



Agenda Item 7

**DELETION OF CONDITION 2 OF
PLANNING PERMISSION P/09/0771/FUL
TO MAKE TEMPORARY ACCESS
PERMANENT AT HILLVIEW, GLEN ROAD,
TORWOOD, LARBERT FOR
MR GILLIES GUTHRIE - P/19/0292/FUL**

FALKIRK COUNCIL

Subject: DELETION OF CONDITION 2 OF PLANNING PERMISSION
P/09/0771/FUL TO MAKE TEMPORARY ACCESS
PERMANENT AT HILLVIEW, GLEN ROAD, TORWOOD,
LARBERT FOR MR GILLIES GUTHRIE - P/19/0292/FUL
Meeting: PLANNING COMMITTEE
Date: 28 August 2019
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert

Provost William Buchanan
Councillor Niall Coleman
Councillor David Grant

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Julie Seidel (Planning Officer), Ext. 4880

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 Planning Permission (Ref: P/09/0771/FUL) was granted in 2011 for the regrade and landscape of the disused quarry at Glen Road, Torwood. Condition No.2 states:
2. *For the avoidance of doubt, the proposed vehicular access shall be of a temporary period and closed off, in materials matching the existing random rubble wall, within 3 months of the cessation of the infilling of the existing quarry, all to the satisfaction of the Planning Authority.*
- 1.2 This application relates to the deletion of the condition, which would make the vehicular access permanent.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.2 The application is called in by Provost William Buchanan for the following reason:
- To allow the Planning Committee to give consideration and scrutiny in relation to road safety matters, given the planning history of the site and surrounding land.

3. SITE HISTORY

- 3.1 A planning application for the erection of a dwellinghouse, garage and workshop (Ref: 05/0788/OUT) was refused on 17 January 2006.

- 3.2 A planning application for the change of use of derelict land to garden ground and erection of a domestic garage and workshop (Ref: 05/1071/FUL) was granted on 16 March 2006.
- 3.3 A planning application for engineering/regrading works and change of use of former quarry to garden ground (Ref: P/07/0940/FUL) was refused on 10 July 2008.
- 3.4 A planning application for the regrade and landscape disused quarry (Ref: P/09/0771/FUL) was granted on 23 May 2011.
- 3.5 A planning application for the erection of a dwellinghouse, garage, car port and studio (Ref: P/12/0492/PPP) was refused on 17 December 2012.
- 3.6 An application for the erection of 4 holiday lodges and caretaker's residential accommodation (Ref: P/12/0493/PPP) was refused on 7 June 2013.
- 3.7 An enforcement case, breach of planning conditions in relation to P/09/0771/FUL (Ref: ENF/2011/0048) on 20 January 2012.
- 3.8 An enforcement case, breach of planning conditions in relation to P/09/0771/FUL (Ref: ENF/2012/0127) on 1 January 2013.
- 3.9 A planning application for the change of use of former quarry to provide additional garden ground, extension to existing domestic workshop and erection of decking (Ref: P/14/0186/FUL) was granted on 7 November 2014.
- 3.10 A planning application for the extension to workshop (amendment to planning permission P/14/0186/FUL) (Partially Retrospective) (P/16/0002/FUL) was granted on 10 March 2016.
- 3.11 An application to remove condition 2 of planning permission P/09/0771/FUL to make temporary access permanent (Ref: P/17/0462/VRC) was refused on 29 September 2017.
- 3.12 An enforcement case, unauthorised structure on outbuilding decking (Ref: ENF/2018/0008) on 19 February 2018.
- 3.13 A planning application to remove condition 2 of Planning Permission P/09/0771/FUL to make the temporary access permanent (P/18/0009/VRC) was refused by the Planning Committee on 26 June 2018.
- 3.14 An application for a Certificate of Existing Lawful Use for the use of an outbuilding as a dwellinghouse (P/18/0524/CPE) was refused on 23 October 2018.
- 3.15 A planning application for a change of use of quarry to garden ground and change of use of outbuilding to form dwellinghouse (P/18/0606/FUL) was granted by the Council's Planning Review Committee on 30 April 2019.
- 3.16 A planning application for a change of use of quarry to garden ground (P/19/0187/FUL) is pending decision. This application is on the agenda for August Planning Committee.
- 3.17 An application for a High Hedge Notice (P/19/0404/HHC) was submitted by the applicant and is pending consideration.

4. CONSULTATIONS

- 4.1 The Council's Roads Development Unit advise that at the time of consideration of planning application P/09/0771/FUL, concerns were raised in relation to the rural location and inadequate visibility at the vehicular access. As a result, the application was granted with a planning condition giving temporary permission for the access only and requiring 'banksman' supervision of vehicles using the site.
- 4.2 The Council have undertaken a traffic survey to obtain current vehicle speeds adjacent to the application site. Based on the survey results, visibility splays of 2.4m x 93m are required in a north-west direction and 2.4m x 109m in a south-east direction. The required level of visibility cannot be achieved to the south-east, as a result of the vertical alignment of Glen Road which restricts visibility.
- 4.3 The Roads Development Unit advise that the granting of planning permission for a permanent access at this location would not be in the best interest of road safety.
- 4.4 The Council's Environmental Protection Unit do not object to the application.

5. COMMUNITY COUNCIL

- 5.1 Larbert, Stenhousemuir and Torwood Community Council is no longer operative.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 3 contributors submitted letters of objection to the Council. The salient issues are summarised below:
- The access was agreed on a temporary basis only, under the supervision of a 'banksman' in order to implement quarry infill and site restoration in relation to P/09/0771/FUL;
 - Numerous vehicles enter and exit with no 'banksman' and represent a danger to road safety. Video evidence of contractors vehicles reversing out in the dark;
 - The infill is now completed and the land should be left to settle for the required 10 year period. If there have been 25 lorries a day for the last 9 years as the applicant suggests then infill must be complete and the entrance closed;
 - The national speed limit will not be extended to cover the site;
 - The Roads Development Unit have consistently raised road safety concerns to previous development proposals, as the access is on the crest of a hill on a restricted section of Glen Road and visibility concerns. The road is used as a short cut between Denny and Larbert and the 30MPH speed limit is regularly exceeded;
 - Access should be via Ochilview where there is ample parking and they are in breach of a number of planning conditions;
 - To pull out of the entrance you need to pull into the path of oncoming vehicles traveling at 60MPH and visibility is poor;
 - Falkirk Council carried out a traffic survey and found the access was not safe. The access road is in a rural location subject to the national speed limit. The traffic has increased dramatically over the last few years;
 - The drawing is incorrect as it shows the access in the wrong location in land they do not own; and

- Granting this application would lead to pressure from the applicant to develop the site for housing, leading to a further increase in the number of vehicles using the access.

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 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 There are no policies of specific relevance to this planning application. The site is located in the countryside and the application does not offend policy CG01 'Countryside'.

7a.4 Accordingly, the application does not offend the Falkirk Local Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan 2 (Proposed Plan), assessment of public representation, the response to consultations received, information submitted in support of the application, additional planning considerations and the site history.

Draft Falkirk Local Development Plan 2

7b.2 The current Falkirk Local Development Plan is in the process of being replaced by a new plan, LDP2. The Proposed Falkirk Local Development Plan 2 (LDP2) has been approved by the Council for consultation. The consultation period ran from 27 September 2018 to 23 November 2018. Following consideration by Scottish Ministers of representations received it is expected that LDP2 will be adopted in 2020, at which point it will replace the current Falkirk Local Development Plan. LDP2 provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.

- 7b.3 In this case, the proposed plan in its current form does not introduce any new policy considerations or land use allocations of relevance to the application.

Assessment of Public Representations

- 7b.4 The comments received in relation to road safety are noted. It is accepted that the access was allowed on a temporary basis for the infilling of the quarry and that vehicular movements were to be overseen by a 'banksman' to ensure safety. It is noted that domestic vehicles use the access and that the Roads Development Unit maintain their concerns in relation to visibility and road safety. The national speed limit starts / ends at the village limit of Torwood and it would not be extended to cover the vehicular access if this application was granted.
- 7b.5 The applicant claims that infilling of the quarry is not complete. The Council wrote to the applicant on 9 July 2019 requesting a topographical survey of the site, in accordance with planning condition No. 6 of P/09/0771/FUL. The survey is requested so the Council can review the progress of the infilling at the site and check that current levels are in accordance with the approved plans for the restoration of the quarry.
- 7b.6 The applicant contacted the Building Standards and Development Manager in relation to the request for a survey. The applicant advised that very little had been done in relation to the quarry restoration since the time of the last survey in 2014 and the site is likely to be below proposed finished levels. The request for a survey was declined and the applicant highlighted that there is no time limit for the completion of the quarry restoration.
- 7b.7 The applicant has updated the location plan for the application, however, either plan is considered acceptable.
- 7b.8 There are concerns that the granting of this application could lead to the applicant making further applications for the development of the quarry. The application site is located in the countryside and concerns about further incremental development into the rural area are noted. However, each application is assessed on its own merits and this is not a reason to refuse this application in isolation.
- 7b.9 There are planning conditions which require access to Hillview via Ochilview, including 05/1071/FUL, P/14/0186/FUL and P/16/0002/FUL. The use of the quarry access for domestic purposes is a breach of planning condition.

Responses to Consultation

- 7b.10 The Roads Development Unit advise that deletion of the condition, which would result in the establishment of a permanent access, is not in the best interests of road safety. They advise that road safety concerns could be used in support of a recommendation to refuse planning permission.
- 7b.11 Planning application P/09/0771/FUL dealt with the regrading and landscaping of the disused quarry. The access was proposed to allow the delivery of infill materials for the duration of restoration works. In addition to condition No.2 there were other planning conditions, which required the submission of details in relation to vehicle generation, hours of operation, storage of vehicles and wheel cleaning. Thereafter, deliveries were to be supervised by a 'banksman' at all times. These conditions were applied to mitigate road safety concerns raised by the Roads Development Unit.

- 7b.12 The access is located in a rural location, on a section of carriageway subject to the national speed limit. A traffic survey has been undertaken by Falkirk Council's Roads Development Unit to obtain current vehicle speeds adjacent to the application site. Informed by the survey, visibility splays measuring 2.4m x 93m and 2.4m x 109m are required to the north-west and south-east respectively. The vertical alignment of Glen Road restricts visibility to the south-east, where the required level of visibility cannot be achieved.
- 7b.13 Planning permission was granted subject to planning condition that would allow the access to operate for a temporary period only to allow the quarry restoration. The temporary condition allowed the access and infilling operations to be monitored and requires the access to be closed when infilling operations are completed.
- 7b.14 The Roads Development Unit maintain their concerns in relation to road safety. The applicant has not submitted any information to demonstrate a change in circumstance since the application to restore the quarry (P/09/0771/FUL) was determined, which would overcome the road safety concerns and justify deletion of the planning condition (this will be discussed in greater detail in section 7b.15 - 7b.17 below).

Information Submitted in Support of the Proposal

7b.15 The applicant has submitted a Supporting Statement raising the following issues:

- The material planning considerations have changed as there is now a house, Hillview, at the site which needs vehicular access for safe parking.
- The site is currently used for industrial use with 25 lorries per day allowed in and out.
- There have been no accidents or incidents at the access.
- The likelihood of an accident with a domestic vehicle is less than for a lorry.
- The Council did a road survey and the safety levels are within acceptable perimeters.

The response to these issues is as follows:

- 7b.16 Falkirk Council's Roads Development Unit carried out a traffic survey (see section 7b.12 of this report). The access is not considered to be safe and the location of the change of speed limit to 30MPH does not allow adequate stopping distance at the access. Visibility is substandard and it is considered that a domestic vehicle would be at greater risk of collision owing to the low driving position and frequency of vehicular movements. Domestic vehicular traffic would be without 'banksman' supervision (as required for lorries entering and exiting the site) and could contain vulnerable road users including children. There has been no infilling of the quarry for some time and as such lorries have not been entering and exiting the site as claimed in the Supporting Statement. The applicant has subsequently confirmed in writing, in his email to the Building Standards and Development Manager, that there has been little progress with infill activities since the last survey was carried out in 2014.
- 7b.17 It is considered that a temporary access (required for the restoration of a quarry), should not be accepted by default as a suitable permanent access, owing to road safety concerns. It is considered that the applicant's supporting statement does not lend support to the deletion of the planning condition that allows temporary access only.

Additional Planning Considerations

- 7b.18 Planning obligations and conditions should only be sought where they meet all of the following tests:
- Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to Development Plans;
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
 - Fairly and reasonably relate in scale and kind to the proposed development; and
 - Be reasonable in all other respects.
- 7b.19 In this instance the planning condition allowing a temporary access was applied to the planning permission, for the restoration of the quarry, to make the proposed development acceptable in planning terms. Significant concerns were raised by the Council's Roads Development Unit in relation to road safety. Without the planning condition road safety concerns would not be mitigated and the application would likely have been recommended for refusal of planning permission on grounds of road safety. As such, it is considered that the condition serves a planning purpose, relates to the proposed development, is reasonable in scale and kind to the development and clearly reasonable in all other respects.

Site History

- 7b.20 Members will recall that an identical planning application (P/18/0009/VRC) was considered by the Planning Committee on 19 June 2018. Following a visit to the site the Planning Committee refused the application for the following reason:
1. *The deletion of planning condition No. 2 of planning application Ref: P/09/0771/FUL, requiring the vehicular access to be of a temporary period and closed off within 3 months of the cessation of the infilling of the existing quarry, would not be in the best interests of road safety.*
- 7b.21 Planning application P/17/0462/VRC also sought to delete planning condition No.2 of planning permission P/09/0771/FUL. It was refused by the Council on 29 September 2017.
- 7b.22 The vehicular access has been used, on an unauthorised basis, for access to the outbuilding, Hillview, now granted planning permission (P/18/0606/FUL) as a house by the Council's Planning Review Committee. The applicant confirms that there has been little progress made on the restoration of the quarry since the last survey in 2014 and as such the access has not been used by lorries.
- 7b.23 The applicant's statement suggests that the access requires to be made permanent so that he has domestic vehicular access to Hillview, via the quarry. The planning application for Hillview did not include a proposal for domestic vehicular access / parking or garden ground. The fact that the outbuilding is now a dwellinghouse does not overcome the road safety concerns in relation to the existing temporary access. It is also noted that the vehicular access is remote from the curtilage of Hillview. Access would have to be taken through the quarry to get to Hillview. It is considered that this arrangement would not be in the best interests of road safety or respect the settlement pattern of the area. The conjoined access could also give rise to confusion in relation to the boundary between domestic use and quarry.

7c Conclusion

- 7c.1 The application does not offend the Falkirk Local Development Plan, although it is noted that there are no planning policies specific to the planning application. The comments in relation to road safety from the objectors are noted. The Roads Development Unit maintain their concerns in relation to road safety.
- 7c.2 The access should not be accepted, by default, as it was allowed on a temporary basis only with 'banksman' supervision to mitigate the road safety concerns. The current location and design of access is not suitable in terms of road safety and visibility as a permanent access to the quarry or to Hillview. The use of the access for domestic purposes to serve Hillview would lead to an intensification and potential use by vulnerable road users, including children. The road safety concerns are maintained and there is no justification to delete the planning condition. Members will recall that they have already assessed a planning application (P/18/0009/VRC) for the deletion of the planning condition and following a visit to the site, Members decided to refuse the application.
- 7c.3 The applicant has indicated that there has been little progress made on the infilling of the quarry since 2014. The Council would like to see planning permission P/09/0771/FUL completed in accordance with the approved plans. This includes the closing off of the access and landscaping of the site (which would improve the visual amenity of the area). The lack of progress raises concerns that the infilling may have ceased permanently. The Planning Authority are currently considering enforcement action in relation to breaches of planning control at the site.

8. RECOMMENDATION

- 8.1 **It is therefore recommended that the Planning committee refuse planning permission for the following reason(s):-**

1. **The deletion of planning condition No. 2 of planning application Ref: P/09/0771/FUL, requiring the vehicular access to be of a temporary period and closed off within 3 months of the cessation of the infilling of the existing quarry, would not be in the best interests of road safety.**

Informative(s):-

1. **For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B and Supporting Documents.**

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pp Director of Development Services

Date: 15 August 2019

LIST OF BACKGROUND PAPERS

1. The Falkirk Local Development Plan.
2. Draft Falkirk Local Development Plan 2.
3. Objection received from Mr David Aitchison, Carbrook, Glen Road, Norwood, FK5 4SN on 2 June 2019.
4. Objection received from Mrs Alison Masterson, Woodside, Glen Road, Torwood, FK5 4SN on 2 June 2019.
5. Objection received from Mrs Kirstie Stewart, 103 Rowan Crescent, Falkirk, FK1 4SH on 12 June 2019.

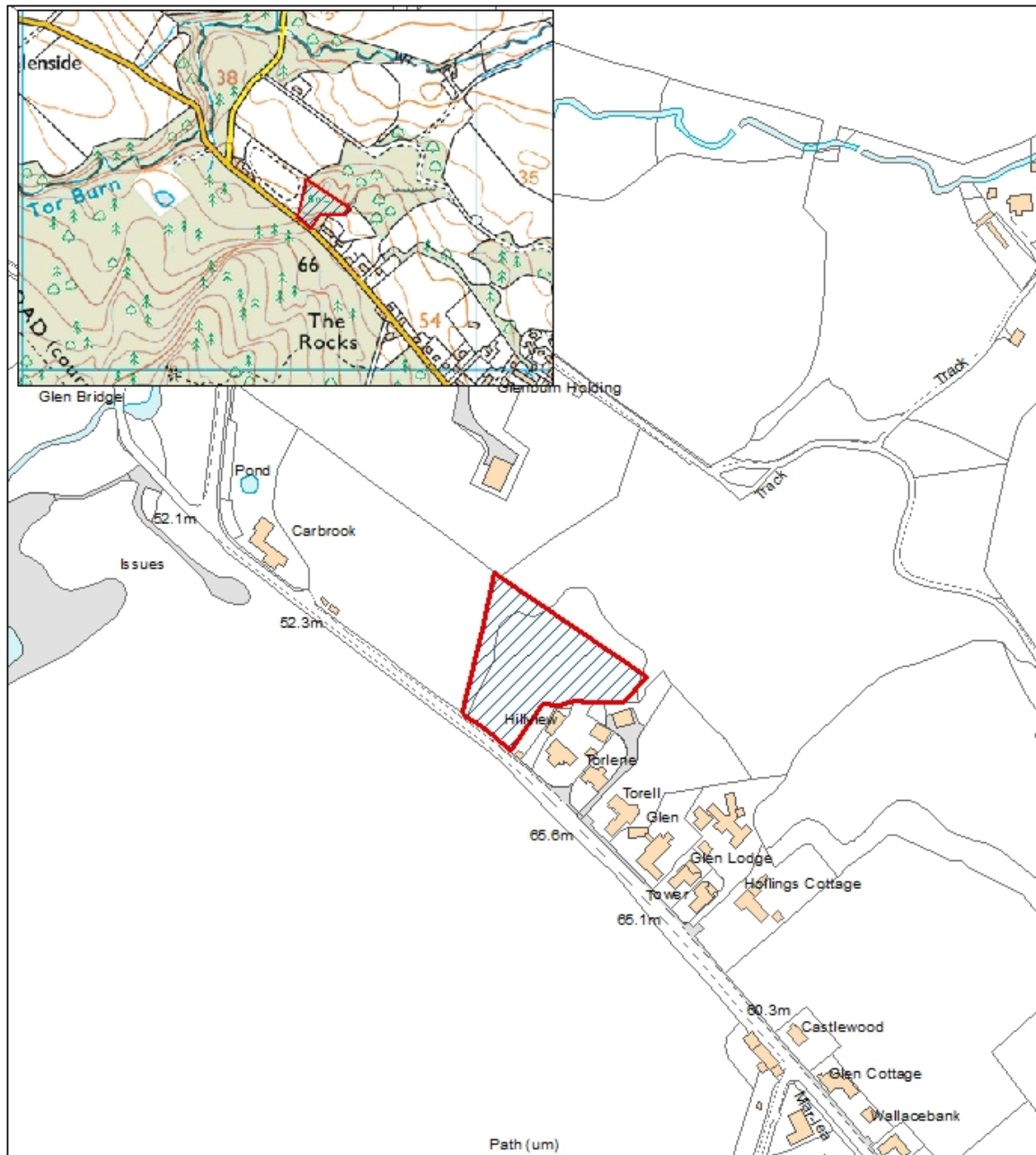
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/19/0292/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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