

**FALKIRK COUNCIL**

**Subject:** USE OF LAND FOR THE SITING OF PORTABLE STRUCTURES, ERECTION OF FENCING AND KEEPING OF DOGS (TEMPORARY AND RETROSPECTIVE) AT DARNBOGUE FARM, PLEAN, FK2 8RY FOR SCOTSTOCK (SC) LTD - P/09/0161/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 4 November 2009

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Charles McDonald  
Councillor Lynda Kenna  
Councillor Steven Carleseki  
Councillor Craig Martin

**Community Council:** Airth

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

**1. UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

- 1.1 Members will recall that this application was originally considered at the meeting of the Planning Committee on 23 September 2009 (copy of previous report appended) when it was agreed to continue the application and to undertake a site visit. This visit was undertaken on 20 October 2009.
- 1.2 At the site meeting the applicant was heard in support of the application, and advised that the operation was primarily in relation to re-housing of dogs, and that no breeding was undertaken at the premises although occasionally dogs already in-pup were received. The longer term development of the use would be dependent on whether planning permission was forthcoming.
- 1.3 Objectors were also heard and reiterated comments contained in the representations previously received and expressed their concern in relation to noise disturbance, the retrospective nature of the application, conformity with Development Plan policy, the long term intentions of the applicant, animal welfare issues and similar operations carried out by the applicant within the Stirling Council area.

- 1.4 Following discussion it was confirmed by the applicant that there is no full-time on-site supervision, and no breeding licence in place. There were 18 dogs at present and the maximum number housed being 27 dogs. The applicant advised that the operation was not a charity and she became aware of the dogs in need of re-homing by informal contact and made a small donation to the previous owners. It was suggested by the applicant's father that following complaints from objectors in relation to noise that Environmental Protection Officers were denied access to the objector's properties to undertake noise surveys. Following the site inspection the Environmental Protection Unit have confirmed that during visits to the site, both during the day and at night, no dogs were heard barking. It is understood that whilst access to objector's properties was not denied, monitoring of noise levels was dependent on objectors recording alleged disturbance when it occurred.
- 1.5 Members inspected the premises and also viewed the site access at its junction with Moss Road. It was agreed that further consideration be given to a condition in relation to visibility splays. It was also confirmed that part of the site access lies within the Stirling Council area and consultation with Stirling Council has confirmed agreement in relation to suggested roads conditions.
- 1.6 The recommendation contained in the previous report is reiterated with an additional condition in relation to visibility.

## **2. RECOMMENDATION**

- 2.1 It is recommended that temporary planning permission be granted subject to the following conditions:
- (1) This permission shall be valid for a limited period until 30 November 2010 or one calendar year from the date of this decision, whichever is the later, and by that time the use shall cease and the buildings and fencing shall be removed from the site.
  - (2) Unless otherwise agreed in writing by the Planning Authority, within one calendar month of the date of this permission, the access from Moss Road shall be upgraded to 6 metres in width for a minimum distance of 15 metres back from the channel line at Moss Road.
  - (3) Unless otherwise agreed in writing by the Planning Authority, within one calendar month of the date of this permission, the access road shall be formed so that it meets Moss Road at right angles and shall be constructed in a manner that ensures surface water run-off does not discharge, or loose material carried out onto the public road.
  - (4) Unless otherwise agreed in writing by the Planning Authority within 1 calendar month of the date of this permission visibility splays (within which there shall be no obstruction to visibility above carriageway level), to achieve as close to a minimum standard of 2.4 metres x 210 metres in both directions from the access to Moss Road shall be provided.

**Reason(s):**

- (1) To ensure that the Planning Authority can control the future use of the premises.
- (2, 4) To safeguard the interests of the users of the highway.

**Pp**

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**For Director of Development Services**

**Date: October 2009**

**LIST OF BACKGROUND PAPERS**

1. Structure Plan.
2. Rural Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Scottish Planning Policy 15 "Planning For Rural Development".
5. Planning Advice Note 56 "Planning For Noise".
6. Objection from Claudia Taylor, 5 Fairfields, Moss Road, dated 13 March 2009.
7. Objection from Amy Smith on behalf of Fairfield residents, dated 8 April 2009.
8. Objection from Susan James, 3 Fairfields, Moss Road, dated 22 April 2009.

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

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**Meeting:** PLANNING COMMITTEE

**Date:** 23 September 2009

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Councillor Charles McDonald  
Councillor Lynda Kenna  
Councillor Steven Carleseki  
Councillor Craig Martin

**Community Council:** Airth

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

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

- 1.1 The application site is located on the access track to Darnbogue Farm on the west side of Moss Road, Airth, south of the housing development at Fairfields. It is approximately 500 metres from Moss Road.
- 1.2 The application is for the siting of 11 temporary buildings and temporary fencing for the keeping of dogs and livestock. It is proposed that dogs would be kept mainly for the purpose of rehoming. It is also proposed that there will be breeding dogs and the applicant's own personal dogs accommodated at the site.
- 1.4 The application is retrospective.

**2. REASONS FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Committee by Councillor Craig Martin.

**3. SITE HISTORY**

- 3.1 There is no record of any planning application on the site, however a prior notification for the erection of an agricultural shed on land adjacent (P/09/0421/AGR) was received in June 2009. Planning permission is not required for this building

#### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has raised no objections.
- 4.2 Scottish Water has raised no objections.
- 4.3 The Environmental Protection Unit has raised no objections. The site could however be monitored to determine if any noise nuisance develops. There is no immediate concern on the basis that the site is isolated from the housing development at Fairfields.

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

- 5.1 No representation received.

#### **6. PUBLIC REPRESENTATIONS**

- 6.1 Four letters of representation have been received. Concerns are:-
- 6.2 The applicant does not have a breeding licence.
- 6.3 Animal welfare at the site is poor. The applicant has a poor animal welfare record.
- 6.4 There are excessive odours emanating from the site.
- 6.5 The proposed development would encourage vermin.
- 6.6 The proposed development constitutes a noise nuisance.
- 6.7 The proposed development is contrary to the Development Plan.
- 6.8 The proposed development is detrimental to the visual amenity of the area.
- 6.9 Poor access.

#### **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**

7a.1 There are no strategic issues in respect of the proposed development.

### ***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 does not constitute a clear gap site.

7a.4 There is no evidence to suggest that there is an overriding local need for the proposed development.

7a.5 Whilst the development does not fit neatly into criteria above, it is considered that the use is appropriate within a rural location and satisfies the general requirements of Policy Rural 1 and therefore is considered to be in accordance with the Development Plan.

### **7b Material Considerations**

7b.1 Material Considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Scottish Planning Policy (SPP) 15 "Planning For Rural Development", Planning Advice Note (PAN) 56 "Planning For Noise" and the letters of public representation.

***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 It is considered that a rural location is required for development of this nature, which would be unlikely to be acceptable in an urban setting. In addition the development has minimal visual impact on the surrounding area and the associated structures are temporary.

7b.4 The development accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

***Scottish Planning Policy 15 "Planning For Rural Development"***

7b.5 SPP 15 recognises that there is potential for encouraging diversification in rural areas. Suitable rural diversification would include promoting new ways of working at home, using renewable energy technologies, delivering tourism and recreation projects and developing activities such as aquaculture, equestrianism and many others.

7b.6 It is considered that a rural location is preferable for developments of this nature. It is also considered that the proposed development accords with the principles of SPP 15.

***Planning Advice Note 56 "Planning for Noise"***

- 7b.7 Planning Advice Note 56 "Planning for Noise" emphasises that Environmental Health officers should be consulted in respect of developments where the impact of noise, either emanating from within a development or experienced within from an external source, is a potential issue.
- 7b.8 It is noted that the Environmental Protection Unit has advised that the proposed development is not considered to be a potential noise nuisance at this time and that should noise become an issue at a future date, the issue can be addressed under the terms of Environmental Protection Legislation.
- 7b.9 The proposed development accords with PAN 56.

### ***Letters of Public Representation***

- 7b.10 It is not a material planning consideration whether or not the applicant has applied for a breeding licence. This issue is addressed by means of other legislation. Similarly, animal welfare is not a material planning consideration.
- 7b.11 Concerns in respect of noise, odours and vermin are noted. It is also noted, however, that the Environmental Protection Unit has raised no objection.
- 7b.12 It is noted that the application is for temporary permission and that the proposed structures are temporary in nature. In terms of visual amenity, the structures have a limited visual impact and of a temporary nature.
- 7b.13 It is noted that, in terms of access, the Roads Development Unit has advised that conditions be attached with respect of access geometry.
- 7b.14 Comments with respect to the Development Plan are noted.

### **7c Conclusion**

- 7c.1 The proposed development is in accordance with the Development Plan and the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7c.2 Material Planning consideration raised as a result of the consultation process and from public representations can be addressed by condition.
- 7c.3 In conclusion, it is noted that the application is retrospective and the temporary structures, whilst having a limited visual impact, are not considered acceptable in the long term. It also noted that the application is for planning permission for a temporary period and this would allow the applicant time to find homes for the dogs and livestock currently at the site or find alternative premises. It is reasonable therefore to consider that planning permission be granted for a temporary period.



## 8. RECOMMENDATION

8.1 It is recommended that detailed planning permission be granted subject to the following conditions:-

- (1) This permission shall be valid for a limited period until 30 September 2010 or one calendar year from the date of this decision, whichever is the later, and by that time the use shall cease and the buildings and fencing shall be removed from the site.
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Reason(s):

- (1) To ensure that the Planning Authority can control the future use of the premises.
- (2, 3) To safeguard the interests of the users of the highway.



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For Director of Development Services

Date: 15 September 2009

### LIST OF BACKGROUND PAPERS

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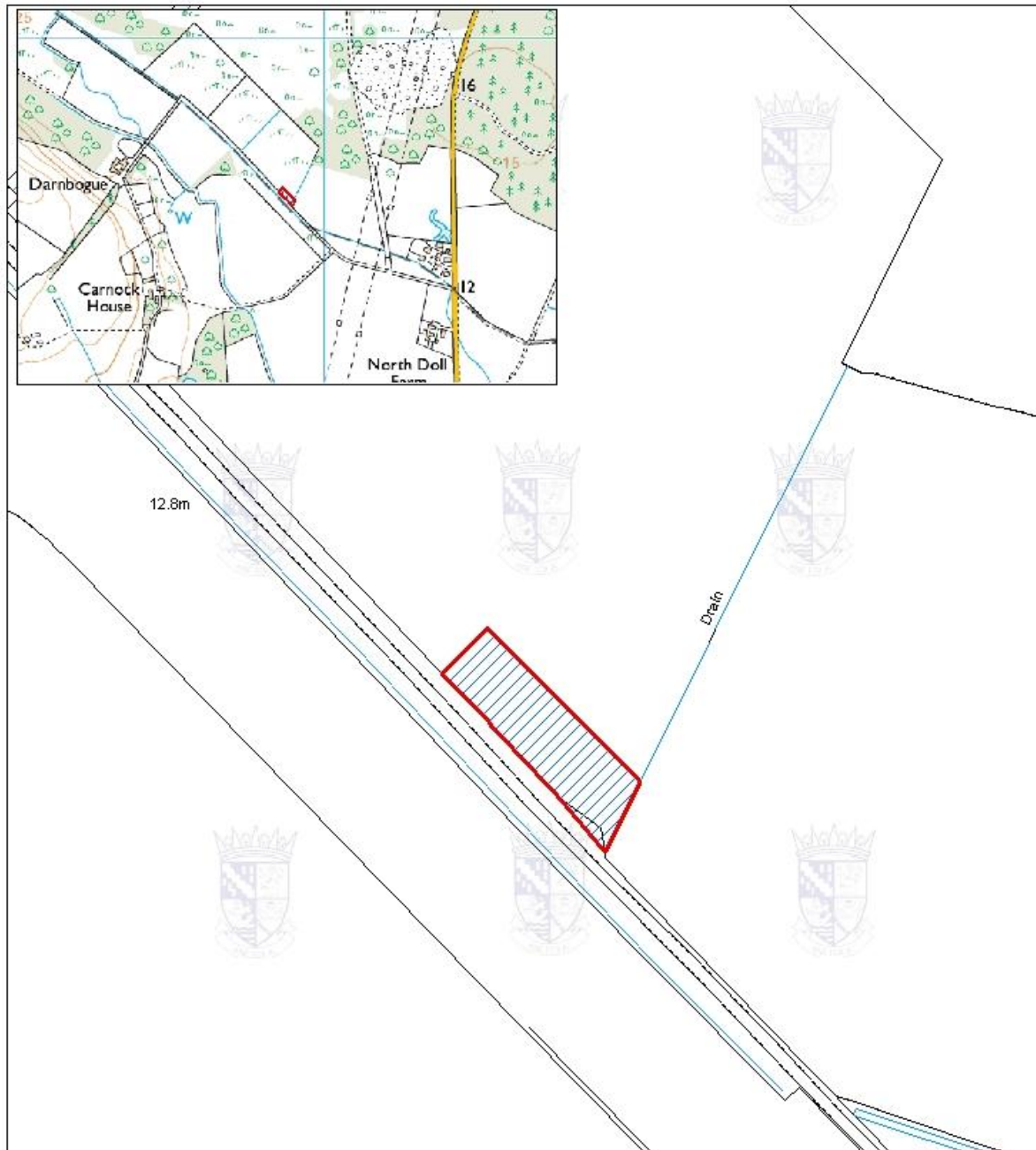
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson (Planning Officer).

# Regulatory Committee

## Planning Application Location Plan

**P/09/0161/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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