

**FALKIRK COUNCIL**

**Subject:** DISCHARGE OF PLANNING OBLIGATION ATTACHED TO PLANNING PERMISSION F/93/0766 WHICH RESTRICTED OCCUPATION OF THE DWELLINGHOUSE NOW KNOWN AS MUIRFIELD HOUSE, EAST BANKNOCK FARM, DENNY, FK6 5NA TO A PERSON OR PERSONS (TOGETHER WITH DEPENDANT OR DEPENDANTS, IF ANY, OF THAT PERSON) EMPLOYED ON A FULL TIME BASIS IN AGRICULTURE AT EAST BANKNOCK FARM, DENNY AT MUIRFIELD HOUSE, DENNY, FK6 5NA FOR MR ALEXANDER STEVENSON - P/15/0338/75D

**Meeting:** PLANNING COMMITTEE

**Date:** 19 August 2015

**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:** David Paterson (Planning Officer), Ext. 4757

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1. This application proposes the full discharge of an existing Section 50 Agreement, now a Section 75 Planning Obligation, restricting the occupancy of a dwellinghouse at East Banknock Farm, Denny (Muirfield House) to persons employed in agriculture and their dependants in all time coming.
- 1.2. The applicant identified that the main justification for seeking this discharge is that Mr Stevenson is seeking to transfer the title of the dwellinghouse to a family member who works the equivalent of full time hours at East Banknock Farm. However, whilst this would be in accordance with the terms of the Section 50 Agreement, the family member would have to grant a security of the dwellinghouse to a commercial lender. Commercial lenders have rejected approaches from the family member to arrange such a transaction. The applicant is concerned that the terms of the Section 50 Agreement are too inflexible to allow arrangements to be made which are more suitable to Mr Stevenson and his family to continue to operate the farm.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1. The planning application which placed this legal tie upon the property (F/93/0766) was determined by the Planning Committee. The scheme of delegation requires applications of this nature which were previously considered by the Planning Committee to be returned to the Committee when amendment or discharge of legal agreement is proposed.

### **3. SITE HISTORY**

#### **3.1 Relevant planning history is: -**

- F/93/0766 - Erection of Dwellinghouse (outline) - granted 25 October 1995.
- F/95/0837 - Erection of Dwellinghouse (reserved matters) - granted 15 March 1996.
- F/2001/0228 - Extension to Dwellinghouse to form self-contained residential accommodation - granted 9 May 2001.

### **4. COMMUNITY COUNCIL**

#### **4.1 No objection has been received from Banknock, Haggs and Longcroft Community Council.**

### **5. PUBLIC REPRESENTATION**

#### **5.1 No letters of representation have been received in relation to this application.**

### **6. DETAILED APPRAISAL**

- 6.1 The assessment of an application of this nature focuses on any change in circumstances since the original application was granted and assessment against current national government guidance on these matters.
- 6.2 It is accepted that the applicant's family circumstances has evolved since planning permission was granted twenty years ago. Furthermore it is accepted that the applicant's wishes to transfer title of the dwellinghouse to a family member, who works the equivalent of full time hours at the farm, is reasonable to accommodate current family circumstances.
- 6.3 In a letter to Heads of Planning dated 4 November 2011, the Scottish Government Chief Planner set out the Scottish Government's position in respect of the use of conditions or planning obligations to restrict the occupancy of new rural housing. In this letter it is made clear that the Scottish Government do not support the use of occupancy restrictions and refers to common difficulties such as issues arising with mortgage applications, difficulties in selling a house and issues for local authorities in monitoring and enforcing such restrictions. This position is reflected in formal guidance in the form of Scottish Planning Policy (SPP) which states that decision making should not impose occupancy restrictions on housing. The current application is supported by this Government guidance.

### **7. CONCLUSION**

- 7.1 Current Government advice, backed up by formal Scottish Planning Policy, supports the applicant's concerns that the terms of the Section 50 Agreement are too inflexible to accommodate sustained operation of the farm into the future. Discharge of the Section 50 Agreement would accord with Government guidance and policy.

## **8. RECOMMENDATION**

**8.1 It is recommended that Committee agree to the discharge of the planning obligation.**

**PP**

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**Director of Development Services**

**Date: 10 August 2015**

### **LIST OF BACKGROUND PAPERS**

1. Planning permission F/93/0766.
2. Letter from Chief Planner to Heads of Planning dated 4 November 2011.
3. Scottish Planning Policy (SPP).

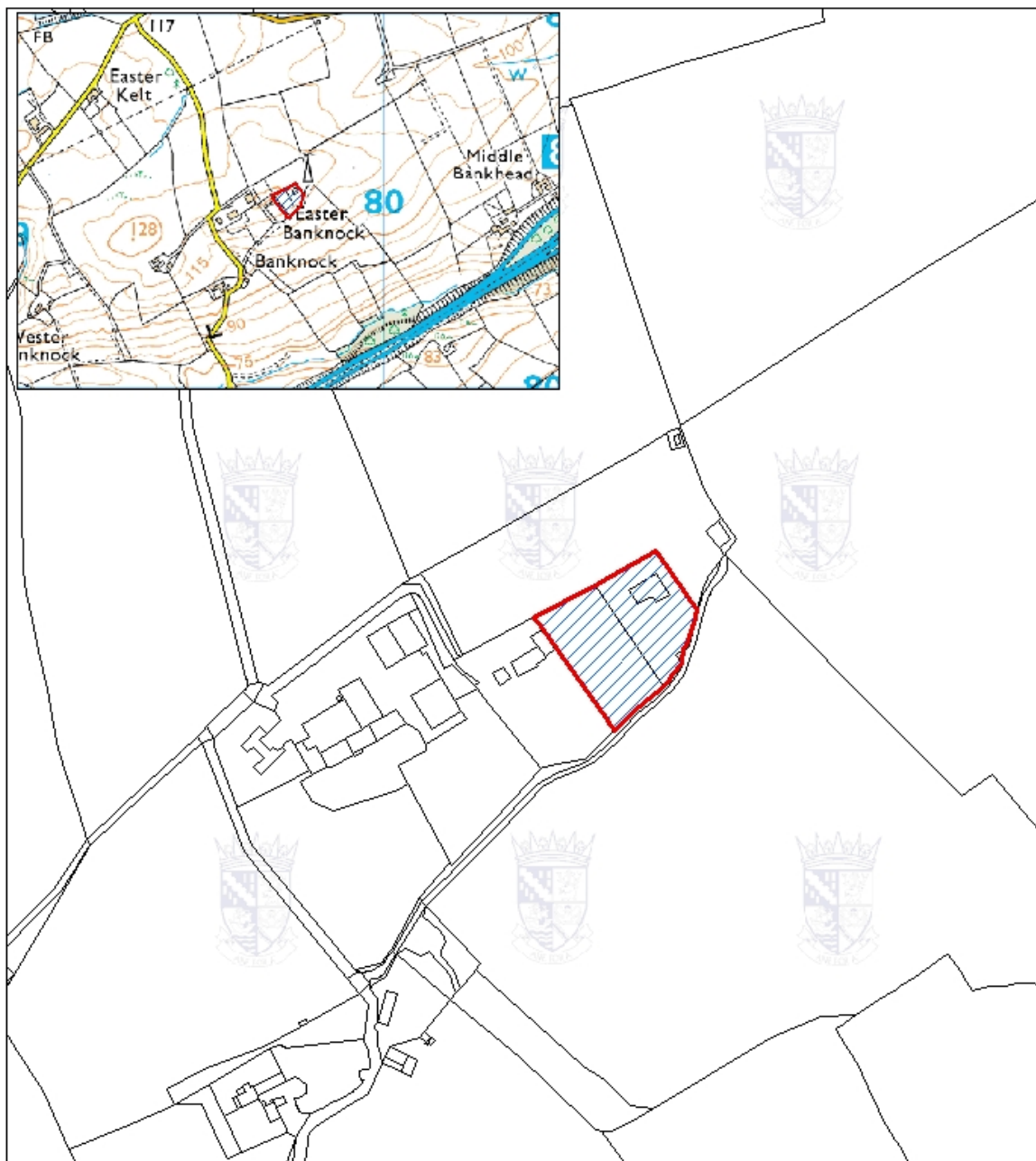
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/15/0338/75D**

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



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