

**FALKIRK COUNCIL**

**Subject:** **ERECTION OF DWELLINGHOUSE AT LAND TO THE NORTH OF 4 MERRYLEES COTTAGES, LINLITHGOW FOR MR & MRS STODDART - P/11/0311/FUL**

**Meeting:** **PLANNING COMMITTEE**

**Date:** **21 September 2011**

**Author:** **DIRECTOR OF DEVELOPMENT SERVICES**

**Local Members:** **Ward - Bo'ness and Blackness**  
**Councillor Sandy Turner**  
**Councillor Ann Ritchie**  
**Councillor Adrian Mahoney**

**Community Council:** **Blackness Area**

**Case Officer:** **David Paterson (Planning Officer), Ext. 4757**

**UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT**

1. Members will recall that this planning application was originally considered at the Planning Committee on 24 August 2011 (copy of previous report appended), where it was agreed to continue the planning application for a site visit. This visit took place on 5 September 2011.
2. The planning case officer outlined the details of the proposed development and summarised the report of the Director of Development Services. The case officer highlighted the planning history of the site as being of particular relevance. It was noted that an outline planning application (Ref:- 06/0751/OUT) for a similar proposal was refused permission in July 2007. This decision was the subject of an appeal to Scottish Ministers. The appeal was subsequently dismissed. The planning officer highlighted that the Reporter concluded that the short terrace of houses along the road frontage does not represent a "settlement" for Development Plan purposes, that the appeal site falls within a countryside location and that the application does not represent a gap site.
3. The applicant's agent highlighted issues relating to visual impact, design, characteristics of the site within the existing pattern of dwellinghouses, access and the difficulty to accommodate wheelchair access at the applicant's existing dwellinghouse at 1 Merrylees Cottages.
4. A representative of the Blackness Area Community Council confirmed the Community Council's grounds for objection. It was also reported that the Community Council considers that the possibility of accommodating wheelchair access at the applicant's existing dwellinghouse should be further considered.

5. The Planning Committee sought clarification concerning the existing use of the application site and the relevance of the policies against which the proposal has been considered. The planning officer confirmed that the application site is currently used as garden ground in association with the applicant's dwellinghouse at 1 Merrylees Cottages. The case officer also clarified that the application site lies within an area designated "Countryside" in the Development Plan and consequently that the countryside related policies against which the proposal has been considered are relevant. The planning officer reiterated the conclusion of the appeal Reporter in respect of application 06/0751/OUT, referred to in Section 2 of this update report, is of particular relevance.
6. The Members attending the visit inspected the applicant's existing dwellinghouse and the proposed access to the site.
7. The Roads Development Officer highlighted that it would not be possible to achieve satisfactory visibility sightlines at the proposed access to accord with the Council's standards and, consequently, advised that road safety could be compromised by allowing a further dwellinghouse to utilise the existing access at this location. The Roads Development Officer advised that the removal of the existing domestic garage adjacent to the proposed access would improve visibility but that this would not be sufficient to meet the Council's standards of road safety.
8. In conclusion it is not considered that any matters were raised which would amend the original recommendation to refuse planning permission. The application site is located within the "Countryside" as identified in the adopted Falkirk Council Local Plan. The proposal does not accord with the relevant countryside policies. The application site is not an infill opportunity set within an existing group of residential buildings. The proposed development constitutes backland development which could set a precedent for further inappropriate development in the countryside. The removal of the existing domestic garage adjacent to the proposed access would improve visibility at the access, but this would not render the proposal in accordance with Council's standards relating to road safety. The proposal would result in additional vehicle traffic utilising an access which does not meet the Council's standards. The proposal would be detrimental to road safety.

## **8. RECOMMENDATION**

### **8.1 It is therefore recommended that Committee refuse planning permission for the following reasons:-**

- (1) It has not been demonstrated that a countryside location is essential for the proposed development. The proposed development is not essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. The proposal is not to rehabilitate or convert an existing building. The proposed development does not constitute an appropriate infill opportunity within an existing group of residential buildings where the development would not result in ribbon, backland or sporadic development. The proposed development does not therefore accord with Policy EQ19 'Countryside', Policy SC3 'Housing Development in the Countryside' and Policy EQ23 'Areas of Great Landscape value' of the Falkirk Council Local Plan, and Policy ENV1 'Countryside and Protected Areas' of the Falkirk Council Structure Plan.

- (2) The proposed development constitutes an unacceptable form of backland development, and therefore does not accord with Supplementary Planning Guidance Note 'Housing Layout and Design'.
- (3) It is not possible to provide satisfactory visibility sightlines at the proposed access from the public road and consequently the proposed development would constitute a risk to the safety of road traffic and pedestrians.
- (4) It is considered that the proposed development could create an undesirable precedent for similar development in the countryside.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02B, 03B, 04A, 05A, 06A, 07A, 08 and 09.

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**Director of Development Services**

**Date:** 14 September 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Planning Policy
4. Supplementary Planning Guidance Note 'Housing Layout and Design'.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

**FALKIRK COUNCIL**

**Subject:** ERECTION OF DWELLINGHOUSE AT LAND TO THE NORTH OF 4 MERRYLEES COTTAGES, LINLITHGOW FOR MR & MRS STODDART - P/11/0311/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 24 August 2011

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bo'ness and Blackness  
Councillor Sandy Turner  
Councillor Ann Ritchie  
Councillor Adrian Mahoney

**Community Council:** Blackness Area

**Case Officer:** David Paterson (Planning Officer), Ext. 4757

**1. DESCRIPTION OF PROPOSAL / SITE LOCATION**

- 1.1 The application site lies to the rear of the dwellinghouse at 4 Merrylees Cottages, Linlithgow. The site was originally garden ground for the dwellinghouse at 4 Merrylees Cottages. It is now owned by the applicants and used as garden ground for the dwellinghouse at 1 Merrylees Cottages.
- 1.2 It is proposed to erect an additional single storey dwellinghouse.
- 1.3 There is an existing access track to the rear of Merrylees Cottages which provides access to the cottages. It is proposed to access the proposed additional dwellinghouse via the existing access track.
- 1.4 The application is accompanied by supporting documents. The supporting information states that the applicants are both of retiral age, and whilst they keep good health at the present time, accessing their dwellinghouse at 1 Merrylees Cottages is becoming more difficult and it is possible that in the near future they may have to accommodate wheelchair access. The unsuitability of the existing house for wheelchair access is highlighted in the supporting documents. There are letters of support from adjacent occupiers and the applicant's medical practitioner accompanying the application.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called in to the Planning Committee by Councillor Sandy Turner.

### **3. SITE HISTORY**

- 3.1 F/93/0925 - extension to dwellinghouse at 1 Merrylees Cottages – granted 29 January 1994.
- 3.2 F/94/0729 - erection of dwellinghouse in garden ground of 4 Merrylees Cottages – refused 15 November 1994.
- 3.3 06/0751/OUT - erection of dwellinghouse at land to the rear of 4 Merrylees Cottages – refused 13 October 2006. The refusal of permission was subject to appeal which was subsequently upheld on 19 July 2007.

### **4. CONSULTATIONS**

- 4.1 The Environmental Protection Unit has advised that contamination can be addressed by means of an informative.
- 4.2 The Roads Development Unit has advised that it would not be possible to provide satisfactory visibility sightlines at the junction of the proposed access with the public road. The proposal is considered to be detrimental to the safety of road traffic and pedestrians.
- 4.3 Scottish Water has raised no objections.

### **5. COMMUNITY COUNCIL**

- 5.1 Blackness Area Community Council has objected on grounds that the proposal is contrary to the Development Plan, road safety grounds and that the proposal could set a precedent for further development in the countryside.

### **6. PUBLIC REPRESENTATION**

- 6.1 During consideration of the application, no letters of objection or representation were 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

### ***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 site lies outwith the settlement boundaries and is within the countryside. It has not been demonstrated that a countryside location is essential for the proposed development. It is noted that the development is not a form of agricultural diversification.

7a.3 Accordingly, the proposal does not accord with Policy ENV1.

### ***Falkirk Council Local Plan***

7a.4 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.5 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."*

7a.6 The application site lies outwith any urban/village limit as identified in the Falkirk Council Local Plan. In terms of proposed housing development in countryside areas, Policy EQ19 'Countryside' states that Policy SC3 'Housing Development in the Countryside' shall determine the suitability of housing proposals. It is noted that it has not been demonstrated that the proposed dwellinghouse is essential to the pursuance of agriculture, horticulture or forestry or the management of a business for which a countryside location is essential. The proposal is not to rehabilitate or convert an existing building and does not constitute an appropriate infill opportunity within the envelope of an existing group of residential buildings, where the development would not result in ribbon, backland or sporadic development.

7a.7 The proposal does not accord with Policies EQ19 or SC3.

7a.8 Policy EQ23 - 'Areas Of Great Landscape Value' states:

*"The Council will protect Areas of Great Landscape Value from development which would be detrimental to its amenity and distinctive landscape quality. In addition to satisfying other relevant countryside policies, proposals within these areas will only be permitted where accompanied by a landscape and visual assessment demonstrating that the development can be accommodated without adverse impact on the landscape quality."*

7a.9 The site falls within an area designated as an Area of Great Landscape Value. It is noted that in terms of visual amenity, the proposal would have. The proposal therefore accords with Policy EQ23. However there are other countryside policies which the proposal fails to accord with.

7a.10 Accordingly, on balance the proposal does not accord with the Falkirk Council Local Plan.

7a.11 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed are the national Planning Policies and Guidance, Falkirk Council Supplementary Guidance, responses to consultations and site history.

### ***National Planning Policies and Guidance***

7b.2 Scottish Planning Policy (SPP) states that there is a requirement for Development Plans to allocate a generous supply of land to meet housing requirements, which should apply to rural and urban areas. Development Plans should support more opportunities for small scale housing development in rural areas including plots for individually designed houses. The SPP also emphasises, however, that it is essential that rural communities should have reasonable access to good quality services, which are likely to be located in larger settlements. Although planning authorities should be realistic about access, wherever possible, services should be accessible by a range of transport modes. Access to services should be a consideration in allocating housing opportunities in rural areas.

7b.3 It is noted that the Development Plan does not identify the area within which the application site is located as an opportunity for housing proposals which do not essentially require a rural setting in accordance with the terms of the Development Plan policies detailed in this report.

### ***Falkirk Council Supplementary Guidance***

7b.4 It is noted that the proposed dwellinghouse would not have a frontage or outlook onto the public road. The proposal constitutes an unacceptable form of backland development. Accordingly, the proposal does not accord with Supplementary Planning Guidance Note 'Housing Layout and Design'.

### ***Responses to Consultations***

7b.5 It is noted that the Environmental Protection Unit has advised that the issue of contamination can be addressed by means of an informative.

7b.6 It is noted that the Blackness Area Community Council has raised concerns that the proposal does not accord with the Development Plan, the access to the property is not satisfactory and would be a risk to road safety and that the proposal could set a precedent for further similar development in the countryside. It is considered that these concerns are relevant material planning considerations.

7b.7 The Roads Development Unit has advised that it is not possible to form satisfactory visibility sightlines at the proposed access. It is considered that taking access to an additional dwellinghouse via the existing access would be detrimental to the safety of road traffic and pedestrians.



## ***Site History***

- 7b.8 Planning permission for the erection of an additional dwelling in this location has been refused by the Council on two previous occasions and also dismissed on appeal by Scottish Ministers. It is considered that there has been no material change in circumstances that would now justify a different planning decision.

## **7c Conclusion**

- 7c.1 The proposed development does not accord with the Development Plan.
- 7c.2 It has not been demonstrated 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.
- 7c.3 The proposal does not relate to the rehabilitation or conversion of an existing building nor does it constitute an appropriate infill opportunity with an existing group of buildings.
- 7c.4 It is considered that taking access to an additional dwellinghouse by means of the access proposed would constitute a risk to the safety of road traffic and pedestrians.
- 7c.5 It is considered that the proposed development constitutes an undesirable form of backland development and would create an undesirable precedent for similar development in the countryside.
- 7c.6 It is noted that previous planning applications for a dwellinghouse at the application site have been refused planning permission, and that the refusal of application 06/0751/OUT, outline planning permission, was upheld on appeal.
- 7c.7 The supporting documents accompanying the application are noted. The Council sympathises with the health concerns of the applicant. However, it is not considered that there is justification for a departure from the Development Plan in this case.

## **8. RECOMMENDATION**

- 8.2 It is therefore recommended that Committee refuse planning permission for the following reasons:-

- (1) It has not been demonstrated that a countryside location is essential for the proposed development. The proposed development is not essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. The proposal is not to rehabilitate or convert an existing building. The proposed development does not constitute an appropriate infill opportunity within an existing group of residential buildings where the development would not result in ribbon, backland or sporadic development. The proposed development does not therefore accord with Policy EQ19 'Countryside', Policy SC3 'Housing Development in the Countryside' and Policy EQ23 'Areas of Great Landscape value' of the Falkirk Council Local Plan, and Policy ENV1 'Countryside and Protected Areas' of the Falkirk Council Structure Plan.

- (2) The proposed development constitutes an unacceptable form of backland development, and therefore does not accord with Supplementary Planning Guidance Note 'Housing Layout and Design'.
- (3) It is not possible to provide satisfactory visibility sightlines at the proposed access from the public road and consequently the proposed development would constitute a risk to the safety of road traffic and pedestrians.
- (4) It is considered that the proposed development could create an undesirable precedent for similar development in the countryside.

**Informative(s):-**

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02B, 03B, 04A, 05A, 06A, 07A, 08 and 09.

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**Director of Development Services**

**Date:** 17 August 2011

**LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Planning Policy
4. Supplementary Planning Guidance Note 'Housing Layout and Design'.

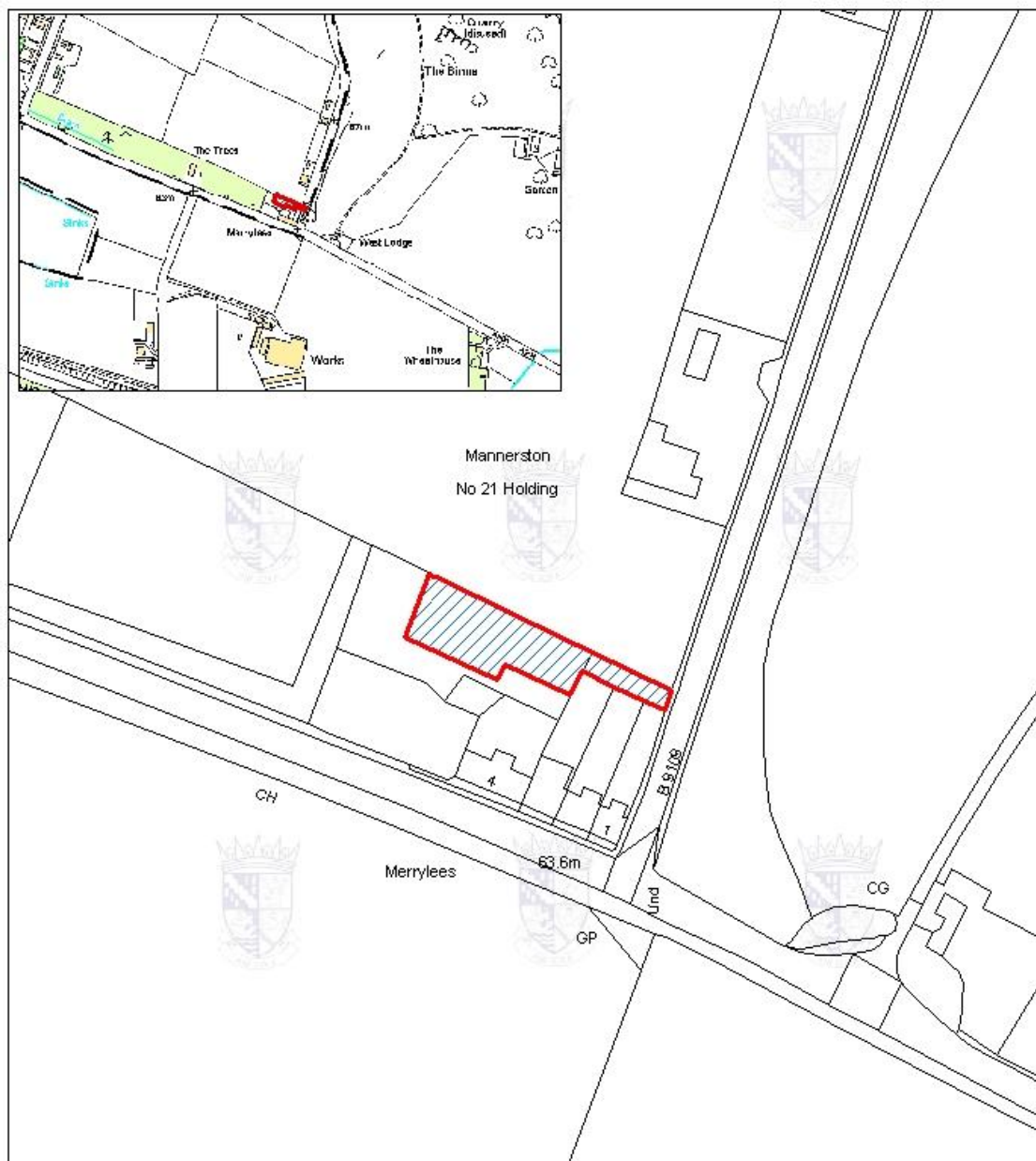
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson, Planning Officer.

# Planning Committee

## Planning Application Location Plan

**P/11/0311/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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