



Agenda Item 5

**CHANGE OF USE OF VACANT LAND TO
FORM PRIVATE PERMANENT GYPSY/
TRAVELLER PITCH (ONE STATIC
CARAVAN AND ONE TOURER),
FORMATION OF HARDSTANDING AND
CAR PARKING, ERECTION OF FENCING,
GATES AND SHEDS (PART
RETROSPECTIVE) AT WESLEYMOUNT,
CHURCH ROAD, CALIFORNIA, FALKIRK,
FK1 2BD FOR MRS A FOWLER -
P/18/0522/FUL**

FALKIRK COUNCIL

Subject: CHANGE OF USE OF VACANT LAND TO FORM PRIVATE PERMANENT GYPSY/TRAVELLER PITCH (ONE STATIC CARAVAN AND ONE TOURER), FORMATION OF HARDSTANDING AND CAR PARKING, ERECTION OF FENCING, GATES AND SHEDS (PART RETROSPECTIVE) AT WESLEYMOUNT, CHURCH ROAD, CALIFORNIA, FALKIRK, FK1 2BD FOR MRS A FOWLER - P/18/0522/FUL PLANNING COMMITTEE

Meeting:

Date: 19 March 2019

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes

Councillor Gordon Hughes
Councillor James Kerr
Councillor John McLuckie

Community Council: Shieldhill and California

Case Officer: John Milne, (Senior Planning Officer) Ext. 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks planning permission for change of use of vacant land to form a private permanent Gypsy/Traveller pitch (one static caravan and one tourer), formation of hard standing and car parking, erection of fencing, gates and sheds (part retrospective).
- 1.2 The site is located on previously vacant land associated with Wesleymount farm, California and adjacent to an established approved Gypsy/Traveller pitch. Both sites are served by a mutual vehicular access from an un-adopted private track leading to Church Road, California.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Gordon Hughes for the following reasons: -
- Access and egress road should be of an adoptable standard.
 - Concerns relating to the materials to be used regarding the hardstanding, drainage concerns, flooding concerns. Contrary to the reporters recommendations regarding further development notification notice has not been fully complied with.

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3. SITE HISTORY

ENF/2015/0272 - Unauthorised change of use of vacant land to form private Gypsy/Traveller pitch, siting of 1 static caravan/chalet, erection of associated structures (i.e. dog kennels, sheds, etc.) and formation of hard standing - Enforcement Notice quashed on appeal - 5th March, 2018.

4. CONSULTATIONS

4.1 The Roads Authority consider that as this site and other development within the broader Wesleymount site all take access from Church Road, this requires to be taken into account. At the moment, the private access serves at least 3 temporary and permanent dwellings (not including a caravan at Birch Tree farm) with an additional 2 dwellings with planning permission and another 3 dwellings under consideration. This means that, taking this application in consideration and if granted, a total of at least 6 residential units would be taking access off the access road. As such, this would be contrary to the National Roads Guidelines and an adoptable access road would be required. This could thus be used to support a recommendation of refusal.

4.2 Environmental Protection Unit - No objection.

4.3 Scottish Water - No objection.

4.4 Scottish Environment Protection Agency - The area covered by this planning application is outside the area indicated as being at fluvial or coastal flood risk on flood maps and SEPA hold no records or other information on flood risk at this site. It appears that the issues at this site relate to drainage and surface water and this is a matter for Falkirk Council to resolve. SEPA confirms that there is a current CAR (Controlled Activities Regulations) Registration in place for foul drainage at this site.

4.5 Coal Authority – No Coal Mining Risk Assessment is required.

5. COMMUNITY COUNCIL

5.1 Shieldhill and California Community Council have not made any representation.

6. PUBLIC REPRESENTATION

6.1 Three objections have been received and they are summarised as follows:-

- Anti-social behaviour through excessive noise (generators, vehicle movements, dog barking, etc.) and burning of materials
- Directorate for Planning and Environmental Appeals finding that the site shall be restricted to one principle caravan and one touring caravan to prevent intensification of use on the site.
- Flooding due to import of unknown materials (potentially contaminated) and no drainage infrastructure.

- Unauthorised septic tank in place and no civil agreement to discharge into watercourse.
- Contrary to Local Development Plan and incompatible with proposed development of high quality housing.
- No vehicular access is available to the applicant. Legal access is not available.
- All services are not available for this site (mains sewerage, electricity, water, etc.)
- Site is being used for commercial purposes.
- Applicant cannot carry out planting proposals due to legal restrictions.
- Planning application contains false information regarding land ownership.

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

7a.1 The Falkirk Local Development Plan (FLDP) was adopted on 16 July 2015. It includes a number of supplementary guidance documents which also have statutory status as part of the Development Plan. The proposed development was assessed against the following policy or policies:

7a.2 Policy CG01 – Countryside states:-

The Urban and Village Limits defined on the Proposals Map represent the limit to the expansion of settlements. Land outwith these boundaries is designated as countryside, within which development will be assessed in the terms of the relevant supporting countryside policies (Policies CG03 and CG04), and Supplementary Guidance SG01 'Development in the Countryside'.

7a.3 It is considered that the application site occupies a countryside location as it lies outwith a settlement boundary.

7a.4 Policy CG03 - Housing in the Countryside states:-

Proposals for housing development in the countryside of a scale, layout and design suitable for its intended location will be supported in the following circumstances:

1. *Housing required for the pursuance of agriculture, horticulture, or forestry, or the management of a business for which a countryside location is essential;*

2. *Restoration or replacement of houses which are still substantially intact, provided the restored/replacement house is of a comparable size to the original;*
3. *Conversion or restoration of non-domestic farm buildings to residential use, including the sensitive redevelopment of redundant farm steadings;*
4. *Appropriate infill development;*
5. *Limited enabling development to secure the restoration of historic buildings or structures; or*
6. *Small, privately owned gypsy/traveller sites which comply with Policy HSG08.*

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'. Proposals will be subject to a rigorous assessment of their impact on the rural environment, having particular regard to policies protecting natural heritage and the historic environment.

7a.5 The application site is out with the urban and village limits defined on the proposals map attached to the Falkirk Local Development Plan and is therefore considered to occupy a countryside location. Policy CG03 – Housing in the Countryside – refers to small, privately owned Gypsy/Travellers sites being supported where compliance with policy HG08 is demonstrated.

7a.6 Policy HSG08 - Gypsy -Travellers Sites states:-

Proposals for small privately-owned sites to accommodate gypsy/travellers will be permitted where:

1. *The site satisfies policies in the LDP relating to the protection of the built and natural heritage (Policies GN02-05 and D07-14) and the protection of public open space (Policy INF03);*
2. *The site can be appropriately landscaped, such that there will be no adverse effect on the character, appearance and amenity of the area;*
3. *The site affords an appropriate level of residential amenity and access to community facilities; and*
4. *Access, parking and other servicing can be provided to a satisfactory standard, and the site is not at significant risk from flooding, in the terms of Policy RW06.*

7a.7 The applicant has submitted a supporting statement to accompany the planning application, which establishes the applicant's status as a Gypsy/Traveller. Whilst this will be examined further under "Material Considerations", it indicates the pertinence of the above policy to the application.

7a.8 Criterion 1 of Policy HSG08 refers to the following policies:-

7a.9 Policy GN02 – Landscape states:-

1. *The Council will seek to protect and enhance landscape character and quality throughout the Council area in accordance with Supplementary Guidance SG09 'Landscape Character Assessment and Landscape Designations.*
2. *Priority will be given to safeguarding the distinctive landscape quality of the Special Landscape Areas identified on the Proposals Map.*
3. *Development proposals which are likely to have a significant landscape impact must be accompanied by a landscape and visual assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit will be achieved.*

7a.10 This policy is accompanied by a pre-ambble which states:-

“The Falkirk area has a varied landscape, whose quality is important to the setting of settlements, and the areas image and identity. Special Landscape Areas (SLAs) identify the most important local landscapes (Denny Hills, Slamannan Plateau/Avon Valley and South Bo'ness). However, in line with the European Landscape Convention, there is a need to recognise the value of all landscapes within the area, and to take account of this in assessing development proposals. An updated landscape character assessment of the area has been prepared providing the basis for Supplementary Guidance SG09 'Landscape Character Assessment and Landscape Designations'.”

The application site is located within the Local Landscape Character Area 3(iii) Castlecary/ Shieldhill Plateau Farmland and, while recognising that there may be likely future forces for change, guidelines within the Supplementary Guidance includes:-

- Encourage management of existing woodland and expansion of native broadleaf trees and woodland along watercourses, field boundaries and as backdrops to settlements; this will enable linkages to other woodland areas for improvement of landscape, bio-diversity value and access routes; this will make an overall contribution to Falkirk's green network.
- Ensure new agricultural/equestrian buildings, other new buildings and structures and rural dwellings are sympathetically designed for the landscape setting, area associated with existing building clusters where possible and are orientated to minimise visual effects; there is an identified sensitivity to these structures. Mitigating screen planting must be incorporated.
- Encourage re-use and restoration of unused and derelict land on the edges of settlements and elsewhere where appropriate.
- Ensure new boundary treatments and gateways associated with new and existing development are of sympathetic design for the rural location and sensitivity of the landscape character.”

7a.11 In this instance, the site has not demonstrably been used for agricultural purposes over an extensive time period. No evidence has been submitted that the land has been in active agricultural use and neighbouring land has been used for a variety of purposes including residential caravan occupancy, storage of caravans, starter units for rural business and equestrian activities. The re-use of the site on the edge of the settlement of California would be acceptable, providing the sensitive visual impact along with other considerations is addressed. In terms of landscape, a visual screen of indigenous tree species would satisfy this policy.

7a.12 Policy GN03 - Biodiversity and Geo-diversity states:-

The Council will protect and enhance habitats and species of importance, and will promote biodiversity and geo-diversity through the planning process. Accordingly:

- 1. Development likely to have a significant effect on Natura 2000 sites (including Special Protection Areas, Special Areas of Conservation, and Ramsar Sites) will be subject to an appropriate assessment. Qualifying features of a Natura 2000 site may not be confined to the boundary of a designated site. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions, and there are imperative reasons of overriding public interest. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*
- 2. Development affecting Sites of Special Scientific Interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of national importance.*
- 3. Development likely to have an adverse effect on European protected species, a species listed in Schedules 5, 5A, 6, 6A and 8 of Wildlife and Countryside Act 1981 (as amended), or a species of bird protected under the Wildlife and Countryside Act 1981 (as amended) will only be permitted where the applicant can demonstrate that a species licence is likely to be granted.*
- 4. Development affecting Local Nature Reserves, Wildlife Sites, Sites of Importance for Nature Conservation and Geodiversity Sites (as identified in Supplementary Guidance SG08 'Local Nature Conservation and Geodiversity Sites'), and national and local priority habitats and species (as identified in the Falkirk Local Biodiversity Action Plan) will not be permitted unless it can be demonstrated that the overall integrity of the site, habitat or species will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*

5. *Where development is to be approved which could adversely affect any site or species of significant nature conservation value, the Council will require appropriate mitigating measures to conserve and secure future management of the relevant natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required, along with provision for its future management.*
6. *All development proposals should conform to Supplementary Guidance SG05 'Biodiversity and Development'.*

7a.13 No habitats or species of importance have been identified on the site.

7a.14 Policy GN04 - Trees, Woodland and Hedgerows states:-

The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:

1. *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
2. *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
3. *Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development', including the preparation where appropriate of a Tree Survey, Constraints Plan, and Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
4. *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare and implement an appropriate Management Plan; and*
5. *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character.*

7a.15 No felling of trees is included in the proposals nor is the area covered by a Tree Preservation Order (TPO). It is recognised that the enhancement and management of existing woodland and hedgerows would be encouraged, which reflects the consideration of such matters as the nearby planning permission for dwelling houses. A design brief for the housing site promoted 'native tree and shrub planting to a maximum 12m-15m depth, to allow framed views out and enable partial screening of dwellings as seen from the north (dwellings would otherwise be in elevated and highly visible position). (Church Road, California: Development Brief; March 2011). It is considered that a similar approach, in conjunction with the lower height, scale and massing of two caravans compared to two storey dwelling houses is acceptable. This is also combined with the proximity of Wesley mount farmhouse and outbuildings, creating a 'cluster' of structures rather than an isolated structure on a visually prominent slope.

7a.16 Policy GN05 - Outdoor Access states:-

The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network, and routes which support the development of the Green Network. When considering development proposals, the Council will:

- 1. Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;*
- 2. Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and*
- 3. Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.*

7a.17 No detrimental impact on the existing network of outdoor access routes is envisaged as a consequence of development of the site.

7a.18 Criterion 1 within policy HSG08 also refers to policies D07-14, listed below. However, none of these raise any issues applicable to this application.

- Policy D07 - 'Antonine Wall'
- Policy D08 - 'Sites of Archaeological Interest'
- Policy D09 - 'Listed Buildings'
- Policy D010 - 'Conservation Areas'
- Policy D11 - 'Areas of Townscape Value'
- Policy D12 - 'Historic Gardens and Design Landscapes'
- Policy D13 - 'Battlefield Sites'
- Policy D14 - 'Canals'

7a.19 Criterion 2 of policy HSG08 relates to landscaping, and requires that there will be no adverse effect on the character, appearance and amenity of the area.

It is considered that the site can be appropriately landscaped, reflective and consistent with landscape intentions on the nearby allocated housing site. Landscape standards would be similar in order to address concerns of new development and visual impact in the area. This consistent approach would integrate appropriately and create a uniform feature within the landscape. It is therefore considered that this requirement could be met.

7a.20 Criterion 3 of Policy HSG08 draws reference to the site affording an appropriate level of residential amenity and access to community facilities.

The site is located adjacent to an existing residential property and adjoins a large site allocated for housing in the Falkirk Local Development Plan utilising a shared access road – of which two dwelling houses have been granted planning permission and are pending implementation. Church Road gives access to a wider residential provision within the California community. It is therefore considered that this requirement is met.

7a.21 Criterion 4 of Policy HSG08 requires that access, parking and other servicing to be provided to a satisfactory standard, and the site is not at significant risk from flooding.

There is no evidence that access, parking and other servicing cannot be provided. Legal legitimacy to access such provision is not a material planning consideration, but for the applicant to secure. There is no evidence of flood risk to the site. It is considered that these requirements of the policy have been addressed in planning terms.

7a.22 It is therefore concluded that the proposal is in accordance with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed in respect of this application are national planning policy, the status of Falkirk Local Development Plan (2), the status of the applicant as a Gypsy/Traveller, the planning history of the site and points raised through representation and consultation. The applicant has also submitted supporting information.

National Planning Policy

7b.2 The primary policy objectives of Scottish Planning Policy (SPP) July 2014 can be seen as:-

- To set the land use framework for promoting sustainable economic development;
- To encourage and support regeneration; and
- To maintain and enhance the quality of the natural heritage and built environment.

7b.3 In relation to the current proposal, advice advocates that plans should be informed by a robust housing need and demand assessment (HNDA). As part of the HNDA, local authorities will evidence need for sites for Gypsy/Travellers and Travelling Show People. Development Plans and local housing strategies should address the need identified, taking into account their mobile life-styles. They should also consider whether policies are required for small privately owned sites for Gypsy/Travellers and these communities should be appropriately involved in identifying sites for their use.

7b.4 With the inclusion of policy HSG08 – Gypsy/Travellers Sites – in the Falkirk Local Development Plan (July 2015), the requirements of SPP have been met.

Falkirk Local Development Plan (2)

- 7b.5 Falkirk Local Development Plan 2 will guide the future development of the Falkirk Council area in the period 2020-2040. The Proposed Plan contains policies and proposals indicating where development should or should not take place. It provides guidance on the future provision of housing, business, transport and infrastructure, recreation and community infrastructure, and will become the basis for determining planning applications.
- 7b.6 At this stage it is a material consideration when assessing any proposed development, there are no proposed changes in the relevant Development Plan policies which would contradict the assessment of the application or proposed recommendation.

Status of the Applicant

- 7b.7 The applicant has submitted a supporting statement confirming status as a Gypsy/Traveller. The supporting statement provides a background to Gypsy/Travellers in relation to Article 25.1 of the Universal Declaration of Human Rights and the Equality Act, 2010. Reference is also drawn to the Homelessness (Scotland) Act 2003, referring to the circumstances that the applicant's family has a desire to reside as a family unit.
- 7b.8 The status of the applicant is material in that it distinguishes the proposal from an application for siting of caravans for tourism or general needs requirements. Falkirk Local Development Plan Policy HSG08 is considered applicable and the provisions of the above Acts are noted. It is considered that in general terms the provision of the Human Rights Act 1998 have been taken into account in dealing with this application.

Planning History

- 7b.9 The initial breach of planning control with regard to Gypsy/Traveller caravans at Wesleymount farm was addressed through the retrospective submission of planning application P/16/0530/FUL.
- 7b.10 On refusal of this application by Falkirk Council, a subsequent enforcement notice was issued.
- 7b.11 Both the refusal of planning permission and issue of enforcement notice were subject to appeal to the Directorate for Planning and Environmental Appeals (DPEA).
- 7b.12 On appraisal, the DPEA granted temporary planning permission (until 5th March, 2021) and quashed the enforcement notice.
- 7b.13 For the avoidance of doubt, the "red line" area of the current application was not covered by this 2016 planning application but is a separate site sharing a mutual road access.
- 7b.14 The enforcement notice did encompass the 2016 planning application site and the current 2018 application site. This was a consequence of the additional area of unauthorised hard standing being formed and a second static caravan brought on site. However, as the 2016 application was approved, the DPEA quashed the enforcement notice in its entirety. The applicant has chosen to submit a retrospective planning application for the second static caravan.

- 7b.15 In consideration of the wider Wesley mount area, the private access off Church Road currently serves:-
- a. An unauthorised chalet/temporary accommodation subject to an issued S 33 notice and pending further enforcement notice to secure removal. This is known as Greenhill Cottage.
 - b. An existing dwelling house - Wesley mount farm.
 - c. An existing static and touring caravan - temporary approval under P/16/0530/FUL until 5th March, 2021.
 - d. An existing static caravan used as a storage facility - immune from enforcement action.
 - e. An unauthorised static caravan, touring caravan and various derelict structures at Birch Tree farm - subject to removal through enforcement notice.
 - f. An existing stables and caravan - Stables approved under P/10/0606/FUL and caravan under P/09/0326/FUL. Static caravan is used for occasional welfare supervision of horses. Not permanent residential occupancy.
- 7b.16 In terms of potential new development, part of the Wesley mount area is designated for housing development (FLDP allocation H65).
- 7b.17 To date, in progressing the site towards housing, applications have been submitted as follows:-
- a. Two dwelling houses approved on 7th October, 2016 (P/16/0095/FUL) and expiring on 7th October, 2019. No development initiated to date.
 - b. A planning application (P/17/0137/FUL) for four detached dwelling houses. Application withdrawn on 10th July, 2017.
 - c. A planning application (P/18/0137/FUL) for three detached dwelling houses. This application was lodged on 12th February, 2018 and is pending consideration due to deficiencies in technical information.
- 7b.18 It is envisaged that housing site H65 will be served by an adoptable standard of roadway and associated infrastructure, commensurate with the number and phasing of residential units. It is not envisaged that the adopted road will extend beyond the existing Wesley mount farm as a consequence of development of site H65.

Response to third party representations

- 7b.19 In response to the matters raised, the following comments may be applied:-
1. Any issues with regard to anti-social behaviour are best directed to the relevant stakeholder such as Police Scotland. Any allegation of noise nuisance should be directed towards Falkirk Council's Environmental Protection and the burning of materials directed towards the Scottish Environment Protection Agency (SEPA). The Planning Authority has no Enforcement powers to address these matters.

2. The decision of the Directorate for Planning and Environmental Appeals (DPEA) was in relation to the "red-line" site associated with planning application P/16/0530/FUL. The Reporter for the DPEA recognised that only the "red-line" site for P/16/0530/FUL was before him and that any variation from the proposal and the plans approved in the decision notice would be a matter for the Council to consider as Planning Authority. The current planning application (P/18/0522/FUL) is submitted for Falkirk Council's consideration on its individual merits, related to but not directly applicable to the considerations and conditions of planning application P/16/0530/FUL. Each planning application is considered on its individual merits. No inference is taken that the Reporter reflected on any area outwith the "red-line" boundary of the application site under consideration at that time and, therefore, the planning conditions attached to that application do not apply beyond that application site.
3. No evidence has been submitted by third parties with regard to flood impact from the application site. The applicant contends that a series of agricultural field drains are present on site and adequately cope with any surface water discharge. The matter of potential flooding has been raised with the Scottish Environment Protection Agency (SEPA) - no objection to the application has been made. No adverse comments with regard to flooding have been raised by colleagues in Roads and Development. SEPA were advised of the import of material at the point of commencement. No update received.
4. The matter of an unauthorised septic tank has been raised with SEPA and is a matter within their licensing arrangements. There is a current CAR Registration in place for foul drainage at this site.
5. The application site is not on land allocated for Housing in the Falkirk Local Development Plan and raises no concerns with regard to land use compatibility to the proposed site allocated for housing. The site will be residential in nature with existing caravans (the subject of P/16/0530/FUL) already approved on the adjacent site. The application and relevance of Development Plan policies is the subject of further consideration elsewhere within this report and it is determined that the proposal is not considered contrary to Development Plan policies.
6. The legal issue relating to vehicular access to the site is not a material planning consideration. The site is capable of vehicular access - demonstrated through this part retrospective planning application where this site and other sites in the immediate area, have vehicular traffic access and parking provision. If approved, it is for the applicant to secure all other permissions relevant to the development and this would include legal ownerships or agreements. The applicant has submitted a land ownership certificate indicating that there are ownership interests in addition to the applicant with regard to the existing access road. It is not for Falkirk Council to arbitrate in this matter but it is with the applicant to address any other permission required to secure development.

7. The site is capable of being serviced, being served by an existing road access and being in near proximity to an existing electricity supply. It is presumed that there is mains water provision to the adjacent Wesley mount farmhouse. Housing site H65 will be required to be served by mains infrastructure. The level of servicing to a temporary structure (caravan) is a matter for the applicant to consider. If planning permission is approved, it is for the applicant to secure all other permissions relevant to the development and this would include levels and authorisation of service provision. Individual caravans may not, normally, be serviced by mains infrastructure until such numbers accrue to merit such approach.
8. No evidence has been submitted as to commercial activities taking place on site. The presence of visiting vehicles or vehicles parked on the site with commercial livery does not establish commercial activity.
9. The applicant has prepared a Landscape and Visual Impact Assessment which proposes new landscaping on the site. If the application is approved, it will be for the applicant to secure all necessary permissions to implement these elements.
10. The applicant has submitted an amended Land Ownership Certificate post submission of the application. If any aggrieved party considers this certificate to be false, it is for that party to raise legal challenge.

7b.20 Response to Consultation.

- The Roads and Development Unit raise the matter that the track from Church Road to the application site should be made to an adoptable standard. With regard to the potential resurfacing of the private road to an adoptable standard, the following considerations are applied:-
 - a. a number of caravans/chalets served by the road are unauthorised and subject to enforcement action securing removal
 - b. the extant planning permission for two dwelling houses has not been initiated
 - c. the pending application for three dwelling houses has not been determined to date and, if approved, the vehicular access would be subject to review in terms of the adoption standard
 - d. the current planning application seeks only temporary permission until 5th March, 2021.
- The Scottish Environment Protection Agency has raised no objections. It is noted that they refer flooding and drainage matters to Falkirk Council to address. No additional information regarding surface water drainage arrangements nor flooding has been requested by colleagues in the Roads and Development Unit. SEPA confirms that there is a current CAR registration in place for foul drainage at this site
- Scottish Water's no objection is noted.
- Environmental Protection Unit's no objection is noted.

7b.21 Supporting Information

The applicant has submitted a Planning Policy and Design Statement in support of the proposals. This statement examines;-

- Planning history
- The site and surrounding area
- A background to the Gypsy/Traveller community including legislation, limitations in dealing with unauthorised encampments
- Family life
- The lifestyle of Gypsy/Travellers
- Age and gender
- Discrimination against Gypsy/Travellers in Scotland
- Health
- The impact of site provision
- Meeting the need and demand of Gypsy/Travellers
- Relevant Development Plan policy and the Gypsy/Travellers Policy
- The application is also supported by a Landscape and Visual Impact Assessment.

In relation to other material considerations, the applicant has submitted comment on Scottish Planning Policy (2014); the Equalities and Human Rights Commission Report (EHRC) 44 (2015) on Assessing Local Authorities' Progress in Meeting the Accommodation Needs of Gypsy and Traveller Communities in Scotland; the importance of personal circumstances; Human Rights; Equalities and best interests of the child.

The applicant concludes that the social and economic arguments carry significant weight and are of paramount importance, particularly the Human Rights issue, in the consideration and determination of the planning application.

It is concluded that Falkirk Council should exercise its Public Sector Equality Duty in the proper manner and grant planning permission.

7c Conclusion

- 7c.1 The applicant seeks planning permission which is part retrospective. It has been agreed with the applicant's agent that a temporary period until 5th March, 2021 will be acceptable.
- 7c.2 This period aligns with the consented period of a neighbouring caravan, which is part of the family unit. This would also allow applicant to make decisions as part of that family unit in potential future planning applications or vacating the site.
- 7c.3 The applicant is content to introduce planting to the site to enhance the visual setting, irrespective of the temporary nature of the proposals.
- 7c.4 With regard to vehicular access, the introduction of an adopted standard of roadway to serve this site and others would not seem a reasonable nor necessary approach, given the temporary nature of any permission, the potential enforcement actions underway and under consideration, and the uncertainty over development of dwelling houses adjacent to the site.

- 7c.5 Birch Tree farm is subject to an active enforcement notice - ENF/2017/0041 - to secure removal of all caravans and outbuildings; the adjoining caravan and tourer are subject to temporary planning permission under P/16/0530/FUL until 5th March, 2021, and the unoccupied unauthorised chalet known as Greenhill Cottage may be subject to enforcement action to secure its removal.
- 7c.6 Whether vehicular access may be lawfully gained to the site by the appellant or planting lawfully allowed on the site are separate matters and not material planning considerations. Falkirk Council is not arbitrator of land ownership or other permissions which may require to be secured by the applicant.
- 7c.7 The proposal is considered to accord with Falkirk Local Development Plan policies and there are no other matters raised, material to planning, which would merit refusal of the application.

8. RECOMMENDATION

8.1 It is therefore recommended that the Planning Committee grant planning permission subject to the following condition(s):-

- 1. The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
- 2. Within the first available planting season, the proposed landscaping details shall be introduced and completed, details of which shall be submitted to and approved in writing by the Planning Authority.**
- 3. The use of the site shall be restricted to one principal caravan and one touring caravan.**
- 4. This planning permission shall expire on 5th March, 2021. Thereafter, unless otherwise agreed in writing with the Planning Authority, within 2 months of the date of expiry of permission, the site shall be cleared and laid in grass.**

Reason(s):-

- 1. As these drawings and details constitute the approved development.**
- 2. To safeguard the environmental amenity of the area.**

- 3,4. To ensure that the Planning Authority can control the future use of the premises.

.....
Director of Development Services

Date: 8 March 2019

LIST OF BACKGROUND PAPERS

1. Scottish Planning Policy
2. Falkirk Local Development Plan
3. Falkirk Council Church Road, California; Development Brief (2011)
4. Falkirk Local Development Plan (2).
5. Objection received from Mr Graham Ferguson, Greenhill Cottage, Wesleymount Farm, Church Road, California, FK1 2BD on 7 January 2019
- 6.. Objection received from Mr Max Ketchin, 34 Church Road, California, Falkirk, FK1 2BD on 9 November 2018
- 7.. Objection received from Mrs Karen Lawrence, 1 Sunbeam Cottage, Reddingmuirhead, Falkirk, FK2 0EA on 12 February 2019

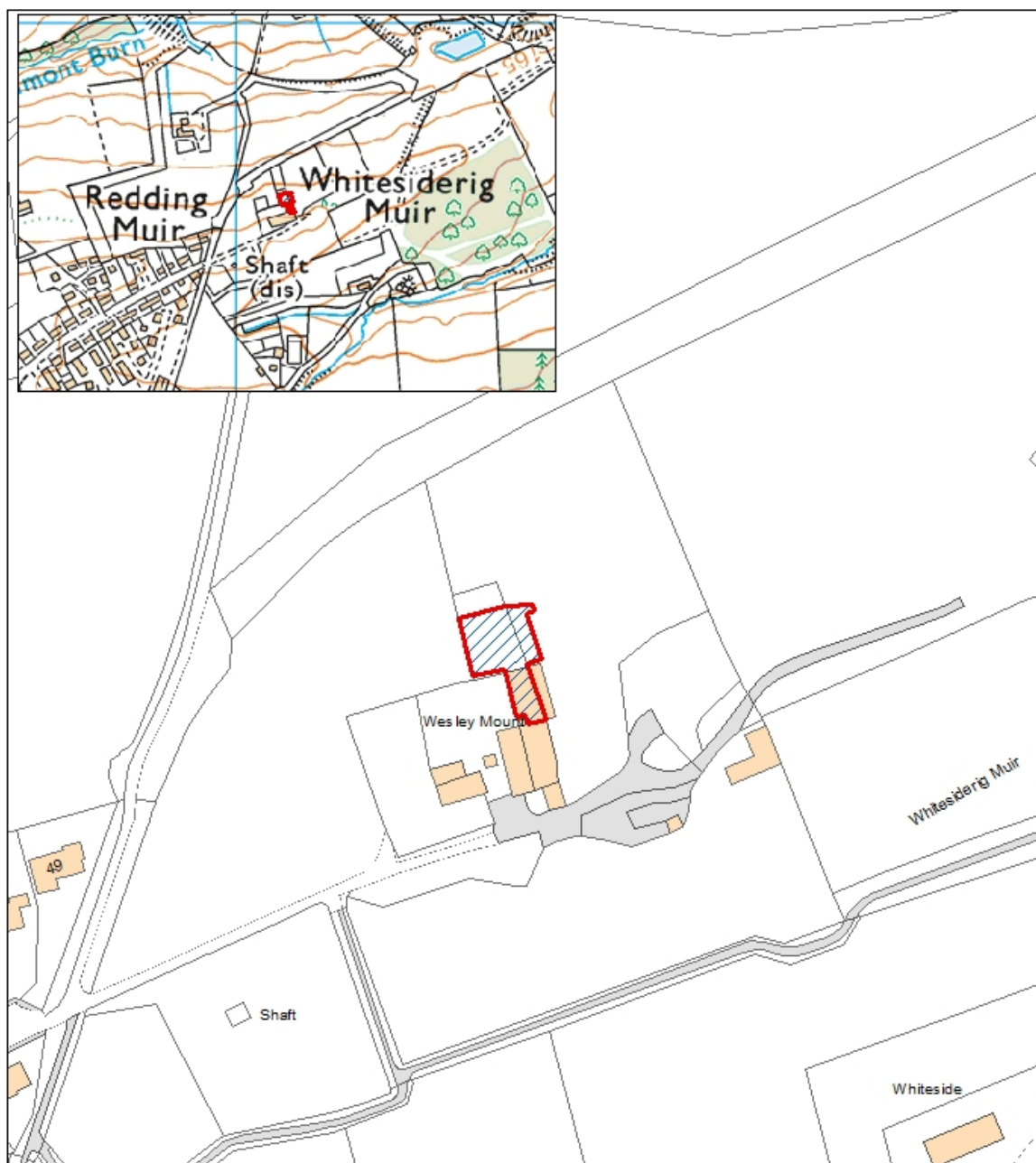
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

Planning Committee

Planning Application Location Plan

P/18/0522/FUL

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



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