

**FALKIRK COUNCIL**

**Subject:** SUB-DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT SCHOOL HOUSE, WELLPARK TERRACE, BONNYBRIDGE, FK4 1LR FOR MR DAVID MANGAN – P/10/0072/PPP  
**Meeting:** PLANNING COMMITTEE  
**Date:** 19 May 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

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 21 April 2010 (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 4 May 2010.
2. At the site visit, the planning officer summarised the officer's report and the applicant and Planning Committee Members were heard.
3. The applicant advised that he had received a copy of the consultation responses and was aware of the objection by Corporate and Neighbourhood Services. He queried the meaning of private access, sought clarification of the 18 metre separation rule and suggested that vehicular access from Wellpark Terrace could be an alternative.
4. In response to the applicant's queries, the Roads Officer advised that a private access is one that is not adopted and maintained by the Council. The Development Manager clarified that the 18 metre guideline relates to the distance between facing windows of separate dwellinghouses that are directly opposite each other and its purpose is primarily to protect privacy.
5. In response to queries by Members, the Roads Officer advised that his concerns would be addressed if a right of access could be secured over the adjoining land held by Corporate and Neighbourhood Services. It was confirmed that the end on siting of a dwellinghouse could reduce the need for an 18 metre separation distance. The applicant advised that the new dwellinghouse would be for his daughter. It was noted that vehicular access to the rear of the property from Wellpark Terrace to serve the proposed dwellinghouse would represent backland development.
6. The recommendation contained in the previous report is reiterated. Accordingly:-

## 7. RECOMMENDATION

7.1 It is recommended that the Planning Committee refuse the planning application for the following reason(s):

- (1) The proposed development does not accord with Policy BON.2 of the adopted Bonnybridge and Banknock Local Plan as it has not been demonstrated that a right of access could be secured across adjoining land to serve the application site therefore there is no certainty that in-curtilage car parking could be provided to accord with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.
- (2) The proposed development does not accord with Policies SC2 and SC8 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as (a) the density and disposition of the proposed development does not respect the character of the area and (b) it has not been demonstrated that adequate garden ground could be provided or maintained to serve the existing and proposed dwellinghouses or that adequate privacy would be afforded to both the proposed dwellinghouse and neighbouring properties.



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Director of Development Services

Date: 11 May 2010

### LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan
2. Adopted Bonnybridge and Banknock Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version)
4. Falkirk Council Supplementary Planning Guidance for Housing Layout and Design
5. Letter of Support from Mr Derek McKenzie, Bonnybridge PS, Wellpark Terrace, Bonnybridge, FK4 1LR on 18 February 2010

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

**FALKIRK COUNCIL**

**Subject:** SUB-DIVISION OF GARDEN GROUND AND ERECTION OF DWELLINGHOUSE AT SCHOOL HOUSE, WELLPARK TERRACE, BONNYBRIDGE, FK4 1LR FOR MR DAVID MANGAN – P/10/0072/PPP

**Meeting:** PLANNING COMMITTEE

**Date:** 21 April 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 planning permission in principle for the erection of an additional dwellinghouse on a residential property.
- 1.2 The application site comprises the rear garden ground of a residential property. The property is flat, contains a single storey dwellinghouse and the rear garden is laid in grass. Access to the property is from Wellpark Road. The rear of the property is bounded by a tarmac area accessed from Fairfield Avenue. The area is predominantly residential in nature, and open space and Bonnybridge Primary School lie to the east and south-east. A public footpath adjoins the property to the west.

## **2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in by Councillor Buchanan.

## **3. SITE HISTORY**

- 3.1 There is no planning history for the application site.

## **4. CONSULTATIONS**

- 4.1 The Roads Development Unit has advised that access to the proposed development would be by means of a private access which is contrary to this Unit's practice. It would need to be demonstrated that a right of access over this land exists to serve the proposed development. It is also advised that in-curtilage parking is required to be maintained for the existing dwellinghouse and provided for the proposed dwellinghouse in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.
- 4.2 Scottish Water has no objection to the application.
- 4.3 The Environmental Protection Unit has requested the submission of a Contaminated Land Assessment due to the presence of former railway land, a sawmill and other potential sources of land contamination within 250 metres of the site.
- 4.4 Corporate and Neighbourhood Services has objected to the application as it is proposed to access the development over land owned by the Service. The Service considers that such access would prejudice any future use of this land by Falkirk Council.

## **5. COMMUNITY COUNCIL**

- 5.1 There is no Community Council for this area.

## **6. PUBLIC REPRESENTATION**

- 6.1 One letter of support has been received advising of no concerns with the proposed development.

## **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 proposed development does not have any strategic implications therefore the policies of the approved Structure Plan are not relevant.

#### ***Adopted Bonnybridge and Banknock Local Plan***

- 7a.2 The application site lies within the urban limits as defined in the adopted Bonnybridge and Banknock Local Plan
- 7a.3 Policy BON 2 states:

*“That within the urban area uses will generally be acceptable provided they accord with all other relevant District Council policies and standards of provision.”*

7a.4 This policy supports urban uses within the urban area provided all relevant Council policies and standards of provision are satisfied. In this instance, the proposed development is, in general terms, a suitable use given the predominantly residential nature of the area. However, it is indicated on the location plan submitted with the application that access would be from a tarmac area adjoining the site to the north. This area is not a public road and it has not been demonstrated that a right of access could be secured across this land to serve the application site. Development in these circumstances is contrary to the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as there is no certainty that in-curtilage car parking could be provided. The proposed development is therefore contrary to 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 the Falkirk Council Local Plan Finalised Draft (Deposit Version), the Council’s Supplementary Planning Guidance for Housing Layout and Design and the consultation responses.

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

7b.2 The application site lies within the urban limits as defined in the Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.3 Policy SC2 - ‘Windfall Housing Development Within The Urban / Village Limit’ states:

*“Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:*

- (1) The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- (3) The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) Existing physical infrastructure, such as roads and drainage, water supply, sewage capacity and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) There is no conflict with any other Local Plan policy or proposal.”*

7b.4 This policy supports new housing within the urban limits where certain criteria are satisfied. With reference to criterion (1), the application site is not brownfield land and being garden ground, could be considered a form of urban open space. The proposal is however considered to accord with Policy SC12 (Urban Open Space) as it would not give rise to any material loss of amenity space or impact on land with recreational, ecological or public access interests. With reference to

criterion (2), the proposal would be compatible with neighbouring uses, but there are concerns that the property is not sufficiently large to provide adequate garden ground and afford adequate privacy. It has therefore not been demonstrated that a satisfactory level of residential amenity could be achieved. With reference to criterion (4), there are concerns regarding the proposed access to the site. With reference to criterion (5), the proposed development is considered to be contrary to Policy SC8 for the reasons detailed in this report. The proposed development is considered to accord with criteria (3) and (6). Overall, the proposed development does not accord with this policy.

7b.5 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.6 This policy provides for the erection of additional dwellinghouses within the curtilage of existing properties subject to certain criteria being met. With reference to criterion (1), the density and disposition of the proposed development are out of keeping with the character of the area as there is no existing pattern of developing rear garden ground for housing. With reference to criteria (2) and (3), there are concerns that the property is not sufficiently large to provide adequate garden ground to serve both the existing and proposed dwellinghouses and afford adequate privacy. No information has been submitted to demonstrate that these concerns could be adequately addressed. With reference to criterion (5), concerns have been raised in this report regarding the proposed vehicular access. The proposed development is considered to accord with criteria (4) and (6). Overall, the proposed development does not accord with this policy.

### ***Falkirk Council’s Supplementary Guidance***

7b.7 The Council’s Supplementary Planning Guidance for Housing Layout and Design presumes against backland development where there are concerns with the amenity and size of the resulting private gardens (a minimum garden length of 9 metres is required). The guidance also recognises that a minimum distance of 18 metres is required between facing windows of habitable rooms in order to safeguard privacy. In this instance it has not been demonstrated that these standards could be met, therefore it cannot be concluded that the proposed development satisfies this guidance.

### ***Consultation Responses***

7b.8 The consultation responses have been summarised in section 4 of this report. The concerns raised by the Roads Development Unit are noted. The request by the Environmental Protection Unit for a Contaminated Land Assessment could be the subject of a condition of any grant of permission.

- 7b.9 Corporate and Neighbourhood Services has objected to the application as it is proposed to access the development over land owned by this Service. It should be noted that granting planning permission does not confer rights over other land. Accordingly, Corporate and Neighbourhood Services could prevent access over its land if there is no existing right of access.

**7c Conclusion**

- 7c.1 The proposed development is considered to be contrary to the Development Plan and the Falkirk Council Local Plan Finalised Draft (Deposit Version) for the reasons detailed in this report. In addition, it is not supported by the Council's Supplementary Planning Guidance for Housing Layout and Design. There are no material considerations to justify setting aside the terms of these plans therefore the application is recommended for refusal.

**8. RECOMMENDATION**

- 8.1 It is therefore recommended that the Committee refuse the planning application for the following reason(s):

- (1) The proposed development does not accord with Policy BON.2 of the adopted Bonnybridge and Banknock Local Plan as it has not been demonstrated that a right of access could be secured across adjoining land to serve the application site therefore there is no certainty that in-curtilage car parking could be provided to accord with the Design Guidelines and Construction Standards for Roads in the Falkirk Council Area.
- (2) The proposed development does not accord with Policies SC2 and SC8 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) as (a) the density and disposition of the proposed development does not respect the character of the area and (b) it has not been demonstrated that adequate garden ground could be provided or maintained to serve the existing and proposed dwellinghouses or that adequate privacy would be afforded to both the proposed dwellinghouse and neighbouring properties.

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**Director of Development Services**

**Date: 13 April 2010**

### **LIST OF BACKGROUND PAPERS**

1. Approved Falkirk Council Structure Plan
2. Adopted Bonnybridge and Banknock Local Plan
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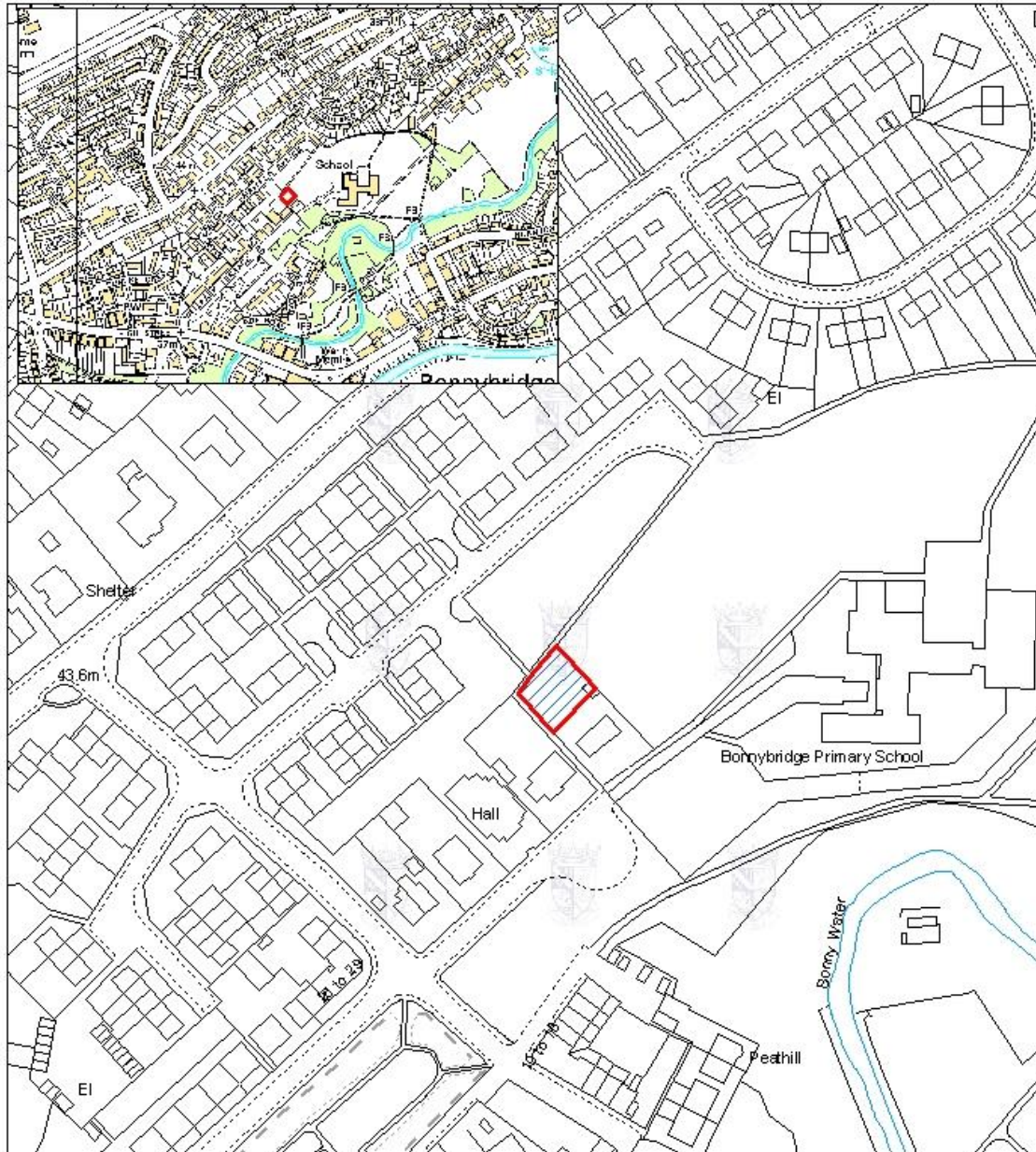


# Planning Committee

## Planning Application Location Plan

**P/10/0072/PPP**

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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