

FALKIRK COUNCIL

Subject: SITING OF TWO STATIC CARAVANS AND FOUR TOURING CARAVANS (RETROSPECTIVE) AT LAND TO THE WEST OF GREENWELLS FARM, BELLEVUE, RUMFORD FOR MICHAEL MCEWAN AND WALTER MCEWAN – P/09/0685/FUL

Meeting: PLANNING COMMITTEE

Date: 19 May 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

**Local Members: Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie**

Community Council: Maddiston

Case Officer: Kevin Brown (Planning Officer) Ext, 4701

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed application proposes the siting of a number of residential caravans to accommodate travelling persons on a brownfield site to the west of Rumford. The site is accessed via a farm track which also serves as a public right of way and the site is serviced by a septic tank and mains water supply.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application is contrary to the terms of the Development Plan.

3. SITE HISTORY

- 3.1 The site was previously subject to an outline planning application for the development of land for housing purposes (06/0680/OUT), however this application was withdrawn.
- 3.2 The site, whilst not benefiting from planning permission, has been used for a variety of uses in the past. Anecdotal evidence suggests that it has been used in the past as a sawmill, a base for a fencing contractor and a mechanics garage. Prior to the caravans being located here, the site was vacant and derelict.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has assessed the application, including the proposed access via the farm track, in terms of parking, road safety, flooding and drainage and they are satisfied with the proposals in their current form.
- 4.2 The Environmental Protection Unit has requested that the applicant undertakes a standard contaminated land survey. They have not raised any objection to the proposal.
- 4.3 Scottish Water has not objected to the proposal and they have confirmed that there are no public sewers within the vicinity of the application site.
- 4.4 SEPA have no objections to the proposal. SEPA have referred to their standing guidance for sites of this size which supports the usage of a septic tank in areas such as the application site where there is no access to the public sewer.

5. COMMUNITY COUNCIL

- 5.1 The Maddiston Community Council has not commented on the proposal.

6. PUBLIC REPRESENTATION

- 6.1 3 letters of objection were received following the neighbour notification process. Issues raised include:
 - Road not suitable for increased traffic movements.
 - Damage caused to the access road and burn embankment.
 - Road safety.
 - Sanitation issues should be priority.
 - Possible future intensification of the use of the site.

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.

Polmont and District Local Plan

7a.2 Policy POL 11.1 'New Development in the Countryside' states:

"Within the countryside (i.e. outwith the urban limit), there will be a general presumption against new development except in the following circumstances:

- (i) 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 277(1) of the Town and Country Planning (Scotland) Act 1997, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons;*
- (ii) appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms;*
- (iii) industrial/ business development where there is an overriding national or local need and a rural site is the only suitable location;*
- (iv) development for tourism and countryside recreation purposes where the 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 area. Proposals which accord with the Council's Economic Development Strategy are particularly welcomed; and*
- (v) 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 Council.*

The scale, siting and design of those developments which are granted permission will be strictly controlled. Building designs compatible with the Council's 'Design Guide For Buildings In The Rural Areas' and sympathetic to vernacular architectural forms will be expected."

7a.3 The application site is outwith the urban limits as defined by the Polmont and District 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 proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations relating to this proposal 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 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. This policy was subject to discussion at the recent Falkirk Council Local Plan Public Inquiry and the Reporters have recently concluded in their Final Inquiry Report that this policy should be included within the Falkirk Council Local Plan (this recommendation is subject to consideration by the Council). The application has been assessed against this policy in this report.

Relevant Reports and Guidance

- 7b.4 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.5 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.6 With respect to these criteria, the application site is a reasonable distance from the nearest settlement whilst being sufficiently close for ease of access to local facilities and services.
- 7b.7 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.8 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.

Finalised Draft Falkirk Local Plan Finalised Draft (Deposit Version)

- 7b.9 The application site lies within the countryside under the terms of the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7b.10 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.11 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.12 Part 2 of the policy requires the scale, siting and design of development that meets the countryside criteria, to be strictly controlled. In this instance the development is unobtrusive as it is located in a secluded location. The proposed development is small in scale, does not break the skyline and benefits from a large degree of natural screening from existing vegetation and the topography of the land. On balance it is considered the development complies with the terms of this policy.

7b.13 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.14 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 application is considered to accord with the terms of Policy EQ 19.

- 7b.15 Criterion 2 relates to appropriate landscaping to ensure there would be no adverse impact on the character, appearance and amenity of the area. The site is well screened at present due to existing vegetation around the site boundaries and beyond. It is however considered that the main frontage of the site which bounds onto the farm access track and right of way could benefit from additional landscaping to assist in screening the development. This could be adequately achieved by way of a condition attached to any consent given.
- 7b.16 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. The site is not considered to be at risk of flooding.
- 7b.17 The development is considered to be in accordance with the terms of this policy.

Representations Received

- 7b.18 The Roads Development Unit have assessed the proposals and are satisfied that the existing access road is sufficient to serve the development. No concerns have been raised in reference to road safety.
- 7b.19 The upkeep and continued maintenance of the access track is not a material planning consideration, nor are claims in reference to damage caused to private property as a potential result of traffic movements.
- 7b.20 The route of the established right of way running past the front of the application site remains clear and unobstructed by the proposed development.
- 7b.21 Sanitation issues have been assessed and the existing on site septic tank arrangement is considered sufficient to progress this application in line with standard guidance from SEPA. It is considered appropriate to attach an informative to any consent granted requesting that the applicant contacts SEPA directly to discuss the potential longer term drainage options at the site.
- 7b.22 The current application refers to specific numbers of caravans on the site and it is considered appropriate to further control this by way of a suitably worded condition attached to any consent given. Any further increase in the number of caravans at the site would therefore require a further planning application to be submitted thus allowing for a full assessment of the potential impacts of any future intensification on the site.

7c Conclusion

- 7c.1 The development is considered to be contrary to the Development Plan for reasons outlined in this report. However, it is considered that 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. This, in addition to the support given to the proposal in the Falkirk Local Plan Finalised Draft (Deposit Version) policy EQ19 and the proposed policy SC4A, is considered to outweigh the terms of the Development Plan and it is therefore considered that granting planning permission in this instance is entirely appropriate.

8. RECOMMENDATION

8.1 It is therefore recommended that the Committee grant planning permission subject to the following condition(s):

- (1) The number of caravans hereby approved is limited to two static caravans and four touring caravans and the introduction of any further caravans or other residential accommodation on the site will require the submission of a separate planning application.
- (2) Within 6 months of the date of this permission and unless otherwise agreed in writing, full details of additional landscaping, planting and boundary treatments including details of implementation and future maintenance to assist in screening the site shall be submitted to and approved in writing by the Planning Authority.

Reason(s):

- (1) To ensure the potential future intensification and use of the site can be adequately controlled by the Planning Authority.
- (2) To safeguard the visual amenity of the area.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02.
- (2) All drainage shall comply with the requirements of the Scottish Environment Protection Agency and Scottish Water and evidence of such compliance shall be exhibited to the Planning Authority on demand.
- (3) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

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Director of Development Services

Date: 11 May 2010

LIST OF BACKGROUND PAPERS

1. Polmont and District Local Plan
2. Falkirk Council Local Plan Finalised Draft (Deposit Version)
3. Falkirk Council Structure Plan
4. Scottish Planning Policy (February 2010)
5. The Secretary of State's Advisory Committee for Scotland's Travelling People (ACSTP) Guidance Notes for Site Provision for Travelling People (GNSPTP), 1997.
6. The Terms and Recommendations of the ACSTP's Ninth and Final Report of the Advisory Committee on Scotland's Travelling People, 1998-99.
7. Scottish Parliament Equal Opportunities Committee 1st Report 2001, Inquiry into Gypsy Travellers and Public Sector Policies (IGTPSP).
8. Letter of Objection from Mr John H Scott of 27 Bellevue, Rumford, Falkirk, FK2 0AG on 4 March 2010.
9. Letter of Objection from Mrs A Sinclair of 43 Bellevue, Rumford, Falkirk, FK2 0AG on 8 March 2010.
10. Letter of Objection from Elizabeth Galloway of 37 Bellevue, Rumford, Falkirk, FK2 0AG on 9 March 2010.

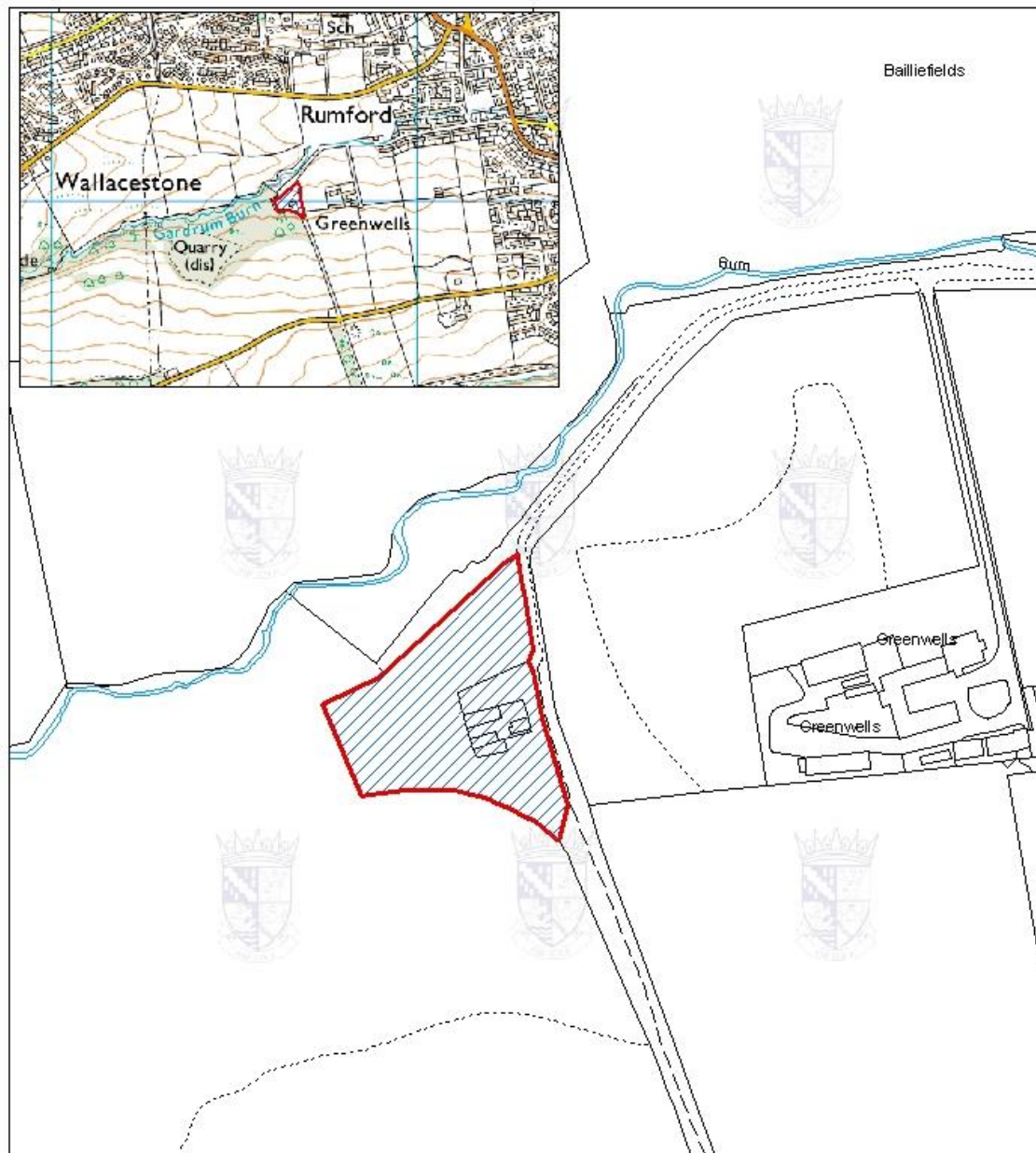
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504701 and ask for Kevin Brown (Planning Officer).

Planning Committee

Planning Application Location Plan

P/09/0685/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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