

FALKIRK COUNCIL

Subject: USE OF LAND TO FORM 6 PERMANENT GYPSY/TRAVELLER HOUSEHOLDS AND 2 VISITOR PITCHES WITH FACILITIES FOR ACCESS, PARKING, FENCING, SCREENING AND UTILITY UNITS AT BIRCHWOOD FARM, BONNYBRIDGE, FK4 2ET (RETROSPECTIVE) FOR MRS MARY KENNEDY – P/09/0364/FUL

Meeting: PLANNING COMMITTEE

Date: 24 March 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: None

Case Officer: Brent Vivian (Senior Planning Officer) Ext 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks detailed retrospective planning permission for the use of land to form 6 permanent gypsy/traveller sites, two visitor pitches and associated access, parking, fencing, landscaping and utility units.
- 1.2 The application site extends to 1.39 hectares, lies in open countryside to the south of High Bonnybridge and has been developed as a permanent gypsy/traveller site. The application provides for six pitches with gravel finishes, a principal or chalet caravan, two other caravans and a utility building. The development is laid out in a linear configuration, with Pitches 1 to 5 being enclosed by close boarded timber fencing. Vehicular access is from Beam Road. A livery building sits near the entrance to the site.
- 1.3 The applicant's agent had advised that the families (comprising 18 people at present) are inter-related and it is not unusual for related gypsy/traveller families to want to pitch close to and support each other. The families do not consider the Council's Redding site to be safe or suitable. The agent has also advised that the pitches range in size from 860m² - 1320m² and that the gravel finish yards are used as private amenity space.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires Committee consideration as granting it would be contrary to the Development Plan.

3. SITE HISTORY

- 3.1 Planning application ref: F/2002/0833 has been granted and implemented for the erection of a stables complex and an outdoor schooling area for livery purposes.
- 3.2 Planning application ref: 06/0493/AGR has been granted but not implemented for the erection of an agricultural building.
- 3.3 Planning application ref: P/07/0529/OUT for the erection of a dwellinghouse and a domestic garage - refused.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has detailed its requirements for the upgrade of the existing vehicular access and is satisfied that the replacement culverting of a surface water drainage ditch under the access road would not compromise its hydraulic capacity.
- 4.2 Scottish Water has no objection to the application.
- 4.3 The Environmental Protection Unit is satisfied with a statement from the applicant advising that no made ground or suspect material was encountered during site works and has requested additional information regarding the floor construction of the structures.
- 4.4 The Scottish Environment Protection Agency has removed its objection to the application following discussions with the applicant regarding provision of a private foul effluent treatment plant. The applicant and SEPA have agreed that a new soakaway system (a sequential batch reactor with a soakaway discharge point 30 metres away from the watercourse) will be installed. Its detailed design would be the subject of issue of a license under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR). The existing soakaway would be abandoned.
- 4.5 Scottish Natural Heritage is satisfied that the development would not significantly impact on protected species such as water vole.
- 4.6 The 'Travelling Persons' Officer has advised that some of the family members have previously resided on the Council's Redding site. She has stated that whilst security and safety measures are in place to make the Redding site a safe environment, some gypsy/traveller families wish to live in a family only environment on their own site. The Redding site is currently operating with 15 pitches, with an average pitch size of 180m², and there are currently three families on the waiting list.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council for this area.

6. PUBLIC REPRESENTATION

6.1 Three objections for the application have been received. The concerns raised in these objections can be summarised as follows:

- The area is Green Belt.
- The area is being promoted for recreation/tourism.
- A small village is emerging.
- Number of caravans.
- The proposed screening will not provide an adequate year round visual barrier.
- Additional pressure on local schools and the medical centre.
- Adequacy of the septic tank.
- Proposed culvert may not be sufficient to avoid flooding.
- Setting of precedent if granted.
- Planning permission should have been sought prior to the site being developed.
- Neighbour notification not received.

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

Approved Falkirk Council Structure Plan

7a.1 The development does not have any strategic implications therefore the policies of the approved Structure Plan are not considered to be relevant.

Adopted 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 lies within the Countryside as identified in the adopted Rural Local Plan. Policy Rural 1 provides for new development in the countryside in limited circumstances, but none of these circumstances are relevant to this development. It therefore does not accord with this policy.

7a.4 Accordingly, the proposed development does not accord with the Development Plan.

7b Material Considerations

7b.1 The material planning considerations in respect of this application are National Planning Policies and Guidance, relevant reports and guidance adopted by the Scottish Government, the Falkirk Council Local Plan Finalised Draft (Deposit Version), the consultation responses and the representations received.

National Planning Policies and Guidance

7b.2 Scottish Planning Policy (February 2010) states that *'Planning Authorities should identify suitable locations for meeting the needs of Gypsies and Travellers and set out policies about small privately owned sites'.*

- 7b.3 The Development Plan does not identify any such locations or set out relevant policies. However, a Pre-Inquiry Modification to the Falkirk Council Local Plan Finalised Draft (Deposit Version) proposed a specific policy (Policy SC4A) to assess small privately owned gypsy/traveller pitches. The application has been assessed against this policy in this report.
- 7b.4 Scottish Planning Policy does not define the size of sites or the number of pitches that might constitute 'small'. However, in terms of pitch size, it is considered that this will depend on the size of individual families and their particular needs. A pitch will require hard standing for the area to be occupied by a mobile home, touring caravan(s) and a utility building, together with space for parking.
- 7b.5 In this instance, the size of the pitches would appear to be in excess of the space required by the families for a principal or chalet caravan, two caravans, utility building and associated parking and amenity space. The overall size of the site is therefore a matter of concern by virtue of the size of the pitches and the impact this has on the character and appearance of the countryside.

Relevant Reports and Guidance

- 7b.6 Relevant reports and guidance adopted by the Scottish Government are: the Secretary of State's Advisory Committee for Scotland's Travelling People (ACSTP) Guidance Notes for Site Provision for Travelling People (GNSPTP), 1997, adopted by the Scottish Executive; the terms and recommendations of the ACSTP's Ninth and Final Report of the Advisory Committee on Scotland's Travelling People, 1998-1999, adopted by the Scottish Executive in 2000; and the Scottish Parliament Equal Opportunities Committee 1st Report 2001, Inquiry into Gypsy Travellers and Public Sector Policies (IGTPSP), adopted by the Scottish Executive.
- 7b.7 The GNSPTP states at paragraph 2.3 that *'Applications for planning permission from Travellers in respect of private sites should be sympathetically considered'*. Paragraph 2.4 states *'The principal task continues to be the provision of long stay sites'*. Paragraph 3.1 states *'Site selection can be affected by the need to find the location which is least unacceptable to the settled community'*. Criteria for choosing a location include: accessibility; provision of services; proximity to the settled community; the nature of the site; proximity to employment, schools and community services; and provision for Gypsies/Travellers in neighbouring areas.
- 7b.8 With respect to these criteria, the application site is a reasonable distance from the nearest settlement (Bonnybridge) whilst being sufficiently close for ease of access to local facilities and services. The applicant has advised that children at the site attend a local nursery and primary school and that the families are registered with local medical and dental facilities.
- 7b.9 The ACSTP's Ninth and Final Report has been referred to earlier in this report. It suggests that applications by travellers for small sites should be treated as 'agricultural' rather than 'residential'.
- 7b.10 The IGTPSP stresses the rights to and security of a home, which should be defined to include sites which are home to gypsies/travellers, and notes the difficulties of travellers in obtaining planning permission for private sites.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.11 The application site lies within the countryside under the Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.12 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.13 This policy identifies the specific policies that will apply to development proposals in the countryside and sets out three criteria that will apply to development not covered by the specific policies. In this instance, the specific policies do not apply therefore the development requires assessment against the three criteria. Having regard to the terms of the Advisory Committee on Scotland's 'Travelling Peoples' ACTP) Ninth report (1998-1999), it is considered that these criteria are met, as the development requires a countryside location. The Ninth Report suggests that applications for small gypsy/travellers sites should be treated as 'agricultural' rather than 'residential' in recognition of the type of accommodation required and the types of vehicles involved.

7b.14 Part 2 of the policy requires the scale, siting and design of development that meets the relevant countryside criteria, to be strictly controlled. In this instance the development is relatively obtrusive as it is open to view, although it does not break the skyline, and its visual impact is exacerbated by the large scale of the pitches and its linear arrangement. In addition, the chalets/caravans are not particularly sympathetic to vernacular building design and suburban style timber boundary fencing is in place. Balanced against this, extensive landscape screening of the site is proposed, however concerns regarding the extent and effectiveness of this are raised in paragraph 7b.18. On balance, the development is considered to be contrary to this policy.

7b.15 Policy SC4A - 'Gypsy / Travellers' Sites' states:

"Proposals for small privately-owned sites to accommodate gypsy / travellers will be permitted where:

- (1) The site satisfies policies in the Local Plan relating to the protection of the built and natural heritage (EQ12-EQ30) and the protection of the public open space (SC12);*
- (2) The site can be appropriately landscaped, such that there will be no adverse effect on the character, appearance and amenity of the area;*
- (3) The site affords an appropriate level of residential amenity and access to community facilities; and*
- (4) Access, parking and other servicing can be provided to a satisfactory standard, and the site is not at risk from flooding, in terms of Policy ST12."*

7b.16 This policy states that small privately owned sites to accommodate gypsy/travellers will be permitted where four criteria are satisfied. Criterion 1 requires the development to satisfy the local plan policies relating to the built and natural heritage (Policies EQ12 – EQ30). As detailed above, the development is considered to be contrary to Policy EQ19.

7b.17 Criterion 2 relates to appropriate landscaping to ensure there would be no adverse impact on the character, appearance and amenity of the area. A Landscape Plan has been submitted with the application which proposes extensive screening of the site consisting of: 1.5 metre high grassed earth bunding along the northern boundary; planting of beech/hawthorn hedges and light standard rowan, birch and beech trees on the top of the bunding; planting of hedges, retention of existing trees and planting of light standard trees along the southern boundary; and planting of shrubs and light standard trees at the entrances and side boundaries to pitches 1 to 5. In addition, a 5 metre wide planting corridor consisting of hedges and trees is proposed on land to the north, partly along Beam Road, which is within the ownership of the applicant.

7b.18 The Council's Landscape Officer has: noted that the development is quite prominent in the landscape due to its layout; acknowledged that the scheme has been revised to include more proposals to try to reduce its visual impact; accepted the species and location of the proposed planting; recommended an increase in the number of plants to create denser hedges; and requested additional information with regard to plant numbers and sizes. It is evident that the proposals to mitigate the visual impact of the development rely upon extensive landscaping and bunding due to the open aspect, size and linear configuration of the site. This is of concern, as the proposed landscaping would take, according to the Landscape Officer, five to ten years to mature to provide fully effective screening, although it is acknowledged that the bunding could provide partial screening earlier.

7b.19 Criteria 3 and 4 are considered to be satisfied. It is accepted that the site affords an appropriate level of residential amenity, access to community facilities and satisfactory access, parking and other servicing. A specification to enhance the existing vehicular access has been accepted by the Roads Development Unit. In addition, the site is not considered to be at risk of flooding.

7b.20 On balance, the development is considered to be contrary to this policy. This is due to conflict with Policy EQ19 and concerns at the impact of the development on the character and appearance of the area.

Representations Received

7b.21 The concerns raised in the representations have been summarised in this report. With regard to these concerns, the following comments are considered to be relevant:

- The area is not designated as Green Belt but does lie within the countryside.
- Concerns regarding the size of the site and the setting of a precedent are acknowledged.
- The proposed landscaping has been amended such that it could effectively screen the site when it matures, however concern has been raised at the visual impact that would remain in the short term and the extent of landscape mitigation that is required due to the size and linear configuration of the site.
- The site currently accommodates 18 people including one child attending a local primary school. It is not considered that this number of people would have any significant impacts on local facilities and services.
- The foul drainage scheme has been amended to address SEPA concerns.
- The replacement culvert under the access road is larger and therefore increases flow capacity.
- It is legitimate to address a breach of planning control by applying for planning permission retrospectively.

7c Conclusion

7c.1 The development is considered to be contrary to the Development Plan for the reasons detailed in this report. However, it is considered there are material planning considerations to justify setting aside the terms of the Development Plan in this instance. These include the support given in gypsy/traveller reports and guidance adopted by the Scottish Government to private sites and the locational benefits of the site, being a reasonable distance from the nearest settlement but within easy reach of local services and facilities. Balanced against this, the development has been assessed as contrary to Policies EQ19 and SC4 of the Falkirk Council Local Plan Finalised Draft, due to the impacts of the development on the character and appearance of the area.

7c.2 The application is finely balanced, however it is considered that concerns regarding the size and visual impact of the development outweigh the considerations in support. There are, however concerns that a recommendation to refuse the application could cause accommodation difficulties for the families in the short term, particularly given there is a waiting list at the Council's site at Redding. The wellbeing of the families, particularly in relation to the potential impact on the children attending local nurseries and schools, is a consideration. Temporary planning permission is therefore recommended.

8. RECOMMENDATION

8.1 It is therefore recommended that Committee grant planning permission subject to the following conditions:-

- (1) This permission shall be valid for a limited period until 30 June 2011 and at that time, unless further permission is granted, the site shall be vacated and reinstated in accordance with an approved restoration scheme.
- (2) Vehicular access to the site shall be provided in accordance with the specification detailed on approved plan 04.
- (3) Foul drainage for the development shall be provided in accordance with the details indicated on approved plan 02A.

Reason(s):

- (1) The development is not considered to be appropriate as a permanent use of the site.
- (2) To safeguard the interests of the users of the public highway.
- (3) To ensure the provision of an acceptable foul drainage scheme.

Informative(s)

- (1) For the avoidance of doubt the plan(s) to which this decision refer(s) bear our reference number(s) 01, 02A, 03 and 04.
- (2) The vehicular access will require to be constructed in accordance with a Minor Roadworks Consent, issued and approved by Roads Services, Earls Road, Grangemouth.
- (3) The foul drainage scheme will require the issue by SEPA of a license under the Water Environment (Controlled Activities) (Scotland) Regulations 2008 (as amended) (CAR).

Pp
Director of Development Services

Date: 16 March 2010

LIST OF BACKGROUND PAPERS

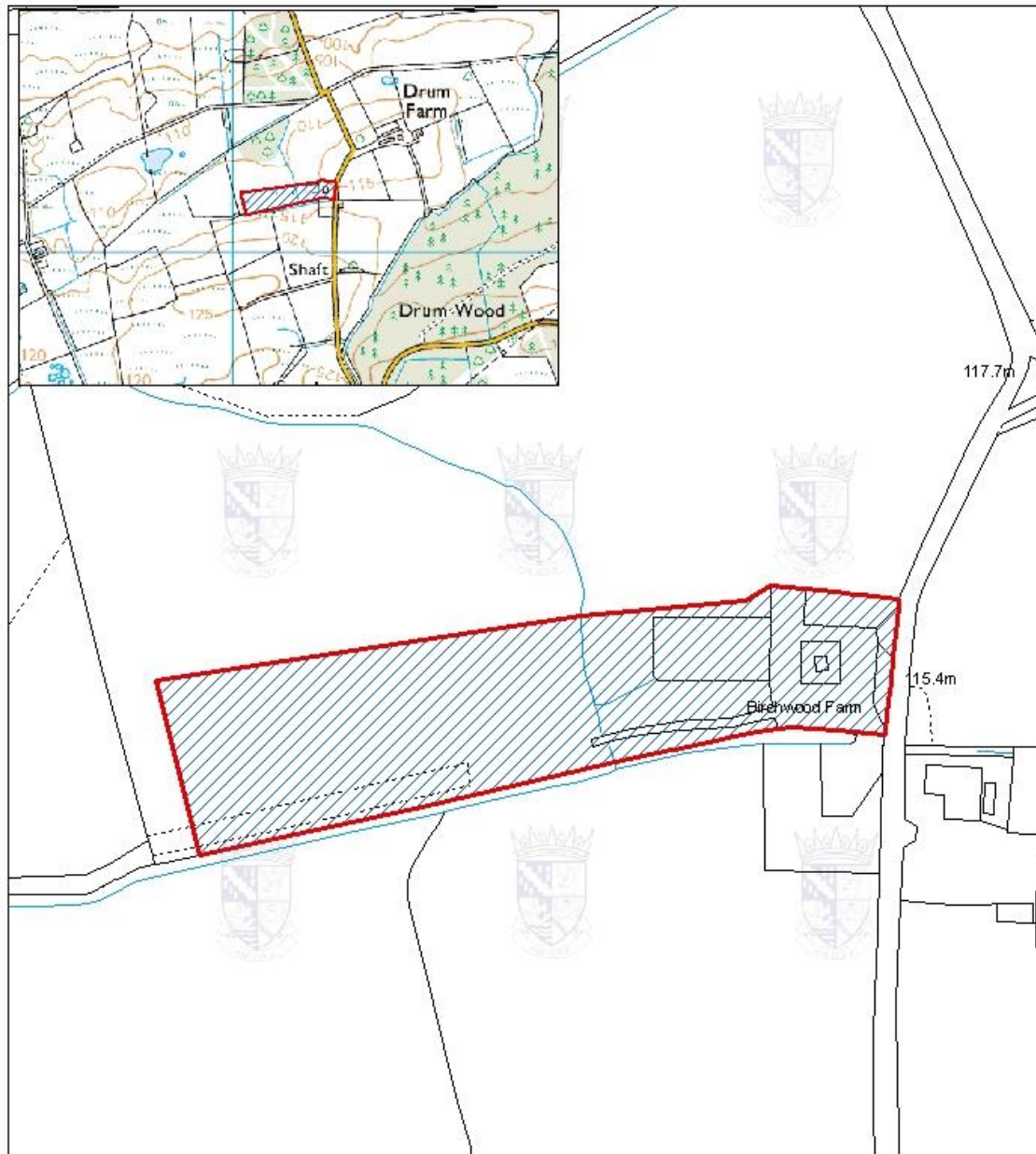
1. Scottish Planning Policy (February 2010).
2. The Secretary of State's Advisory Committee for Scotland's Travelling People (ACSTP) Guidance Notes for Site Provision for Travelling People (GNSPTP), 1997.
3. The Terms and Recommendations of the ACSTP's Ninth and Final Report of the Advisory Committee on Scotland's Travelling People, 1998-99.
4. Scottish Parliament Equal Opportunities Committee 1st Report 2001, Inquiry into Gypsy Travellers and Public Sector Policies (IGTPSP).
5. Approved Falkirk Council Structure Plan.
6. Adopted Rural Local Plan.
7. Falkirk Council Local Plan Finalised Draft (Deposit Version).
8. Letter of objection received from I.D & M.A Connell, South Drum, Bonnybridge, FK4 2EU on 7 July 2009.
9. Letter of objection received from Mrs Judith Delissen, West Cottage, High Forrester, Quarter Farm, Bonnybridge, FK4 2HA on 10 August 2009.
10. Letter of objection received from Mrs Karyn Pettigrew, 19 Grahamsdyke Road, Bonnybridge, FK4 2DF on 28 December 2009.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian (Senior Planning Officer).

Planning Committee

Planning Application Location Plan **P/09/0364/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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