

**FALKIRK COUNCIL**

**Subject: ERECTION OF 2 DWELLINGHOUSES AT SEAFIELD, SLAMANNAN ROAD, FALKIRK, FK1 3AH FOR MR AND MRS A MCLAREN (P/08/0507/FUL)**  
**meeting: PLANNING COMMITTEE**  
**Date: 25 March 2009**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**Local Members:** Councillor John Patrick  
Councillor Gerald Goldie  
Councillor Joseph Lemetti  
Councillor Georgie Thomson

**Community Council:** Falkirk South

**Case Officer:** David Paterson (Planning Officer), ext 4757

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 25 February 2009 (copy of previous report appended), when it was agreed to continue consideration to allow a site visit to be carried out. This visit took place on 19 March 2009.
2. At the site meeting a representative of the applicant was heard. He confirmed that the existing property consisted of a single dwellinghouse, and that one of the proposed dwellings was intended for a family member, the other would be sold. He acknowledged that the proposal was contrary to policy, however, in the current economic climate the granting of permission would help keep people in employment.
3. Members raised issues in relation to the safety of the site access at its junction with the B803, site levels, impact on the skyline and possible precedence if permission were to be granted. It was confirmed that the application site is not within a skyline protection area and that detailed information in relation to proposed site levels had not been submitted in view of the presumption against development. If planning permission were to be granted, this would not be taken as a precedent in favour of further development within the surrounding open countryside. Councillor Patrick as a local Member offered no objection to the proposed development.

**4. RECOMMENDATION**

- 4.1 The recommendation contained in the previous report is reiterated as follows:-

4.2 It is recommended that Committee refuse planning permission for the following reasons:

- (1) There is no justification that the proposed development is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a rural location is essential and therefore the proposed development does not accord with Policy ENV 1 of the Falkirk Council Structure Plan "Countryside and Protected Areas", Policy Rural 1 of the Rural Local Plan "New Development in the Countryside" and Policy SC3 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) "Housing in the Countryside".
- (2) The proposed development is not an appropriate form of agricultural diversification and therefore does not accord with Policy ENV 1 of the Falkirk Council Structure Plan "Countryside and Protected Areas".
- (3) The proposed development is likely to exacerbate the possibility of a vehicle traffic accident occurring at the blind corner at the access to the site from the B803 Falkirk to Slamannan Road and as such the proposed development is detrimental to road safety.
- (4) The proposed development does not accord with the Supplementary Planning Guidance Note "Housing Layout and Design" as the proposed development would result in the unacceptable loss of garden ground in respect of the existing residential property and result in an inadequate standard of garden ground remaining for the enjoyment of the existing residential property.
- (5) The applicant has failed to provide sufficient information to enable the Planning Authority to assess whether the proposed development would provide a satisfactory level of residential amenity for the occupiers of the existing residential property in terms of site levels and protection of trees. It has not been demonstrated that the proposed development accords with Supplementary Planning Guidance Notes "Housing Layout and Design" and "Trees and Development".

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For Director of Development Services

Date: 23 March 2009

**FALKIRK COUNCIL**

**Subject:** ERECTION OF 2 DWELLINGHOUSES AT SEAFIELD, SLAMANNAN ROAD, FALKIRK, FK1 3AH FOR MR AND MRS A MCLAREN (P/08/0507/FUL)  
**meeting:** PLANNING COMMITTEE  
**Date:** 25 February 2009  
**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor John Patrick  
Councillor Gerald Goldie  
Councillor Joseph Lemetti  
Councillor Georgie Thomson

**Community Council:** Falkirk South

**Case Officer:** David Paterson (Planning Officer), ext 4757

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

- 1.1 It is proposed to erect two dwellinghouses within the garden ground of an existing residential property (Seafield).
- 1.2 The application site is located on the west side of the B803 Falkirk to Slamannan Road at the junction with the access track to Seafield Farm.
- 1.3 The ground is sloping and is well screened by existing landscaping.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in by Councillor John Patrick.

**3. SITE HISTORY**

- 3.1 No relevant site history.

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has advised that both road and pedestrian traffic generated by the proposed development, at this location would add to the daily traffic accessing the site and so increase the number of vehicles turning right across a very tight left hand bend with poor visibility. The corner is a dangerous blind corner and serious road safety implications at the junction already exist. The proposed development would exacerbate the risk of an accident happening at the junction of the site with B803.
- 4.2 The Environmental Protection Unit has raised no concerns.
- 4.3 Scottish Water has raised no objections.
- 4.4 Scottish Natural Heritage has raised no objections.
- 4.5 Museum Services have advised that the application site lies within the core area of the Battle of Falkirk. The Development Plan emphasises that the character and landscape of such an area should be protected. The Scottish Historic Environment Policy (SHEP) "Historic Battlefields" provides advice in respect of such sites. Museum Services take the view that the proposed development would have a visual impact on the area.
- 4.6 The Scottish Rights of Way and Access Society has advised that the access road from the B803 leading to the application site is a right of way. Steps should be taken to ensure that the right of way remains open should the proposed development be granted planning permission.

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

- 5.1 Falkirk South Community Council has made no representation.

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

- 6.1 No representations received.

#### **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 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) *There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) *The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 A countryside location is not essential in relation to the proposed development. The proposal is not a form of agricultural diversification.

7a.3 The proposed development does not accord with Policy ENV.1

7a.4 Accordingly the proposed development does not accord with the Falkirk Council Structure Plan.

### ***Rural Local Plan***

7a.5 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.6 The proposed development is not absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location and as such does not meet any of the criteria of Policy Rural 1.
- 7a.7 The proposed development does not accord with Policy Rural 1 and the Rural Local Plan.
- 7a.8 Accordingly the proposed development does not accord with the Development Plan.

## **7b Material Considerations**

- 7b.1 Material Considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Supplementary Planning Guidance Note "Housing Layout and Design", Supplementary Planning Guidance Note "Trees and Development", Scottish Planning Policy (SPP)15 "Rural Development", Scottish Planning Policy (SPP)3 "Planning for Housing", The Scottish Historic Environment Policy (SHEP) "Historic Battlefields" and the consultation responses from the Roads Development Unit and Museum Services.

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

- 7b.2 Policy SC3 - 'Housing Development In The Countryside' states:

*"Housing development in the countryside will only be permitted in the following circumstances:*

- (1) *Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
- *The operational need for the additional house in association with the business*
  - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
  - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
  - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) *Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
- *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
  - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*

- *The restored or converted building is of comparable scale and character to the original building*
- *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*

(3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8.”*

7b.3 The proposed development is not essential to the pursuance of agriculture, horticulture, forestry or the management of a business for which a countryside location is essential.

7b.4 The proposal is not an appropriate form of infill development as there would be a detrimental impact on the amenity of the existing residential property as it would also introduce an element of backland development.

7b.5 Accordingly the proposed development does not accord with Policy SC3.

7b.6 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.7 The proposal does not require a countryside location. It is not considered an appropriate form of infill development. The proposal does not utilise existing buildings.

7b.8 The proposal does not accord with Policy EQ19.

7b.9 Accordingly the proposed development does not accord with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

### ***Supplementary Planning Guidance Note "Housing Layout and Design"***

- 7b.10 The SPG emphasises that private gardens should be a minimum depth of 9 metres in order to provide an adequate level of amenity. This standard refers to both existing and proposed dwellinghouses. The proposed development would result in a loss of garden ground to the extent that the existing residential property would not have an adequate standard of garden ground remaining.
- 7b.11 The SPG also emphasises that buildings should integrate with sloping ground. Extensive areas of wall and underbuilding may result in a significant impact on the amenity of the existing residential property in terms of usable garden ground being made available. It is noted that the application site slopes downwards from north to south. The applicant has failed to provide sufficient information to determine if there would be a significant impact on the amenity of the existing residential property in terms of levels.
- 7b.12 Accordingly the proposed development does not accord with the SPG.

### ***Supplementary Planning Guidance Note "Trees and Development"***

- 7b.13 It is noted that the application site is well screened by existing landscaping. The existing landscaping provides both privacy and a high level of visual amenity in respect of the existing residential property and the surrounding area.
- 7b.14 The SPG emphasises that existing landscaping and tree cover has a significant impact and role in terms of screening, shelter from the wind and visual impact and is considered to add design value to the development.
- 7b.15 The applicant has failed to demonstrate that existing landscaping at the site would be adequately protected.
- 7b.16 Accordingly, it is not possible to assess whether or not the proposed development accords with the SPG.

### ***Scottish Planning Policy (SPP) 15 "Rural Development"***

- 7b.17 SPP15 advances policy in respect of small scale rural housing development, including plots on which to build individually designed houses. The message is that there is scope for allowing more housing development of this nature. This should, however, be expressed in Development Plans. The plan led nature of the advice given in SPP15 is important if development is to be sustainable and residents are to have acceptable access to services. SPP15 recognises that until such time as sustainable development plan led policies are in place, planning authorities may wish to continue to implement policies in respect of proposed development where a new dwelling is clearly tied to agricultural or forestry use. It is noted that the proposed development is not essential to the pursuance of agriculture or forestry.
- 7b.18 There are no Development Plan led sustainable policies, as referred to in SPP15 currently in place. It is prudent therefore that the terms of policies Rural 1 and SC3 above apply.
- 7b.19 The proposed development does not accord with the terms of SPP15.



### ***Scottish Planning Policy (SPP) 3 "Planning for Housing"***

- 7b.20 SPP3 states that planning policies have traditionally sought to restrict the development of new houses in the countryside to maintain the rural character and amenity and safeguard agricultural production. It is recognised, however, that major changes taking place in farming and the rural community mean that some aspects of housing policy may need adjustment. SPP3 also recognises that an adjustment of housing policy could assist economic and social regeneration and the proposals for sustainable development using innovative energy efficient technologies with particularly low impacts on the environment may be acceptable at locations where more conventional buildings would not.
- 7b.21 SPP3 also states, however, that the control of innovative low impact uses through the planning system is best achieved by a Development Plan led approach. Proposals should be carefully assessed against specific sustainable development criteria and the wider policy objections of the development plan.
- 7b.22 It is noted that at present there are no Development Plan led initiatives either for controlled regeneration of rural areas by consideration of single dwelling units in areas remote from existing settlements or in terms of specific sustainable development criteria.
- 7b.23 The terms of policies Rural 1 and SC3 above take precedence in relation to proposed development of this nature.

### ***Scottish Historic Environment Policy (SHEP) "Historic Battlefields"***

- 7b.24 The planning authority has a duty to consider the impact of development proposals on Inventory historic battlefield sites and their settings in the interests of their protection and promotion.
- 7b.25 It is noted that the application site is well screened and self contained. The proposed development would have minimum visual impact and would not be detrimental to the promotion or appreciation of the setting of the battlefield site.
- 7b.26 The proposed development is not detrimental to the principles expressed in the SHEP.

### ***Consultation Responses***

- 7b.27 The concerns of the Roads Development Unit in respect of road safety are noted.
- 7b.28 The comments of the Museum Services Unit are noted. The section of this report in respect of the Scottish Historic Environment Policy "Historic Battlefields" is also noted.

### **7c Conclusion**

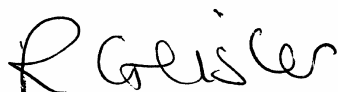
- 7c.1 The proposed development does not accord with the Development Plan.
- 7c.2 The proposed development does not accord with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

- 7c.3 The proposed development does not accord with Supplementary Planning Guidance Notes "Housing Layout and Design" and "Trees and Development".
- 7c.4 The proposed development does not accord with Scottish Planning Policy 3 "Planning for Housing" and 15 "Rural Development".
- 7c.5 The proposed development does not essentially require a rural location. There is no justification that the proposed development is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a countryside location is essential.
- 7c.6 The applicant has failed to provide sufficient information to determine if the proposed development would be detrimental to the amenity of the existing residential property in terms of levels or the protection of trees.
- 7c.7 The proposed development would result in the existing residential property (Seafield) having an insufficient level of garden ground.
- 7c.7 There are no material considerations to merit a departure from the Development Plan in this case.
- 7c.8 If the Committee is of a mind to support this proposal, it is considered that this proposal would not constitute a significant departure to the Development Plan as the proposed development would not extend the existing garden ground into the open countryside.

## **8. RECOMMENDATION**

- 8.1 **It is recommended that Committee refuse planning permission for the following reasons:**
- (1) **There is no justification that the proposed development is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a rural location is essential and therefore the proposed development does not accord with Policy ENV 1 of the Falkirk Council Structure Plan "Countryside and Protected Areas", Policy Rural 1 of the Rural Local Plan "New Development in the Countryside" and Policy SC3 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) "Housing in the Countryside".**
  - (2) **The proposed development is not an appropriate form of agricultural diversification and therefore does not accord with Policy ENV 1 of the Falkirk Council Structure Plan "Countryside and Protected Areas".**
  - (3) **The proposed development is likely to exacerbate the possibility of a vehicle traffic accident occurring at the blind corner at the access to the site from the B803 Falkirk to Slamannan Road and as such the proposed development is detrimental to road safety.**

- (4) The proposed development does not accord with the Supplementary Planning Guidance Note "Housing Layout and Design" as the proposed development would result in the unacceptable loss of garden ground in respect of the existing residential property and result in an inadequate standard of garden ground remaining for the enjoyment of the existing residential property.
- (5) The applicant has failed to provide sufficient information to enable the Planning Authority to assess whether the proposed development would provide a satisfactory level of residential amenity for the occupiers of the existing residential property in terms of site levels and protection of trees. It has not been demonstrated that the proposed development accords with Supplementary Planning Guidance Notes "Housing Layout and Design" and "Trees and Development".



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Director of Development Services

Date: 18 February 2009

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Rural Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Supplementary Planning Guidance Note "Housing Layout and Design".
6. Scottish Planning Policy (SPP) 15 "Rural Development".
7. Scottish Planning Policy (SPP) 3 "Planning for Housing".
8. Scottish Historic Environment Policy (SHEP) "Historic Battlefields".

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