

FALKIRK COUNCIL

Subject: **ERECTION OF 5 NO. DWELLINGHOUSES AT LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LTD – P/09/0525/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **04 November 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow**

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Donald Campbell (Development Management Co-ordinator), ext 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is located on the south side of Glen Road, Torwood south east of the dwellinghouse known as Byways.
- 1.2 The site comprises undeveloped land (previously in forestry use) which is located outwith the village boundary of Torwood as defined in the Rural Local Plan. The site is covered by mixed nature broadleaf woodland with a mixture of mature trees and shrub species (including birch, rowan, cherry and hawthorn).
- 1.3 It is proposed to erect five 1½ storey dwellinghouses of traditional design character with access via three new vehicular accesses from Glen Road.
- 1.4 The applicant has re-submitted a proposal for the site with a view to addressing the underlying policy issues previously raised by Falkirk Council and to address the stated reasons for refusal indicted by elected members. In support of the proposal, the applicant submits the following:
 - There is no underlying conflict with the identified terms of the Development Plan;
 - Environmental assets would be suitably protected;
 - The development would support small scale population and economic growth;
 - The scale/design of the proposal is in harmony with the existing settlement of Torwood;
 - Ecological concerns regarding badgers, bats and woodland have been addressed.

- 1.5 The applicant acknowledges that the planning application site lies outwith the defined Torwood settlement boundary as defined within the extant and emerging Local Plans. However, it is also cited that the site could be sympathetically developed in accordance with the underlying Development Plan requirements for the area related to sustainable growth and to this end would comply with stated policy in both Local Plan documents. The proposal represents an appropriate infill development with a clearly defined gap in the existing built form and would be fully consistent with the character of Glen Road. The development is infill and would not contribute to ribbon, backland or sporadic development. It is a development of quality fully respecting its setting.
- 1.6 The impact on the woodland and its ecology have been thoroughly assessed and found to be acceptable. This is not an area of valuable woodland and not an area of any material ecological interest. The design of the development has openly secured the best parts of the site vegetation and would supplement these with new planting in order to enhance the site value.
- 1.7 On the basis outlined above it is considered by the applicant that the development on this site in the form proposed can be fully supported at this time as it would comply with the terms of the Development Plan, the emerging local plan and with prevailing national policy and guidance.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposal constitutes a departure from the Development Plan and has previously been subject to consideration by the Planning Committee.

3. SITE HISTORY

- 3.1 Planning application ref: P/08/0379/FUL – erection of 5 dwellinghouses was refused on 26 May 2008. The reasons for refusal are contained in appendix 1 of this report.
- 3.2 Planning application F/2002/0881 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of this application site and extending significantly more to the rear.
- 3.3 Planning application F/2002/0882 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of the current application site and extending significantly more to the rear.
- 3.4 Planning application F/2002/0846 was refused planning permission on 18 February 2003 for the provision of an access and a hardstanding/turning area in connection with a timber extraction operations, this being the same site as that covered by F/2002/0881 and F/2002/0882. The reasons for refusal related to the lack of justification and contravention of Local Plan Policy.
- 3.5 Also relevant is planning application P/08/0688/FUL which was approved on 11 December 2008 for the demolition of an existing dwellinghouse and erection of a new dwellinghouse at Byways, Glen Road, adjacent to the current application site to the west. This site forms part of the established pattern of buildings within which the current application site sits.

- 3.6 It is also noted that this development is currently being implemented. The dwellinghouse at Byways has been demolished and is being redeveloped with the dwellinghouse approved under the terms of planning application P/08/0688/FUL.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has raised no objections. It is noted that the existing stone wall which runs along the development site frontage at Glen Road would remain. The wall sits at a distance of 2.7 metres from the road edge. There would be no obstruction to visibility between the existing wall and the public road edge and, as such, satisfactory visibility for vehicular traffic entering and leaving the site can be achieved. The Roads Development Unit has provided advice with respect to the formation of driveways and the erection of entrance gates.
- 4.2 The Environmental Protection Unit has advised that databases indicate that there has historically been potentially contaminative activity within 250 metres of the application site. The applicant should undertake a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site.
- 4.3 Scottish Water has raised no objection.
- 4.4 The Scottish Environment Protection Agency has raised no objection. It is noted that the Roads Development Unit has raised no objection in respect of drainage or flooding.
- 4.5 Scottish Natural heritage (SNH) has raised no objection. SNH has advised that conditions be attached to protect trees which it is proposed to retain on site.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has objected to the proposed development on the following grounds:-
- The application is contrary to the Local Plan for the area, which does not make any new housing allocation for the area in the Local Plan period to 2012.
 - The site would add to the ongoing creeping development and resulting infrastructure constraints within the area.
 - It raised previous concerns that the proposal will encroach on the woodland area which is protected.

6. PUBLIC REPRESENTATION

- 6.1 Ten letters of objection have been received. The objectors' concerns partially reflect the concerns raised by the Community Council detailed in section 5 above. Other concerns include:-
- More houses will increase traffic on Glen Road.

- The ancient woodland should be preserved.
- The application site is outwith the village boundary in the adopted Local Plan.
- The application site is not a 'gap' suitable for infill.
- The rural character of the area will be eroded.
- There is no housing need for the settlement of Torwood.
- There is no intended enlargement of the village boundary through the emerging Falkirk Council Local Plan Finalised Draft (Deposit Version).
- There are constraints on drainage and water.

6.2 The Woodland Trust Scotland objects to the proposal as per previous comments on application ref: P/08/0377/FUL, namely.

- The site proposed for housing is presently woodland and is identified in Scottish Natural Heritage's Ancient Woodland Inventory;
- Ancient Woodland takes centuries to evolve and are irreplaceable;
- The historical mapping of the area shows gradual encroachment of housing into the woodland area and this gradual destruction is not justified;
- There is no ecological survey information for the site, so it is not possible to quantify the flora and fauna that will be affected by this application;
- The proposal is considered contrary to Policy EQ26 of the Falkirk Council Local Plan Finalised Draft Deposit Version;
- The site retains sufficient tree stock and type to emphasise the conservation value of the wood and its potential to recover over time from the previous felling losses;
- The remaining woodland within the proposed curtilages may be removed by homeowners.

6.3 In addition the following concerns have also been raised:-

- The application site lies outwith the Torwood Village Limit as defined in the Rural Local Plan. The proposal does not therefore accord with Policy Rural 1 of the Rural Local Plan, "New Development in the Countryside".

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

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 for the proposed development.

7a.3 The proposal is not a form of agricultural diversification.

7a.4 The proposal therefore does not accord with Policy ENV.1

7a.5 Accordingly the proposed development does not accord with the Falkirk Council Structure Plan. However, the detailed policy provisions which address the site specific matters are considered under the terms of the Rural Local Plan.

Rural Local Plan

7a.6 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.7 The proposal is not absolutely essential to the pursuance of agriculture, forestry or other economical activity appropriate to a rural location.
- 7a.8 The application site is located between the residential properties at Aonach – Mor and Byways. The application site is considered to be an identifiable gap site between these properties albeit an extended gap. It is not considered that the proposal constitutes ribbon development as the proposed development is in keeping with the well established settlement pattern which has developed on both sides of Glen Road.
- 7a.9 Due to the extended nature of the gap site it is not considered that the proposed development fully accords with Policy Rural 1.
- 7a.10 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.11 It is noted that the proposed development would extend the village limit, as defined in the Rural Local Plan to include the gap between the residential properties at Aonach – Mor and Byways. However, infilling the gap would not constitute undesirable sporadic development in the countryside. It is noted that the western limit of Torwood village would not be extended as a result of the proposal.
- 7a.12 The proposed development does not fully accord with Policy Rural 2.
- 7a.13 Policy RURAL 20 'Trees and Woodland' states:

"That the District Council recognises the economic, landscape, ecological and recreational importance of trees, woodland, afforested land and hedgerows and accordingly :-

1. *Felling detrimental to the character of the landscape or to the economic, nature conservation or recreational value of the planted area itself will be discouraged. The enhancement and management of existing woodland and other natural landscape features will be encouraged.*

2. *Where necessary, endangered areas and trees will be statutorily protected through the designation of Tree Preservation Orders. Within an area covered by a T.P.O. there will be a presumption against development unless it can be proven that the proposal would not adversely affect the stability or appearance of protected species. Where permission is given to fell a tree within a Conservation Area or an area covered by a T.P.O., the District Council will normally require the provision of replacement planting appropriate in terms of number, size, species and position.*
3. *Appropriate proposals for community woodlands and amenity planting will be encouraged, in particular within and adjacent to the rural villages, along urban fringes and transport corridors, within the Green Belt and in relation to derelict and industrial sites and farmed landscapes.*
4. *When consulted on forestry planting proposals the District Council will support the provisions of the indicative forestry strategy as outlined by Central Regional Council in its approved Structure Plan.*

The District Council favors the use of appropriate native species of trees and shrubs in new planting.”

- 7a.14 It is noted that the proposal includes the clearing of small trees and shrubs within the less dense planted southern section of the site. The proposal would also include the removal of a minimal number of trees adjacent to Glen Road in order to accommodate the three vehicular access points proposed.
- 7a.15 A detailed tree survey has been undertaken by the applicant for all trees over 150mm stem diameter, in the application site plus trees over 75mm stem diameter that would be within 5 metres of the centre line of the proposed access driveways. A plan is included with the tree survey that shows trees to be removed, and trees to be retained together with the location of essential protective fencing (a construction exclusion zone). A total of 48 trees of varying sizes and conditions have been identified for removal in order to accommodate the proposed dwellinghouses and driveways. The tree survey provides arboricultural recommendations in light of the proposal and includes an arboricultural method statement to ensure the protection of the retained trees.
- 7a.16 An assessment of the submission has been undertaken and it is considered that the report is accurate, contains sound recommendations and the method statement is acceptable.
- 7a.17 It is considered that appropriate mitigation in the form of protection of existing trees and additional planting can be achieved by condition, and that subsequently the visual impacts of the proposed housing would be acceptable.
- 7a.18 It is not considered that the proposed development would be detrimental to the character of the landscape or to the economic nature or conservation or recreational value of the area.
- 7a.19 The proposed development accords with Policy Rural 20.
- 7a.20 Taking into the account the foregoing policy assessment, the proposed development does not fully accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Scottish Planning Policy (SPP)³ “Planning for Housing, SPP15 “Rural Development”, Supplementary Planning Guidance Note “Trees and Development”, Supplementary Planning Guidance Note “Housing Layout and Design”, the representation from the Larbert, Stenhousemuir and Torwood Community Council, the letters of public representation and the planning history.

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 It is not considered that the proposal is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a countryside location is essential.

7b.4 It is noted that the application is located within an existing well established linear pattern of buildings which have been developed along the south side of Glen Road, Torwood. It is not considered that the proposed development constitutes a ribbon development extension to the Torwood Village limit. The proposal does not prejudice the well established western limit to the village defined by the track to Torwood Castle at the west side of the dwellinghouse known as Mat-Lea.

7b.5 The proposed development is considered to be an appropriate infill opportunity under the terms of Policy SC3.

7b.6 The proposed development is therefore considered to accord with policy SC3.

7b.7 *Policy SC8 'Infill Development and Subdivision of Plots' states:*

"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies."*

7b.8 The scale, density, disposition and design of the proposed dwellinghouses respect the architecture and character of the housing pattern at Glen Road.

7b.9 Adequate garden ground would be provided in respect of the proposed dwellinghouses.

7b.10 Adequate privacy would be afforded to both the proposed dwellinghouses and existing dwellinghouses at Glen Road.

7b.11 It is noted that it has been advised that adequate protection of existing trees can be achieved by conditions. Section 7a.13-19 of this report are referred to.

7b.12 It is noted that the Roads Development Unit has not objected in terms of access.

7b.13 The proposed development meets the principles emphasised in Policy SC8 and is in accordance with this policy.

7b.14 *Policy EQ26 - 'Trees, Woodland And Hedgerows' states:*

"The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:

- (1) Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*

- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7b.15 Section 7a.14-19 above referring to Policy Rural 20 of the Rural Local Plan "Trees and Woodland" are referred to.

7b.16 The proposed development accords with policy EQ26 in that the site is not designated with a Tree Preservation Order or within a Conservation Area. The site has previously suffered loss through felling and the area is not considered to significantly contribute to landscape, amenity, nature conservation or recreational interests. However trees remaining on the site have been considered through the submitted woodland report and the development considered acceptable in that context. This area of the woodland does not form part of an ancient woodland.

7b.17 The proposed development accords with Policy EQ26.

7b.18 It is therefore concluded that the proposed development fully accords with the provisions of the emerging Falkirk Council Local Plan Finalised Draft (Deposit Version).

Scottish Planning Policy (SPP)3 "Planning For Housing"

7b.19 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.20 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.21 It is noted that at present there are no Development Plan led initiatives for controlled regeneration of rural areas either by the consideration of single dwelling units in areas remote from existing settlements or in terms of specific sustainable development criteria.

7b.22 The terms of policies Rural 1 and SC3 above take precedence in relation to proposed development of this nature.

Scottish Planning Policy (SPP)15 “Rural Development”

- 7b.23 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.24 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.

Supplementary Planning Guidance Note “Trees and Development”

- 7b.25 The SPG emphasis that existing landscaping and tree cover has a significant impact and role in terms of screening, shelter from the wind and visual impact is considered to add design value to the development.
- 7b.26 Section 7a.13-20 of this report above are referred to.
- 7b.27 The proposed development accords with the SPG.

Supplementary Planning Guidance Note “Housing Layout and Design”

- 7b.28 The SPG identifies issues to be addressed and steps to be taken if good planning practice is to be adopted and a high level of design achieved.
- 7b.29 It is noted that the topography of the site has been incorporated into the design, the dwellinghouses are in keeping with existing houses at Glen Road in terms of scale, design and plot size and that there would be a high level of amenity landscaping and impact on neighbouring properties.
- 7b.30 It is considered that the proposal is in keeping with the planning practice and design advice emphasised in the SPG.
- 7b.31 Accordingly the proposed development accords with the SPG.

Representation From Larbert, Stenhousemuir and Torwood Community Council

- 7b.32 It is noted that the application site lies outwith the Torwood village limit as identified in the Rural Local Plan and that the development does not fully accord with the Development Plan.
- 7b.33 There is no evidence to support the view that the proposed development cannot be supported in terms of drainage and water supply infrastructure.

- 7b.34 The application site is an extended gap between the properties at Aonarch – Mor and Byways. It is not considered that infilling the gap constitutes undesirable sporadic development and it is noted that the western limit of Torwood village would not be extended as a result of the proposal.
- 7b.35 An assessment of the tree survey submitted in support of the proposed development has been undertaken. The survey concludes that tree cover at the site can be significantly retained to the extent that amenity would not be compromised. This is accepted and it is considered that the survey is accurate, and that sufficient landscaping/tree cover can be retained to safeguard amenity.
- 7b.36 There are no statutory protection policies under the Town and Country Planning (Scotland) Act 1997 covering the site.

Public Representations

- 7b.37 It is conceded that the application site is outwith the village limit of Torwood as identified in the Rural local Plan and emerging Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7b.38 The addition of 5 units within Torwood would inevitably cause an increase in traffic levels, but not to an extent whereby the existing road traffic infrastructure could absorb these changes. No adverse comments relating to transport planning have been submitted by consultees.
- 7b.39 The ancient woodland is not protected by any formal designation beyond the aspirations of Local Plan policies. It is conceivable that felling of trees could occur outwith the planning process and without consequence of formal planning enforcement action. However, as the proposals are subject to review by the planning authority, the felling of trees on the site has been subject to survey and review.
- 7b.40 There is no formal definition of ‘gap’ or ‘infill’ which establishes definitive linear measurements or established circumstances which are considered acceptable or unacceptable. Generally a ‘gap’ site is an area of land between two or more existing residential properties which can be appropriately developed without contributing to ribbon, backland or sporadic development. The crux of the assessment lies within the appropriateness of the proposal as relates to Development Plan policies and the particular aspects of the application. It is clear that the proposal could be seen as falling outwith normal terms, hence the definition of extended gap site when considering the application.
- 7b.41 The character of Torwood could not be considered to be entirely eroded by the introduction of 5 new dwellinghouses, given the degree of new development introduced in the recent past. Indeed, Torwood could be considered to comprise largely relatively modern dwellings introduced over the last 40 to 50 years.
- 7b.42 There is no established housing need within Torwood from the perspective of Falkirk Council. Normally, any housing need is established through the Development Plan and appropriate policies for growth introduced. However, this does not introduce a moratorium on appropriate development outwith formally allocated residential sites.

- 7b.43 There is no envisaged enlargement of the Torwood village envelope through the Development Plan process, but policies within the Development Plan do allow for development outwith envisaged site allocations.
- 7b.44 There are no constraints on drainage or water identified through consultation with Scottish Water or the Scottish Environment Protection Agency.
- 7b.45 The applicant has submitted a badger and bat survey, and no objections have been received from Scottish Natural Heritage.
- 7b.46 The applicant has also responded to comments raised:-
- The scale of development will have little impact on Glen Road.
 - The site is not part of the ancient woodland. The Ecological Report (ECOS) submitted in order to specifically address this matter demonstrates that the ecological value of the woodland resource as a whole (of which the planning application site is a small component) has been affected by historic forestry practices and that sections of the “woodland” area are of little ecological value. The planning application site in particular only contains limited sections of locally important vegetation, that along the Glen Road frontage, which in any event will be extensively retained as part of the development. New (indigenous) planting is also proposed as part of the development. The vegetation within the site that would be lost as part of the proposed development is of little woodland or ecological value. Therefore, there is no negative impact on a long established woodland of plantation origin, the ancient woodland as it exists adjacent to the site would be fully preserved – there is no underlying conflict. I also note that Scottish Natural Heritage has no objection to the development an unlikely position was there genuine concern related to protected woodland.
 - There is no doubt that the site lies outwith the local plan settlement boundary. However, as demonstrated within the Supporting Planning Statement, the underlying aims, objectives and policies of both the extant and emerging local plans are satisfactorily addressed by the proposal. The development complies with both plans.
 - There can be little doubt that the site forms a gap in built development along Glen Road and that the sympathetic “infill” development proposed will satisfactorily address the character of the area while providing beneficial and bespoke residential development (providing additional choice and variety) within the village/local area.
 - The semi-rural character of the site set within an existing village setting will be largely retained by the bespoke design of the development including the extensive retention of trees on the site frontage, the retention/repair of the stone dyke and the new planning and related management that is proposed. The design of the properties and their positioning within the site further assists in mitigating the impact of the development within its surroundings.

- New housing is required throughout the identified Rural North sub area. While the site subject to this application is not specifically identified for housing use the policy context within the local plans sets out criteria for assessing such development proposals. To be successful there is no requirement to identify a specific need albeit it is considered that need exists in most settlements and Torwood is no different. Underlying structure plan and local plan policy is the requirement to accommodate “sustainable growth in all our communities”. The scale, form and location of the development proposed would certainly contribute towards meeting this “need”.
- It is accepted that there is no specific proposal to enlarge the Torwood village boundary through the emerging Falkirk Council Local Plan. However, as indicated above, there are policies within the extant and emerging local plans to allow the assessment of proposals lying outwith designated settlement boundaries. Where, as in this case, the specified criteria are met then there is no conflict with the terms of the local Plan.
- There are no infrastructure capacity issues that would adversely affect the delivery of the development. Concerns expressed are not based on factual assessment.
- I also note an objection has been received from the Woodland Trust. It is unclear what information this body has referred to in making its objection but there are a number of reports related to the woodland including a tree survey (Eamonn Wall) and an Ecological Report (ECOS) which it would appear they have not referred to in making comment. In any event, I understand that the basis of the objection to the application is on the grounds that the proposal is contrary to the emerging local plan Policy EQ26 and also relates to issues around the biodiversity/conservation value of the application site. The felling of trees within an Ancient Woodland is also of concern.
- It has been demonstrated that the site has little or no ecological value, that there is no ancient woodland affected by the proposals, that the best trees on the site are being retained and that any trees to be removed are of little value. It is also clear that longer term benefits related to tree retention/new planting and maintenance would be secured. Please refer to the Supporting Planning Statement for further assessment related to local plan policy.
- In conclusion, it is considered by the applicant that the issues raised by all of those objecting to the proposed development can be satisfactorily addressed. In short, the development would comply with the underlying terms of the development plan and the emerging local plan in terms of the policy context, design, access and impact on woodland. In addition, the development is deliverable, proportionate to the scale of the village, has no underlying capacity constraints and would add to the housing choice in the village and the surrounding area. This is in effect the very form of development that the planning system should support.

7c Conclusion

- 7c.1 The application presented is similar in nature to planning application ref: P/08/0377/FUL previously refused by the Planning Committee on 26 May 2009, with the exception that the applicant has submitted additional information on drainage, trees and ecology, accompanied by a planning support statement.

- 7c.2 As such, this report is consistent with the report previously submitted in respect of planning application ref: P/08/0377/FUL and there have been no material changes in circumstances or policy since the previous assessment.
- 7c.3 The application site's location outwith the village envelope of Torwood does not preclude development of the land, and it is considered that the potential development does not give rise to concerns regarding unmanaged settlement expansion.
- 7c.4 Piecemeal introduction of new housing at Torwood has already occurred outwith the Development Plan led urban envelope and it is considered that the additional development of the application site could be readily absorbed within the settlement without rise to irreversible expansion of residential opportunities, potentially eroding the character of the settlement.
- 7c.5 On balance it is considered that there is justification to support a departure from the Development Plan in this case. It is also considered that the proposed development does not represent a significant departure from the Development Plan as the issues arising are of a local nature and raise no strategic concerns. It is not therefore proposed to notify the application to Scottish Ministers.
- 7c.6 As part of this revised submission the applicant has demonstrated that in respect of the impact / loss of woodland, this will be minimal. None of the trees are covered by a Tree Preservation Order. The proposal whilst acknowledging that tree loss will occur provides for the retention of trees which will ensure that the dwellings sit within a tree cover which is characteristic in this location of the village of Torwood. Furthermore there would be no adverse impact upon the wildlife as tree cover would remain on site.
- 7c.7 However if the Committee are of a mind to refuse the planning application for the previous reasons (see Appendix 1), it is considered that the applicant has demonstrated that the issues of loss of woodland and associated wildlife have been addressed. As such it is recommended that Reasons 3 and 4 relating to loss of woodland / wildlife impact are not cited.

8. RECOMMENDATION

- 8.1 The Committee is asked to consider whether the application should be granted subject to conditions as stated below or refuse the application for the reasons in Appendix 2.**
- (1) The development to which this permission relates must be begun within three years from the date of this permission.**
 - (2) Prior to the commencement of any work on site the location and construction of a fence to protect existing trees at the site shall be approved in writing by the Planning Authority.**
 - (3) Prior to commencement of any work on site, the tree protection fencing shall be erected at the site with the written approval of the Planning Authority and shall remain in situ until the completion of the last dwellinghouse.**
 - (4) There shall at no time be any materials stored or deposited in any way, plant or equipment of any kind stored or deposited in any way or vehicles parked within the area of trees to be retained.**

- (5) The landscaping at the south boundary shall be completed prior to the occupation of any dwellinghouse at the site.
- (6) Prior to the commencement of any work on site a tree and landscaping management plan shall be approved in writing by the Planning Authority.
- (7) Should any part of the existing boundary wall at Glen Road which is to be retained be demolished or become damaged in any way, the breach or damage shall be repaired and made good within 14 days of the notification of the breach by the Council.
- (8) Prior to the commencement of any work on site the applicant shall undertake, and have approved in writing by the Planning Authority a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination is identified the site investigation shall include:-
 - (a) The nature, extent and type(s) of contamination.
 - (b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - (c) Measures to deal with contamination during construction works.
 - (d) The condition of the site on completion of decontamination measures.
 - (e) Timescales for dealing with contamination.
 - (f) Details of a monitoring programme following site redemption.
- (9) Driveways shall be constructed with a gradient no greater than 1 in 10 and in a manner to ensure that surface water run-off does not discharge, or loose material is not carried out onto the public highway.
- (10) All access gates shall open inwards.
- (11) There shall be no construction or planting of any kind or placement or deposit of any materials, plant, equipment or machinery at any time between the boundary wall forming Glen Road and the public highway.
- (12) Prior to the commencement of works on site a walkover survey of the site for badgers / bats shall be carried out and if setts / roosts are identified, mitigation measures shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.
- (13) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To ensure the protection of existing trees at the application site.

- (5-8,12) To safeguard the environmental amenity of the area.
- (9-11) To safeguard the interests of the users of the highway.
- (13) To ensure that the development is carried out to the satisfaction and approval of the Planning Authority.

Informative(s):

- (1) In respect of the Badger Survey requirement, where existing infrastructure and development allows, the survey should be conducted out to 30 metres beyond the site boundary. A licence may be required for any badger mitigation, please contact SNH for further advice.

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For Director of Development Services

Date: 27 October 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Rural Local Plan.
3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
4. Planning application ref P/08/0379/FUL
5. Falkirk Council Supplementary Planning Guidance Notes 'Trees'.
6. Falkirk Council Supplementary Planning Guidance Notes 'Housing Layout and Design'.
7. Letter of objection from Alison Neilson, Willowdene, Glen Road, Torwood, Larbert on 02 May 2008.
8. Letter of objection from Mr & Mrs Laing, Bracken Lea, Glen Road, Torwood, Larbert on 08 May 2008.
9. Letter of objection from J Paton, Wallacebank, Glen Road, Torwood, Larbert on 09 May 2008.
10. E-mail from Christina Byrne of the Woodlands Trust on 03 April 2009 (Objection).
11. Letter of objection from Mr Gordon Millar, Rowandale, Torwood, Larbert FK5 4SN on 09 March 2009.
12. E-mail from Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert FK5 4GR on 06 April 2009 - Objection.
13. Letter of objection from Mr and Mrs J Bell, Netherlee Glen Road, Torwood, Larbert on 21 September 2009.
14. Letter of objection from Gordon and Isabel Lawton, Holings, Glen Road Torwood, Larbert on 18 August 2009
15. Letter of objection from Mr Alan Mackay, Woodhaven, Glen Road, Torwood on 10 August 2009
16. Letter of Objection from Larbert, Stenhousemuir & Torwood Community Council c/o 92 Stirling Road, Larbert FK5 4NF on 14 September 2009.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504707 and ask for Donald Campbell (Co-ordinator).

Regulatory Committee

Planning Application Location Plan

P/09/0525/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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Appendix 1 – Reasons for refusal of planning application P/08/0379/FUL

1. The application is contrary to the Development Plan and there are no material considerations such as countryside use that would justify a departure from the Development Plan.
2. There is no recognized emerging housing need locally that would justify a departure from the Development Plan.
3. The application would seriously damage a long established area of woodland together with its wildlife that is of significant value to the local community in terms of active and passive leisure.
4. The application would destroy an area of long established woodland of significant traditional and heritage value, character and sense of identity to the local community

Appendix 2 – Potential reasons for refusal of planning application P/09/0525/FUL

1. The application is contrary to the Development Plan and there are no material considerations such as countryside use that would justify a departure from the Development Plan.
2. There is no recognized emerging housing need locally that would justify a departure from the Development Plan.