnbank Cottage, Braeface road, Banknock, FK4 1UE on 6 April 2012.
9. Letter of Objection from Mr Graham Wright, Station Cottage, Braeface Road, Banknock, Bonnybridge, FK4 1UE on 23 March 2012.
10. Letter of Objection from Mrs Ruth Aitchison, Burnside Cottage, Braeface Road, Banknock, FK4 1UE on 10 April 2012.
11. Letter of Objection from Angela Kerr, angela.kerr@sky.com, on 10 April 2012.
12. Letter of Objection from Mrs Isobel Craib, Craiburn, Braeface Road, Banknock, FK4 1UE on 6 April 2012.
10. Letter of Support from Black Bull Estates Ltd, F.A.O Raymond McClurg, 37 Queen Street, Edinburgh, EH2 1JX on 30 May 2012.

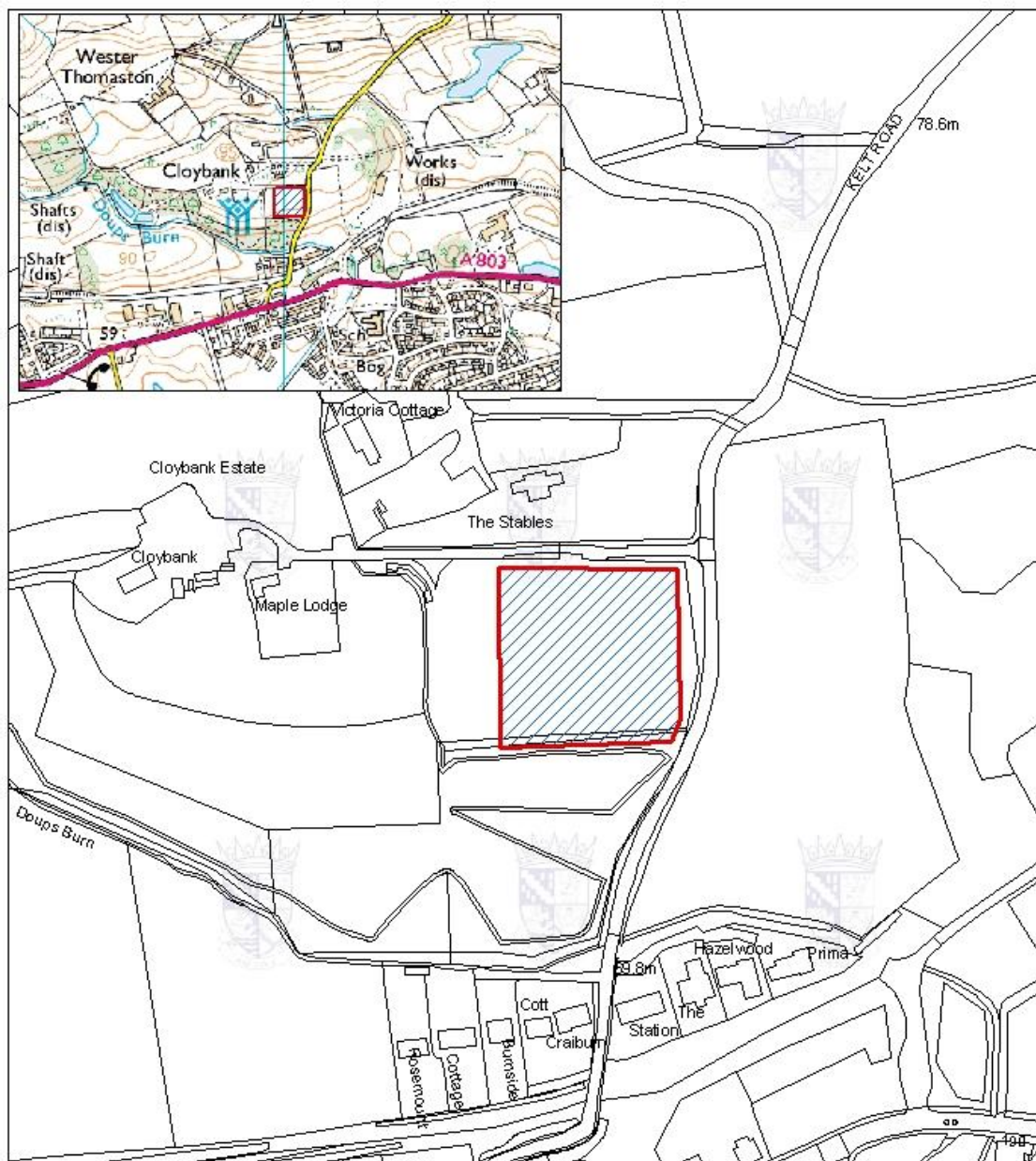
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/12/0124/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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