

FALKIRK COUNCIL

Subject: PROPOSED EARTHWORKS TO IMPROVE CONTOURS OF LAND AT LAND TO THE NORTH WEST OF 4 GARNGREW COTTAGE, GLENVIEW AVENUE, BANKNOCK FOR MR SANDY BROWN - P/10/0633/FUL

Meeting: PLANNING COMMITTEE

Date: 23 February 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock

Councillor Jim Blackwood
Councillor John McNally
Councillor Martin David Oliver
Councillor Alexander John Waddell

Community Council: Banknock, Haggs and Longcroft

Case Officer: Brent Vivian (Senior Planning Officer), ext. 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks detailed planning permission for the carrying out of earthworks to improve the contours of land between Glenview Avenue and Old Cumbernauld Road, Haggs.
- 1.2 The application site extends to approximately 1.5 hectares and lies at the edge of the urban limit. The northern part of the site, adjoining Glenview Road, lies below road level. The site bounds the A80/M80 embankment to the west and an access track, descending to dwellinghouses accessed from Old Cumbernauld Road, to the east.
- 1.3 The existing levels of the site rise to create a hummock in the middle of the site, against the A80/M80 boundary. The proposal is to cut from the hummock and fill in the lower lying areas of the site. The intention of upfilling the area adjoining Glenview Avenue is to facilitate housing development. The relevant applications for housing development are detailed in section 3 of this report.
- 1.4 The higher ground on the site is used for grazing. The remainder of the site is scrubland, and there are some stands of more mature trees and scrub. Outdoor storage of materials/tipping is evident in places.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposed development does not accord with the Development Plan.

3. SITE HISTORY

- 3.1 The land to the south of Glenview Avenue, between Garngrew Road and the M80/A80, has been subject to a number of planning applications for housing development.
- 3.2 Outline planning application refs: F/2000/0166, F/2002/0196 and F/2003/0941 for the development of land for housing purposes were refused. The grounds for refusal were that the land lay outwith the urban limits as defined in the then adopted Local Plan, in the countryside, where there is a general presumption against housing development.
- 3.3 Detailed planning application ref: F/2004/0947 for the erection of a dwellinghouse and a detached garage was refused. The grounds for refusal were the same as the previous outline planning applications mentioned in paragraph 3.2.
- 3.4 Detailed planning application ref: P/09/0352/FUL for the erection of three dwellinghouses (Plots 1 to 3) was approved in November 2009. Since refusal of the previous applications, land adjoining Glenview Road had been included within the urban limits and identified as a housing opportunity site as a consequence of a Proposed Pre-Inquiry Modification to the Falkirk Council Local Plan Finalised Draft (Deposit Version). In determining planning application ref: P/09/0352/FUL, significant weight was afforded to this proposed modification, as it was not subject to any representations under consideration in the Local Plan Inquiry process. This change in circumstances overcame the grounds for refusal of the previous applications.
- 3.5 Detailed planning application ref: P/10/0229/FUL for an amendment to house type (Plot 3) was approved in June 2010. This house is currently under construction.
- 3.6 Detailed planning application ref: P/10/0230/FUL for an amendment to house type (Plot 2) was approved in July 2010. This house is currently under construction.
- 3.7 The current application for earthworks proposes to raise and level the rear garden ground for approved Plots 2 and 3. These plots, as currently approved, have a series of terraces and a rear boundary retaining wall.
- 3.8 Detailed planning application ref: P/10/0632/FUL for the erection of two dwellinghouses (Plots 4 and 5) was approved in February 2011. The existing levels of these plots lie below Glenview Avenue, and are proposed to be raised as part of the current application for earthworks.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have investigated a culvert that crosses the application site and has advised that it would not appear to actively convey water. They request the submission of a diversion strategy for approval by the Flood Prevention Officer if, during the construction stage, the pipe is found to convey water.

- 4.2 The Environmental Protection Unit has requested the submission of a contaminated land assessment due to the presence of potentially contaminated material and other potential sources of contaminated land within 250 metres of the site.
- 4.3 Transport Scotland has requested the provision of an unclimbable stock-proof fence along the boundary of the site with the trunk road.
- 4.4 SEPA have no objection to the application. They advise that the proposed works should comply with The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR) and adhere to best practice in relation to pollution prevention. They advise that a Waste Management Licence or exemption will not be required, as waste material is not to be brought onto the site.
- 4.5 Historic Scotland has no comments to make on the application.
- 4.6 Museum Services has no objection to the application and has advised that there are no known archaeological sites in the area. They consider that the proposed removal of undulations in the landform and a few drystone dykes would not change the overall view of the site from the Antonine Wall World Heritage Site.

5. COMMUNITY COUNCIL

- 5.1 The Banknock, Haggs and Longcroft Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 One objection to the application has been received. The concerns raised in this objection can be summarised as follows:-
- The need to level the land is questioned, as it has been grazed for centuries in its present form.
 - The proposal has the potential to impact on the historic environment, including the setting of the Antonine Wall World Heritage Site.
 - The levelling of the site would expose the housing around the site to increased noise from the A80/M80.
 - Raising the levels above the stormwater culvert could lead to future problems in gaining access to maintain and repair the pipe.
 - Planning permission has been refused on many occasions since 2003 at this location.

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 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 The application site lies outwith the urban limit, within the countryside, as defined in the adopted Falkirk Council Local Plan. The proposed development is, or is at least partly, to facilitate housing development along the south side of Glenview Avenue. The proposed cut and fill operation is therefore not solely linked to development or economic activity requiring a countryside location. Therefore, in strict terms, the proposed development is contrary to this policy, which generally presumes against new development in the countryside unless the essential need for a countryside location has been demonstrated.

Adopted Falkirk Council Local Plan

7a.3 The Glenview Avenue end of the site lies within the urban limit and housing opportunity area H.B & B18 as defined in the adopted Falkirk Council Local Plan. The balance of the application site lies within the countryside.

7a.4 The proposed land raising within the urban limits, to provide suitable building platforms and usable garden ground, complies with the adopted Falkirk Council Local Plan, as it is linked to housing development within a housing opportunity area.

7a.5 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."*

7a.6 This policy only permits development proposals that require a countryside location. However, the proposed cut and fill operation outwith the urban limit is not solely linked to development or economic activity that requires a countryside location. Therefore, in strict terms, the proposed development is contrary to this policy.

7a.7 Policy EQ17 – ‘Antonine Wall’ states;

“The Council will seek to retain, protect, preserve and enhance the Antonine Wall, its associated archaeology, character and setting. Accordingly:

- (1) *There will be a presumption against development which would have an adverse impact on the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' as defined on the Proposals Map;*
- (2) *There will be a presumption against development within the 'Frontiers of the Roman Empire (Antonine Wall) World Heritage Site' buffer zones, as defined on the Proposals Map, which would have an adverse impact on the Site and its setting, unless mitigating action to the satisfaction of the Council in consultation with Historic Scotland can be taken to redress the adverse impact, and there is no conflict with other Local Plan policies; and*
- (3) *The Council, in association with partner Councils and Historic Scotland, will prepare Supplementary Planning Guidance on the criteria which will be applied in determining planning applications for development along the line, or within the setting, of the Antonine Wall."*

7a.8 The application site lies within the Antonine Wall Buffer Zone. Historic Scotland and Museum Services have considered the potential impact of the proposed earthworks on the setting of the Antonine Wall, and have not raised any concerns. It will be important to ensure that the period for undertaking the earthworks is kept to a minimum and that the subsequent grass seeding is undertaken as soon as practicable, in order to ensure that disturbed and bare ground does not stand out within the setting of the Wall. Subject to this matter being covered by suitably worded conditions, the proposed development accords with this policy.

7a.9 Overall, however, the proposed development does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations in respect of this application are the consultation responses, the representation received and the planning history.

Consultation Responses

- 7b.2 The consultation responses are summarised in section 4 of this report. The matters raised by the Environmental Protection Unit and Transport Scotland could be the subject of conditions of any grant of permission. The matters raised by SEPA could be the subject of Informatives.
- 7b.3 Matters raised by the Roads Development Unit could also be the subject of conditions of any grant of permission. The impact of the proposed earthworks on the existing culvert which crosses the site would be subject to further consideration. The applicant would need to address any issues in that regard.

Representations Received

- 7b.4 The concerns raised in the representation to the application are summarised in section 6 of this report. In response to these concerns, the following comments are considered to be relevant:-
- The proposed development is linked to the need to land raise to facilitate housing development within a housing opportunity area defined in the Falkirk Council Local Plan;
 - Provided that the period for fully completing the proposed recontouring is kept to a minimum, no adverse impacts on the historic environment, including the setting of the Antonine Wall, are anticipated.
 - No evidence has been presented to substantiate the suggestion that the proposed recontouring would increase noise levels from the A80/M80.
 - The applicant would need to address all relevant issues in respect of the existing culvert which crosses the site.

7c Conclusion

- 7c.1 This application, for earthworks to recontour land, is considered to be contrary to the Development Plan, for the reasons detailed in this report. However, the proposal is linked to facilitating development of a housing opportunity area as defined in the adopted Falkirk Council Local Plan. It is evident that significant landraising is required to develop approved Plots 4 and 5 and the proposed levelling of the rear gardens of approved Plots 2 and 3 would enhance these properties. The sourcing of the upfill material from adjoining land brings some benefits, as it avoids the need for significant heavy vehicle movements to import material to the site and the associated potential for disturbance and amenity impacts to the local area. In addition, recontouring of the balance of the land can be seen to enhance its use for countryside uses, such as grazing. Overall, it is considered that setting aside the terms of the Development Plan is justified, and the application is recommended for approval, subject to the imposition of appropriate conditions.

8. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three years of the date of this permission.**
- (2) Unless otherwise agreed in writing by this Planning Authority, the proposed earthworks shall be completed in accordance with the approved levels within 2 months of the date of commencement of the development.**
- (3) Unless otherwise agreed in writing by this Planning Authority, the site shall be grass seeded before the end of the first planting and seeding season following the completion of the proposed earthworks.**
- (4) Unless otherwise agreed in writing by this Planning Authority no development shall commence until a contaminated land assessment has been submitted to and approved in writing by this Planning Authority. Before the land is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy. Any necessary remediation completion report / validation certificate shall be submitted to and approved in writing by this Planning Authority.**
- (5) An unclimbable/stockproof fence shall be erected and maintained within the site along the boundary with the Trunk Road in accordance with details and specifications to be submitted to and agreed in writing by this Planning Authority before development commences.**
- (6) All works on site shall cease until a diversion strategy has been submitted to and approved in writing by this Planning Authority if, during the construction stage, the existing pipe that crosses the application site is found to convey water. Thereafter the approved diversion strategy shall be implemented in accordance with a timescale approved in writing by this Planning Authority.**

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.**
- (2, 3) To safeguard the visual amenity of the area and the setting of the Antonine Wall.**
- (4) To ensure the ground is suitable for the intended end use.**
- (5) To minimise the risk of pedestrians or animals gaining uncontrolled access to the Trunk Road.**
- (6) To safeguard the provision of adequate drainage in the local area.**

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02 and 03.
- (2) The applicant should ensure that the works comply with General Binding Rules 10 and 11 under The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR). Surface water should be treated using sustainable urban drainage systems (SUDs).
- (3) The applicant should ensure that best practice in relation to pollution prevention is adhered to. Guidance can be found on SEPA's website and by referring to their Pollution Prevention Guidelines.
- (4) Any engineering activities in, on or near the water environment may require authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) (CAR).

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Director of Development Services

Date: 15 February, 2011

LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan.
2. Adopted Falkirk Council Local Plan.
3. Letter of Objection received from Mr Allan Sheret, 57 Glenview Avenue, Banknock, Bonnybridge, FK4 1JX on 4 October 2010.

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/10/0633/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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