



Agenda Item 4

**CHANGE OF USE OF VACANT LAND TO
FORM PRIVATE PERMANENT GYPSY/
TRAVELLER PITCH (ONE STATIC
CARAVAN AND ONE TOURER),
FORMATION OF HARDSTANDING, CAR
PARKING AND ERECTION OF SHED
(RETROSPECTIVE) AT WESLEYMOUNT,
CHURCH ROAD, CALIFORNIA, FALKIRK,
FK1 2BD, FOR MR ALISTER FOWLER -
P/22/0108/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, CAR PARKING AND ERECTION OF SHED (RETROSPECTIVE) AT WESLEYMOUNT, CHURCH ROAD, CALIFORNIA, FALKIRK, FK1 2BD, FOR MR ALISTER FOWLER - P/22/0108/FUL

Meeting: PLANNING COMMITTEE

Date: 16 November 2022

Author: DIRECTOR OF PLACE SERVICES

Local Members: Ward - Upper Braes

Councillor Claire Brown
Councillor Siobhan Paterson
Councillor Jim Robertson

Community Council: Shieldhill and California

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

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UPDATE REPORT

1. Members will recall that the Planning Committee considered this application on 31 August 2022 (copy of the report appended), when it was agreed to continue consideration of the application to allow officers to check the ownership position of the application site and, as required, to serve notice of the application on the owner.
2. By way of background, the decision to continue consideration of the application followed the Committee agreeing to hear a deputation request by an interested party. The depute advised the committee that she understood a third party ("Party A") to be the owner of the application site, not the applicant.

3. The Committee then heard from the legal adviser to the Committee who advised that, in general, an applicant's lack of ownership of an application site is not material to a planning determination. The Planning Authority's function is to decide whether or not a proposed development is desirable in the public interest. Accordingly, an applicant does not need to own or control an application site, nor obtain the owner's consent in order to submit a planning application and have it determined. However, in terms of planning procedure, the applicant requires to notify the owner that an application for planning permission is being submitted for a proposed development on their land. This avoids the possibility of an owner selling land without knowing its true value following a grant of permission. It also allows the owner the opportunity to obtain information on the application from the Planning Authority or to make representations about the application. The legal adviser advised that if there was a procedural error in owner notification, that could potentially be challenged by the owner with a notifiable interest who had received no notification of the application.
4. Officers have made investigations into the matter. A title check has been carried out with the Registers of Scotland, enquiries made with the applicant's solicitors and an examination of the judgement in the recent court case regarding access (subject to appeal) undertaken. The outcome of these investigations is as follows:-
 - A Disposition conveying 0.3139 acres of land at Wesleymount was granted by Party A to the applicant's spouse on 26 March 2016. This Disposition was not registered in the Registers of Scotland;
 - The applicant's solicitors advise that a further area of ground was purchased by the applicant's spouse from Party A in August 2018. They advise that no Disposition was prepared in relation to that transaction as a result of restrictions related to the ongoing court action;
 - This year, Party A sold a further area of land to the applicant's spouse. The applicant's solicitor advises that it was agreed to complete a fresh Disposition incorporating all three areas of ground. Evidence has been provided that confirms that the Disposition has been signed by Party A and delivered by her solicitors to the applicant's solicitors. The applicant's solicitors advise that this deed will shortly be submitted to Registers of Scotland for registration;
 - The Sheriff, in his judgement on the court action, noted in his findings in fact that the applicant and his spouse are the heritable proprietors of property forming a plot of land measuring 0.3139 acres conform to the Disposition of 26 March 2016. The Sheriff noted that the Disposition was unregistered;
 - The Sheriff's judgement also set out evidence provided by Party A by way of affidavit, which advised that sales of land at Wesleymount were made by her and her husband to various parties including the applicant's spouse.

5. As a result of the 2016 Disposition not having been registered and no Disposition having been entered into in 2018, the registered title to the application site remains in the name of Party A and her husband (now deceased). The Title Sheet obtained from Registers of Scotland confirms that to be the case and that will remain the position until the Disposition granted by Party A in favour of the applicant's spouse has been registered.
6. The absence of registration of the 2016 Disposition (and, at the time of writing this report, the 2022 Disposition) means that the applicant's spouse does not have a "real" right of property to the relevant areas of land i.e. a right that is valid against third parties who may claim a competing title or seek to effect diligence. However, Professor Halliday notes that "once a document of transfer or conveyance has been executed and delivered in implement of a purely personal right the legal position is significantly altered in a question between the parties, the document of transfer or conveyance, when duly delivered, transfers a right of ownership to the grantee" (Conveyancing Law and Practice, 2nd Edition). As noted above, this is not a "real" right of ownership which is valid against third parties, but it puts the grantee of the Disposition into the position of what is called an "unregistered holder". An unregistered holder is someone who holds a valid conveyance and so has the power (more than a personal right) to acquire a real right of ownership by registration, but who has not, thus far, taken that step. "Owner" is defined at Section 35(7) of the Town and Country Planning (Scotland) Act 1997 as being "any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking". Professors Gretton and Reid note that "Even without registration, an unregistered holder can grant certain types of deed which will, on registration, have real effect Dispositions by unregistered holders are competent and may be registered in the Land Register" (Conveyancing, 5th Edition). It is, accordingly, considered that the status of unregistered holder would meet the definition of owner at section 35(7), in that an unregistered holder can grant a Disposition to another party which can be registered even although their title is not registered at that time.
7. It is acknowledged that the title position is complex. Having had regard to the information set out above, officers are not of a view that the applicant knowingly or recklessly issued an ownership certificate that was false or misleading. However, in order to remedy any potential error in the notification process, Party A (who is noted as the registered proprietor of the application site in Registers of Scotland) was served specific notification of the application by the Council on 5 October 2022. The letter of notification was sent by both first-class mail and separate recorded delivery. Party A was given until 4 November to respond. At the time of writing this report, there has been no response to the notification letter.
8. No new matters are arising which would alter the recommendation to grant planning permission.

9. RECOMMENDATION

9.1 It is 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. The use of the site shall be restricted to one principle caravan and one touring caravan, in accordance with the approved plans and supporting information. Any changes to the location of caravans in the site, or the type of caravan sited shall be agreed in writing by the Planning Authority before proceeding.**

Reason(s):-

- 1. As these drawings and details constitute the approved development.**
- 2. To prevent intensification of the use of the site and to protect the visual amenity of the surrounding area.**

Informative(s):-

- 1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 - 04 and Supporting Documents.**
- 2. In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.**

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pp Director of Place Services

Date: 4 November 2022

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. Falkirk Local Development Plan 2.
3. Scottish Planning Policy 2014.
4. Planning Circular 4/1998: the use of conditions in planning permissions.
5. Objection received from Max Ketchin (by email) on 30 March 2022.
6. Objection received from Mr Ferguson (by email) on 31 March 2022.
7. Objection received from Mrs Lorna Robertson, c/o Wesleymount Farm, California Falkirk, FK1 2BD on 30 March 2022.
8. Objection received from Carol-Ann Anderson (by email) on 21 March 2022.

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

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, CAR PARKING AND ERECTION OF SHED (RETROSPECTIVE) AT WESLEYMOUNT, CHURCH ROAD, CALIFORNIA, FALKIRK, FK1 2BD, FOR MR ALISTER FOWLER - P/22/0108/FUL

Meeting: PLANNING COMMITTEE

Date: 31 August 2022

Author: DIRECTOR OF PLACE SERVICES

Local Members: Ward - Upper Braes

Councillor Claire Brown
Councillor Siobhan Paterson
Councillor Jim Robertson

Community Council: Shieldhill and California

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

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1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the retrospective use of land as a Gypsy/Traveller pitch, with two caravans (one static and one tourer). The application also seeks to regularise engineering operations which were carried out to create a level pitch for the principal caravan and the erection of a shed. This application seeks permanent planning permission, to allow a safe and secure home for the applicant and his family.
- 1.2 The site is located on land previously associated with Wesleymount Farm. Access to the site is via a track off Church Road, California. There is other development at the site, such as a 'dog pen', which are considered to be de minimis and are not therefore included in this application.

2. REASON FOR COMMITTEE CONSIDERATION

2.2 The application was called in for consideration by the Planning Committee by Councillor Claire Brown, for the following reason:

- To allow the Committee to view this application with regards to the entrance and access.

3. SITE HISTORY

- 3.1 A planning application (P/16/0530/FUL) for the change of use of vacant land to form a private Gypsy/Traveller pitch (1 static caravan and 1 touring caravan), erection of boundary wall and the formation of hardstanding (partly retrospective) was refused on 6 April 2017. The decision was appealed to Scottish Ministers who granted temporary planning permission for a period of 3 years on 5 March 2018.
- 3.2 A planning application P/18/0522/FUL, relating to land to the north of this application site, for the change of use of vacant land to form a 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) is pending decision. The Planning Committee decided to delay making a decision on this application until the court case (regarding access from Church Road) is concluded. The application remains undetermined at this time of writing this report.
- 3.3 A planning application (P/21/0120/FUL) for the change of use of vacant land to form a private Gypsy/Traveller pitch (1 static caravan and 1 touring caravan), erection of a boundary wall and the formation of hardstanding (renewal of planning permission P/16/0530/FUL) was withdrawn.
- 3.4 A planning application (P/21/0514/FUL) for the change of use of vacant land to form a private Gypsy/Traveller pitch (1 Caravan), erection of a boundary wall and the formation of Hardstanding (partly retrospective) was returned.

4. CONSULTATIONS

- 4.1 Falkirk Council's Roads Development Unit do not object to the application.
- 4.2 Falkirk Council's Environmental Protection Unit do not object to the application.
- 4.3 Scottish Water do not object to the application. There is sufficient capacity in Carron Valley Water Treatment Works and Kinneil Kerse Waste Water Treatment Works to serve the development.

5. COMMUNITY COUNCIL

- 5.1 The Sheildhill and California Community Council did not make comment on the application.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 4 contributor(s) submitted letter(s) to the Council. The salient issues are summarised below.

- An adjoining landowner raised concerns about the neighbour notification process;
- Claims of out-of-control dogs at the application site, which worry sheep and dig into poultry enclosures;
- Claims of antisocial behaviour at the site, including people being threatening and abusive and fire raising;
- Concerns that the applicant continues to develop the site and runs vehicles up the farm track which causes damage to the road;
- Claims that adjoining land is flooded and is full of rubbish because of the applicant. Claims that trees and bushes have been uprooted and the adjoining fence damaged. Claims that the septic tank was emptied by an unauthorised person and caused discharge onto adjoining land which has now been cleaned;
- The site layout and levels are inaccurate;
- No planting took place as required by condition of the appeal decision;
- The appeal decision was for one principal caravan and one touring caravan and this application is for the provision of an additional caravan and 3 further parking spaces which is incompatible with the appeal decision;
- The applicant does not own the application site and as such the application should be returned as invalid. Legal matters are not concluded in relation to access;
- There are no services to the site because the applicant has no ownership rights and services being used are therefore unauthorised;
- Access is via LDP2 allocated housing site H24, for up to 12 units. Falkirk Council policy restricts access from a private road to 6 units. The access track already exceeds 6 units. The housing allocation should take precedence over an unauthorised caravan. The appeal decision was for a temporary period to allow the Council to review the overall use of the access road and associated planning matters. It is unfair and makes development unviable if burdens are placed on the existing 6 units, due to the later development for a caravan.

- The site in its current condition has an adverse impact on the character; appearance and amenity of the area, sitting in a prominent elevated position. Together with issues in relation to access, the site cannot be afforded an appropriate level of residential amenity, contrary to policy HC09;
- Permission for change in levels should be refused because it is retrospective and there is no legal permission for non-domestic vehicles to access the site;
- Planning permission expired on 5 March 2021. The decision was temporary to allow the Council to review the access requirements comprehensively, including housing site H24. Applications are only ever made retrospectively, and conditions not applied with. The previous appeal does not set precedent;
- The recent court case was in relation to a right of access by the applicant by way of servitude over third party land without restriction. The Sheriff granted access for normal residential use. An appeal will be served to defend property right in full. Planning permission goes with the land and cannot override established property rights. In this case, (even if an appeal was unsuccessful) the use of the track is restricted in a way which is not compatible with the terms of the application (i.e. 3 spaces, tourer and static caravan). The actual property rights available to the applicant must be a material planning consideration;
- The Land Ownership Certificate is invalid as it contains false information. The applicant does not own the site and has failed to provide any legal documents which show he is the owner. It is an offence to make false or misleading statements and as such the application is invalid and must be rejected. Falkirk Council Planning Authority should carry out a search of public records to determine this fact and if false consideration given to prosecuting the applicant;
- The site for which planning is being sought is outwith the current Development Plan and is incompatible with a neighbouring proposed development of high quality housing which are within the Falkirk Local Development Plan 2 (LDP2) and comply with current planning conditions;
- Claims that the applicant is a former Gypsy/Traveller and this is another false statement on the application, making it invalid;
- The volume of vehicular traffic entering and leaving the application site is unacceptable, 50 – 100 movements on random dates are recorded which has caused damage to the access road; and
- The site is being used for commercial purposes, including a roofing business and puppy breeding.

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 \(LDP2\)](#) was adopted on 7 August 2020. The proposed development was assessed against the following policy or policies:

PE14 - Countryside

- 7a.2 The application site is in the countryside. Policy PE14 'Countryside' directs applications for housing development in the countryside to be assessed in relation to the specific countryside policy, HC05. Policy PE14 also requires development proposals in the countryside to demonstrate that their scale, siting and design would be sympathetic to the rural environment. This application is retrospective and it is considered that the appearance of the site (as viewed during site inspections) is compatible with the character of the wider rural area surrounding the site. The application accords with policy PE14.

HC05 - Housing Development in the Countryside

- 7a.3 Policy HC05 'Housing Development in the Countryside' sets out the circumstances where housing development will be supported in the countryside. Criterion No.6 allows small, privately owned Gypsy/Traveller sites which comply with policy HC09. The application is supported in principle by policy HC05.

HC09 - Gypsy/Traveller Sites

- 7a.4 There is no adverse impact on the character and amenity of the area as a result of development. The site is well contained, tidy and the character and appearance of the caravans (and other associated development at the site) do not look out of place in relation to the character and appearance of surrounding land. There is good access to community facilities, which are an easy walking distance from the site in California. The site achieves a good level of residential amenity and is serviced and accessed to a reasonable level. There is no conflict with any other Development Plan policy. The application accords with policy HC09 'Gypsy/Traveller Sites'.

PE18 - Landscape

- 7a.5 The application site is not located within a Local Landscape Area. It is noted that the site sits in an elevated position, however, the caravans at the site are not a prominent feature in the landscape. It is considered that landscaping (required by condition of the appeal decision) will have aided the screening of the site. It is considered that the development does not have a significant landscape impact and there is no conflict with policy PE18 'Landscape'.
- 7a.6 Accordingly, the application accords with the Development Plan.

7b Material Considerations

- 7b.1 The material consideration to be assessed are National Planning Policies and Guidance, Falkirk Council Supplementary Planning Guidance, the assessment of public representations, planning history and the consideration of the site in relation to coal mining legacy.

National Planning Policies and Guidance

- 7b.2 Scottish Planning Policy (2014) directs Development Plans to consider policies for small privately-owned Gypsy/Traveller sites. The LDP2 contains specific guidance on the assessment of planning applications for Gypsy/Traveller sites and the application is assessed in relation to relevant policies (including HC09 Gypsy/Traveller Sites) in Section 7a.4 of this report.

Falkirk Council Supplementary Planning Guidance

- 7b.3 Supplementary Guidance SG01 'Development in the Countryside' (adopted) discusses the specific housing needs of Gypsy/Travelers, which can often be difficult to locate within urban areas. SG01 supports proposals for small privately owned sites, where there would not be a negative impact on surrounding countryside. The proposal is an established site, where it is considered that the appearance and use is compatible with the character and appearance of the surrounding rural area. The application is supported in principle by SG01.

Assessment of Public Representations

- 7b.4 There are three principle issues raised in objection to this planning application, legal issues (right of access and land ownership), compliance with the Development Plan and the impact on the amenity of the surrounding area (as a result of the use of the site as a Gypsy/Traveller pitch). Each issue is discussed in turn as follows.

Legal Considerations

- 7b.5 The planning system is essentially concerned with the use and development of land. The granting of planning permission is not equal to granting ownership of land or inferring any associated legal rights, including servitude. Any legal disputes are a civil matter between affected parties and should not be fought or determined by the planning system.
- 7b.6 In this instance a number of objections refer to the outcome of a court case, in relation to the right of the applicant (and others) to use the access track from Church Road. It is understood that the court case is now concluded, and it was determined by the court that the applicant has a legal right of access (across third party land) to the application site for normal residential use.
- 7b.7 Criterion No. 4 of LDP2 Policy HC09 'Gypsy / Traveller Sites' requires that the site be accessible to a reasonable standard. It does not require the applicant to demonstrate that they have a legal right of servitude or ownership of an access roads/track. There is a vehicular access to the site and the Roads Development Unit raise no objection to the continued use of the access track for the purposes of servicing the established private Gypsy/Traveller pitch. Any challenge to this right of access (in appeal to the court case decision or otherwise) is a matter which should be progressed outwith the planning system. Legal issues have no bearing on this current application, which should be assessed in relation to land use planning considerations. The application is assessed as being in accordance with the Development Plan and any legal claims, as made by objectors, do not outweigh the terms of the Development Plan and justify the refusal of planning permission in isolation.
- 7b.8 Objections are also made in relation to the ownership of the application site and validity of the planning application submission. It is stated that the applicant has made false claims on the Land Ownership Certificate, by certifying that he owns all of the land to which the application relates. Objections state that the applicant does not in fact own the site and has therefore knowingly and recklessly falsified the certificate. In terms of due diligence by the council, ownership was questioned with the applicant, who maintains his position that he owns the application site. The applicant has provided communication from a solicitor which confirms the applicants position in relation to land ownership. The objectors have not provided any evidence to contradict the applicant (and his solicitor) and on this basis it is considered that the applicant has made a genuine submission in relation to land ownership.

Development Plan Compliance

- 7b.9 The application is assessed as being in accordance with the Development Plan. The assessment is detailed in Section 7a of this report. The objections specifically mention policy HC09 'Gypsy/Traveller Sites', which provides support for the principle of development.

7b.10 Housing allocation H24 is mentioned and it is stated that it should take priority over this application. There is also mention of this application making development of the housing site unviable. It is considered that both the housing site, which would be located within the village limit of California and adjoining / outlying rural development (including this development) can co-exist. The development of the allocated housing site and this application for a private Gypsy/Traveller site are supported in principle by the Development Plan.

Amenity

7b.11 At the time of officer site inspections (multiple visits were made), the site was clean and tidy and there was no evidence of any commercial activities being undertaken. The site is well screened from the surrounding road network and the appearance of the site respects the character and appearance of neighbouring plots of land and the wider rural area. A good level of residential amenity is currently enjoyed by the applicant at the site. The site is a very short walk to California, which has good access to community facilities, including public transport, schools and local shops. The applicant has lived on site since 2016 and there is no evidence to suggest that the pitch cannot be adequately serviced. Issues in relation to antisocial behaviour are a matter for emergency services to investigate formally. The Planning Authority have witnessed no such behaviour.

Planning History

7b.12 It is noted that the applicant has occupied the site since 2016. The Reporter's Decision notice (in relation to P/16/0530/FUL) concluded that the application accorded with the then Development Plan (Falkirk Local Development Plan, LDP) and there were no material planning considerations which would justify the refusal of planning permission. The site was granted temporary planning permission based on reasoning from the Planning Committee report, which made comment on the provisions of Church Road and the uncertainty of future traffic associated with the development of the nearby housing allocation. The temporary planning permission was added as a precaution and did not raise any questions in relation to the principle of a private Gypsy/Traveller pitch being suitable development.

- 7b.13 Planning permission P/16/0530/FUL has now lapsed. It is noted that there was a delay in the lapsing of planning permission and the submission of this current application, which is understood to be due to family reasons and to allow a suitable planning agent to be employed. This application seeks permanent planning permission, to create a safe and secure home for the applicant and his family. The current Development Plan, Falkirk Local Development Plan 2 (LDP2), has a very similar thrust of policy in relation to development in the countryside and Gypsy/Traveller sites as the LDP (which was subject to appeal as mentioned above). It is also noted that the housing allocation is carried over to the LDP2. The allocated housing site has not been developed or any progress made (i.e. the submission of a planning application) since the 2016 application. It is considered that the use of the site as a private Gypsy/Traveller pitch is now well established and there has been no change to the site circumstances or the policy framework which would alter the Reporter's assessment.
- 7b.14 The planning history for the site supports the granting of this current application. The question is whether this should be a further temporary planning permission, or permanent planning permission as requested by the applicant at this application stage.
- 7b.15 Planning permission (P/16/0530/FUL) was granted by the Reporter on a temporary basis, as a result of discussion in the Committee Report on the limited provision of Church Road and uncertainty of future traffic generation from the allocated housing site. The Roads Development Unit raise no objection to this current application. On this basis, it is considered that granting this application on a temporary basis would not be reasonable or necessary and would not meet the planning condition criteria as set out in Planning Circular 4/1998.

Consideration of the Site in Relation to Coal Mining Legacy

- 7b.16 The application site falls within or is partially within the Development High Risk Area as defined by the Coal Authority. It is recognised that flexibility and discretion are necessary parts of the planning system, and as such there may be exemptions to the requirement for a desk-based Coal Mining Risk Assessment within the Development High Risk Area.
- 7b.17 Exemption can be on the grounds of the type of application or the nature of development. Only one of these needs to be met to exempt the need for a desk-based Coal Mining Risk Assessment and also the consequential need for the Council to consult the Coal Authority. This proposal is considered as part of the Building Standards process, if relevant.
- 7b.18 Where planning permission is to be granted, an appropriate informative note appears on the Decision Notice.

7c Conclusion

- 7c.1 The application is assessed as being in accordance with the Development Plan. Of specific note is policy HC09 'Gypsy/Traveller Sites' which permits proposals for privately owned Gypsy/Traveller sites, where there is no adverse impact on the character, appearance and amenity of the area, there is reasonable access to community facilities and an appropriate level of residential amenity (including access to the site) can be achieved.
- 7c.2 No issues in principle have been raised by consultees. The issues raised by objectors are discussed and assessed in section 7b.4 – 11 of this report. It is considered that the matters raised by objectors do not outweigh the terms of the Development Plan and justify refusing planning permission in this instance. The matters raised in relation to land ownership and right of servitude are not material to the assessment of this current application, which should be determined in relation to land use planning considerations. The planning system should not be a mechanism for the pursuance of legal matters.
- 7c.3 There are no sound planning reasons to justify the refusal of planning permission in this instance and it is therefore recommended that planning permission be granted.

8. HUMAN RIGHTS AND EQUALITY ASSESSMENT

- 8.1 Officers have considered the Human Rights Act 1998 in making this recommendation. It is considered that the proposed recommendation to grant planning permission would not adversely impact on any protected characteristic groups as identified within the Equality Act 2010, as it would support a family who identify as Gypsy/Traveller to have a stable and secure home.

9. RECOMMENDATION

- 9.1 **It is 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. The use of the site shall be restricted to one principle caravan and one touring caravan, in accordance with the approved plans and supporting information. Any changes to the location of caravans in the site, or the type of caravan sited shall be agreed in writing by the Planning Authority before proceeding.

Reason(s):-

1. As these drawings and details constitute the approved development.
2. To prevent intensification of the use of the site and to protect the visual amenity of the surrounding area.

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 - 04 and Supporting Documents.
2. In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

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pp Director of Place Services

Date: 19 August 2022

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan.
2. Falkirk Local Development Plan 2.
3. Scottish Planning Policy 2014.
4. Planning Circular 4/1998: the use of conditions in planning permissions.
5. Objection received from Max Ketchin (by email) on 30 March 2022.
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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel-Gregory, Planning Officer.

Policy Schedule

HC09 Gypsy/Traveller Sites

Proposals for privately owned sites for Gypsy/Travellers will be permitted where:

1. There is no adverse impact on the character, appearance and amenity of the area;
2. The proposal complies with other LDP policies relating to the historic and natural environment (PE05 - PE27);
3. There is reasonable access to community facilities and an appropriate level of residential amenity; and
4. The site can be accessed and serviced satisfactorily and the site is not at significant risk from flooding in terms of Policy PE24.

PE18 Landscape

1. The Council will seek to protect and enhance landscape character and enhance landscape quality throughout the Council area in accordance with Supplementary Guidance SG09 'Landscape Character Assessment and Landscape Designations';
2. Development within Local Landscape Areas should be designed to minimise any adverse effects on the landscape character and scenic interest for which the area is designated; and
3. Development proposals which are likely to have significant landscape and visual effects must be accompanied by a landscape and visual assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit will be achieved.

HC05 Housing in the Countryside

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 that the restored/ replacement house is of a suitable size and design;
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 HC09.

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 'Development in the Countryside'.

PE14 Countryside

1. 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. Development in the countryside will be assessed in terms of the relevant countryside policies for specific uses (HC05 and JE05);
2. Development proposals in the countryside for uses not covered by policies for specific uses will only be permitted where:
 - It can be demonstrated that they require a countryside location;
 - They constitute infill development; or
 - They utilise appropriate existing buildings.

Detailed guidance on the application of these criteria will be contained in Supplementary Guidance SG01 Development in the Countryside;

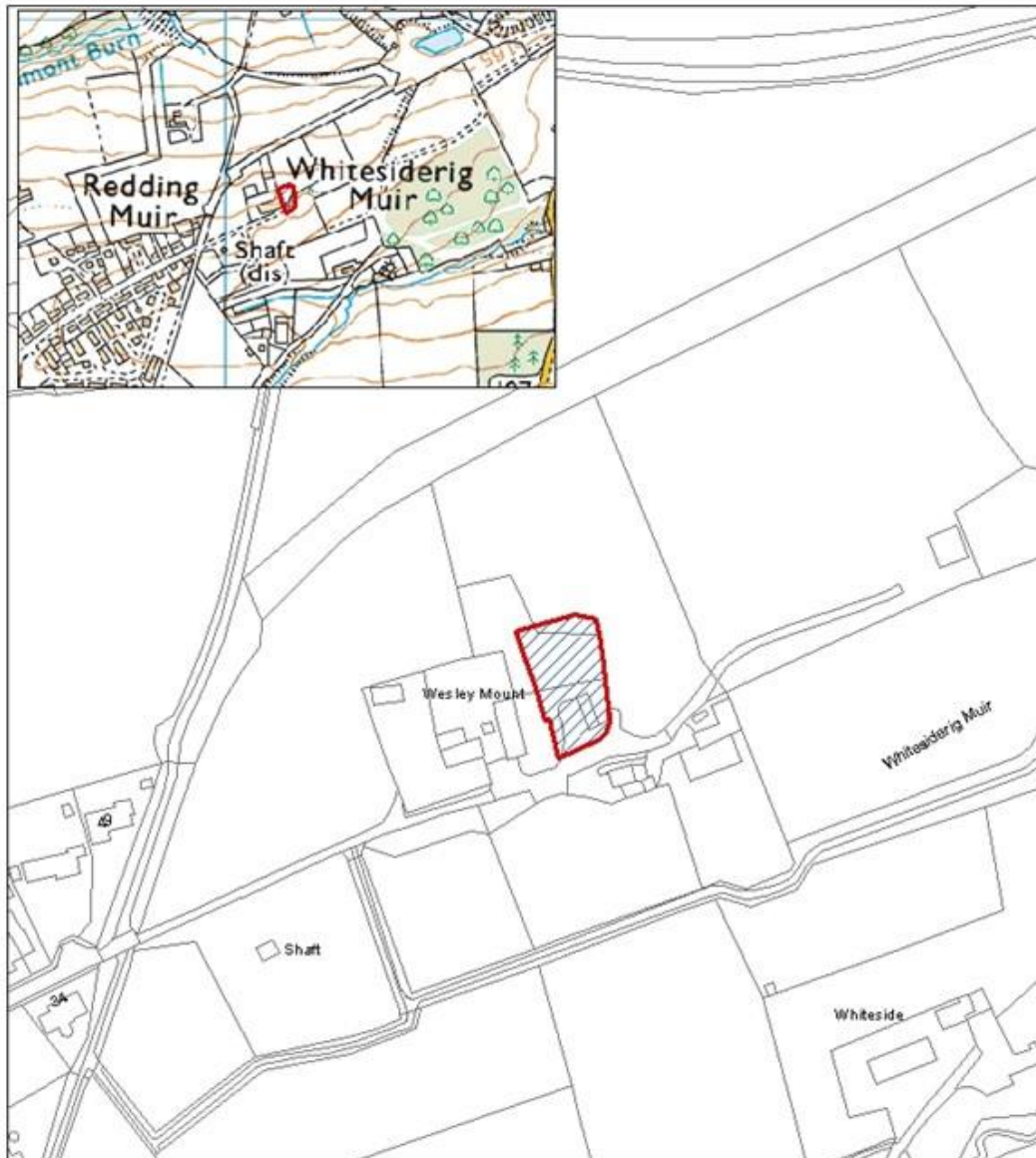
3. Development proposals in the countryside should additionally demonstrate that their scale, siting and design is such that there will be no significant adverse impact on the rural environment, having regard to other policies on the natural and historic environment, and design guidance in Supplementary Guidance SG01 'Development in the Countryside'.

Planning Committee

Planning Application Location Plan

P/22/0108/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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