

**FALKIRK COUNCIL**

**Subject:**        **ERECTION OF 14 FLATTED DWELLINGHOUSES AT LAND TO EAST OF 50 STATION ROAD, WHITECROSS FOR LAND 4 LEISURE LTD (DETAILED) – P/08/0888/FUL**  
**Meeting:**       **PLANNING COMMITTEE**  
**Date:**           **25 March 2009**  
**Author:**        **DIRECTOR OF DEVELOPMENT SERVICES**

**Local Members:**        **Councillor Gordon Hughes**  
                                 **Councillor Stephen Fry**  
                                 **Councillor John McLuckie**

**Community Council:**    Whitecross

**Case Officer:**           Kevin Brown (Planning Officer), ext 4701

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

- 1.1       This detailed application proposes the erection of 14 flats in a single block, three and four storeys in height, fronting onto Station Road. The application includes a number of retaining structures to the rear of the site to create space for residents' parking and a vehicle turning area.
- 1.2       The site is currently vacant and has recently been deeply excavated. This excavation, and subsequent enforcement proceedings, has ultimately led to this proposal being made.

**2.        REASON FOR REFERRAL TO COMMITTEE**

- 2.1       This application was called in by Councillor John McLuckie.

**3.        SITE HISTORY**

- 3.1       F/2003/0997 - erection of 4 dwellinghouses - granted detailed planning permission on 28 April 2004.
- 3.2       06/0324/FUL - engineering works involving earthworks and soil/overburden removal (retrospective) - refused detailed planning permission 27 December 2006.
- 3.3       P/07/0882/FUL - erection of 14 flatted dwellinghouses - refused planning permission on 21 August 2008.

#### **4. CONSULTATIONS**

- 4.1 Consultation with the Health & Safety Executive (HSE) through their PADHI system has advised against the granting of planning permission in this instance.
- 4.2 The Roads Development Unit has assessed the proposal and they have no objections to the proposal. They have however advised that relevant infiltration calculations require to be submitted demonstrating the suitability of the proposed soakaway drainage.
- 4.3 Scottish Water has no objection to the proposal.
- 4.4 Education Services has no objection to the proposal.
- 4.5 SEPA has no objection in principle to the proposed development however they have raised a number of issues in regard to foul drainage connections that the applicant has been made aware of.
- 4.6 The Environmental Protection Unit has requested that the applicant undertake a survey to establish if contamination is present on the site. It is considered that this could be adequately covered by a condition attached to any consent given.

#### **5. COMMUNITY COUNCIL**

- 5.1 The Whitecross Community Council has not made representation.

#### **6. PUBLIC REPRESENTATION**

- 6.1 One letter of objection has been received following the neighbour notification process. Issues raised include:
  - Privacy
  - Construction noise
  - Road safety
  - Structural stability
  - Education capacity in Whitecross

#### **7. DETAILED APPRAISAL**

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

## 7a The Development Plan

### *Falkirk Council Structure Plan*

- 7a.1 There are no policies in the Structure Plan that relate to the proposals and therefore no strategic issues require to be assessed.

### *Rural Local Plan*

- 7a.2 Policy RURAL 1 'New Development in the Countryside' states:

"That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

1. *Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
2. *On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council's "Guide to Tree Planting/Housing Proposals on Slamannan Plateau".*
3. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
4. *Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
5. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council's Tourism Strategy are particularly welcomed.*
6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

*The scale, siting and design of those developments which are granted permission will be strictly controlled. Building designs compatible with the District Council's "Design Guide For Buildings In The Rural Areas" and sympathetic to vernacular architectural forms will be expected."*

- 7a.3 The application site is located on the edge of Whitecross in an area defined as countryside. There is no evidence to suggest that the residential dwellings are required to support particular agricultural, forestry or other economic activity appropriate to a rural location. The site is not considered to be a clear gap site and therefore the proposal is not in accordance with the terms of Policy Rural 1.

7a.4 Policy RURAL 2 ‘Village Limits’ states:

*“That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside.”*

7a.5 The site lies outwith the Whitecross Village Limit and therefore there is a general presumption against this form of development.

7a.6 The proposal is considered to be contrary to the terms of Policy Rural 2.

7a.7 Policy RURAL 32 ‘Pipeline Corridors’ states:

*“That within the Pipeline Consultation Zones generally indicated on the Policies and Proposals Map, development will not normally be permitted unless the District Council is satisfied that :-*

- 1. Future users or occupants will not significantly add to the number of people exposed to the existing risk from a pipeline.*
- 2. The development will not in any way affect the operational safety of a pipeline.”*

7a.8 The proposed development is considered to significantly add to the number of people exposed to the existing risk from the pipeline. A plan outlining the position of this Grangemouth – Wilton Ethylene pipeline is appended for members consideration.

7a.9 The proposal is therefore contrary to the terms of Policy Rural 32 of the Rural Local Plan.

7a.10 In conclusion the proposal is not in accordance with the terms of the Development Plan.

## **7b Material Considerations**

7b.1 The material planning considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the representation received, and the consultation responses received and additional correspondence from the applicant and HSE.

### ***Falkirk Council Local Plan Finalised Draft (Deposit Version)***

7b.2 Policy EQ19 - ‘Countryside’ states:

*“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

- (2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:

- *the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- *building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- *boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species."*

7b.3 The application site is within the village limits as defined in this document and therefore there is no general presumption against this form of development. The proposal is therefore considered to be in accordance with the terms of Policy EQ19.

7b.4 Policy SC1 - 'Housing Land Provision' states:

- "(1) Through the Local Plan, the Council will aim to meet the housing land requirements of the Falkirk Council Structure Plan for at least the period up to 2015, as detailed in Table 4.1. Sites contributing towards the requirement are detailed under the relevant Settlement Statements.*
- (2) Within the areas identified as Special Initiatives for Residential-Led Regeneration (SIRRs) on the Proposals Map, housing development in addition to the base requirement will be supported subject to:*
- *the preparation of a satisfactory masterplan or development framework for the area; and*
  - *demonstration that the necessary social and physical infrastructure requirements for the area will be met through a co-ordinated approach to developer contributions."*

7b.5 The application site is identified as a housing site for approximately 4 dwellinghouses, the proposal is therefore in accordance with this policy.

7b.6 Policy EP18 - 'Major Hazards' states:

*"Within the Major Hazard and Pipeline Consultation Zones identified on the Proposals Map, proposals will be judged in relation to the following criteria:*

- (1) The increase in the number of people exposed to risk in the area, taking into account the advice of the Health and Safety Executive, any local information pertaining to the hazard, and the existing permitted use of the site or buildings; and*
- (2) The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means."*

7b.7 Policy EP18 confirms the position of the Rural Local Plan (Policy Rural 32) and the proposal is therefore considered to be contrary to this policy.

7b.8 Whilst the proposal accords with some of the policies, as detailed above, it fails to meet the terms of Policy EP18 - 'Major Hazards' and cannot therefore be considered to be in accord with the terms of the emerging Falkirk Local Plan Consultative Draft (Deposit Version).

### ***Letter of Representation***

- 7b.9 Construction noise and structural stability are not material planning considerations.
- 7b.10 It is not considered that the proposal would result in any privacy issues as there are no windows proposed to directly overlook the neighbouring property.
- 7b.11 Education and Road Safety issues are addressed in section 4 of this report.

### ***HSE Consultation Response***

- 7b.12 The advice from the HSE is that this application should not be granted. The applicant has requested that the planning authority consider whether they could be minded to grant the proposal but refer it to Scottish Ministers for consideration by Ministers. This has been done in the past however the circumstances surrounding 'minded to grant' recommendations usually refer to applications within existing settlements, i.e. conversion of existing buildings or change of use applications. The current application is for a completely new development on the edge of the village and would be closer to the pipeline than any other part of the village is at present.
- 7b.13 It is considered that the 'advise against' response from the HSE outweighs the terms of the Finalised Draft Local Plan in this instance.

### ***Additional Correspondence***

- 7b.14 The applicant has forwarded, in support of their application, a copy of an e-mail from the HSE which outlines their position in regard to the nearby pipeline.
- 7b.15 This e-mail does not give a definitive answer regarding the HSE stance and does not withdraw the 'advise against' response received through the PADHI consultation system. This e-mail was queried directly with the HSE who would not be drawn on offering any more detailed advice. The HSE confirmed that their official advice is that given through the PADHI system.
- 7b.16 It is therefore considered that the e-mailed information provided by the applicant cannot be used to support a recommendation to approve planning permission in this instance.
- 7b.17 In light of this information, the planning authority has no option but to have regard to the PADHI response whilst coming to a determination.

### ***7c Conclusion***

- 7c.1 The proposed development is not in accordance with the terms of the Development Plan however the most up to date policy consideration in the emerging Local Plan lends some support to a proposal of this nature in this location. The 'advise against' consultation response from the HSE and the policies in the Development Plan and Falkirk Council Local Plan Finalised Draft (Deposit Version) in respect of pipeline consultation zones are considered to outweigh this support and a refusal of this application is therefore the appropriate course of action in this case.
- 7c.2 It should be noted that if the site were not affected by the nearby pipeline, officers would be likely to support the proposal in its current form.

- 7c.3 Should Members be of a mind to grant planning permission for this development it should be noted that it is mandatory that the application be referred to Scottish Ministers, given the advice from the Health and Safety Executive not to support this planning application.

## **8. RECOMMENDATION**

### **8.1 It is recommended that planning permission be refused for the following reasons:-**

- (1) The proposal would not be in the best interests of public safety given the proximity of the proposed development to an operational ethylene pipeline and therefore is contrary to the terms of Policy Rural 32 - 'Pipeline Corridors' of the Rural Local Plan and Policy EP 18 - 'Major Hazards' of the emerging Falkirk Council Local Plan Finalised Draft (Deposit Version).

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**For Director of Development Services**

**Date: 17 March 2009**

### **LIST OF BACKGROUND PAPERS**

1. Letter of objection from Mr William Curtis, 50 Station Road, Whitecross, Linlithgow EH49 6JZ on 29 October 2009
2. Falkirk Council Structure Plan
3. Rural Local Plan
4. Falkirk Council Local Plan Finalised Draft (Deposit Version)

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown (Planning Officer).





## Planning Application

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# Planning Committee

## Planning Application Location Plan

**P/08/0888/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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