

FALKIRK COUNCIL

Subject: **ERECTION OF DWELLINGHOUSE AND DOMESTIC GARAGE
AT RIVERSIDE FARM, DENNY FK6 5JF FOR MR STUART RAE
- P/11/0493/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **4 April 2012**

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: **Denny and District**

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 7 March 2012 (copy of previous report appended), where it was agreed to continue the application for a site visit. This visit took place on 19 March 2012.
2. At the site meeting, the case officer summarised his report, the applicant's agent spoke in support of the application and the Denny and District Community Council, objectors and a local ward Member were heard.
3. The Denny and District Community Council advised that the submission of further information/amendments to the application had largely clarified their initial concerns. They have now confirmed that their objection to the application is withdrawn.
4. The objectors present reiterated and expanded on the concerns raised in their representation. They highlighted concerns that a plant hire business is operating from the property and that the rural businesses at the property are not viable. They sought clarification of the details of the proposal. They indicated that they have photographs of the use of the property for plant hire.
5. A local ward Member advised that the other objector to the application was unable to attend the site meeting. On her behalf he reiterated the concerns of the objectors that the property is used for a plant hire business. He was concerned that a permanent dwellinghouse was being proposed given that the previously approved temporary accommodation (timber chalet) had never been implemented.

6. The Development Manager confirmed that his enforcement officer had visited the property on 14 and 16 February 2012 and there was no evidence of a plant hire business operating at the time of these visits. He advised that any complaints and information received regarding this matter would be investigated.
7. It was clarified that the current application is solely concerned with the proposed dwellinghouse and garage to support the existing equestrian and agricultural uses and that the alleged use of the property for a plant hire business is a separate matter.
8. The objectors present were advised that the site layout and design detail for the proposed dwellinghouse and garage could be viewed on the Council's website or by visiting the Council's office.
9. The case officer advised that the original permission did not require the actual provision of the approved timber chalet. He reiterated that the Council's rural business consultant is satisfied, based on the latest available accounts information, that the equestrian business has now been sufficiently developed to demonstrate viability.
10. It is considered that no matters were raised at the site meeting that would alter the original recommendation to grant planning permission. Accordingly, the original recommendation is reiterated as follows:

11. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three of the date of this permission.**
- (2) Before the development commences, exact details of the colour and specification of the proposed external finishes shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- (3) Unless otherwise agreed in writing, a Contaminated Land Assessment shall be submitted to and approved in writing by this Planning Authority before the development commences. Before the dwellinghouse is occupied, any necessary remedial works to make the ground safe shall be carried out in accordance with any approved recommendation strategy and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.**
- (4) Before the development commences, exact details of the height, location and construction of all proposed fences, walls and any other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**

- (5) Within 3 months of the date of occupation of the proposed dwellinghouse, the temporary staff office and toilet accommodation granted under planning permission ref: P/08/0804/FUL shall be permanently removed from the property and the land reinstated in accordance with an approved restoration scheme.
- (6) No fence or wall exceeding 1 metre in height shall be erected without the prior written approval of this Planning Authority.
- (7) Before the development commences, exact details of the proposed arrangements for the discharge of foul and surface water shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (8) The occupation of the dwellinghouse hereby approved shall be limited to a person(s) solely or mainly or last employed at West Riverside Farm (as defined in blue on approved plan 02A) in an occupation requiring a rural location, or a partner or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason(s):-

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2,4,6) To safeguard the visual amenity of the area.
- (3) To ensure the ground is suitable for the proposed development.
- (5) The previously approved structures were not considered to be a suitable form of permanent development and the permanent office/amenity arrangements are provided for as part of the development granted by this permission.
- (7) To ensure that adequate drainage is provided.
- (8) The site lies within the countryside where the proposed dwellinghouse is considered to be inappropriate unless related to the essential needs of a rural business.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02A, 03, 04, 05A, 06A, 07, 08A, 09A, 10A and 11.

- (2) The builder shall ensure that any noisy works which are audible at the site boundary are only conducted between the following hours:

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1700 hours
Sunday/Bank Holidays	1000 to 1600 hours

Deviation from these hours of work are not permitted unless in emergency circumstances and with the prior written approval of the Environmental Health Manager.

- (3) Scottish Water have advised that they are unable to reserve capacity at the Carron Valley Water Treatment Works in advance of formal agreement. They advise that there are no public sewers in the vicinity of the proposed development.

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Director of Development Services

Date: 27 March 2012

LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan.
2. Adopted Falkirk Council Local Plan.
3. Letter of Representation received from Archibald Kirkwood, Forresthill, Denny FK6 5JF on 28 September 2011.
4. Letter of Objection received from Hellen Stephensen on 16 September 2011.
5. Letter from Jim MacKinnon, Chief Planner, Scottish Government to Heads of Planning, dated 4 November 2011.

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: **ERECTION OF DWELLINGHOUSE AND DOMESTIC GARAGE
AT RIVERSIDE FARM, DENNY FK6 5JF FOR MR STUART RAE
- P/11/0493/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **7 March 2012**

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: **Denny and District**

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 erection of a two storey dwellinghouse and a detached garage. The proposed dwellinghouse includes an office/study which would be used for the existing business and would replace existing portacabins along the site frontage. Vehicular access to the dwellinghouse would be via an existing constructed access onto the B818.
- 1.2 The application site comprises part of a hardstanding area within a property used for agriculture and equestrian related activities. The property comprises farm buildings, portacabins, a hardsurfaced yard, an outdoor riding arena and grazing land. The existing facilities and activities include livery (17 stables available), equestrian riding, horse tuition, maintenance of tack and horse trekking. In addition, local horse shows and events are held. The agricultural use includes the breeding of ewes.
- 1.3 Accounts information for the years ending 31 March 2009, 2010 and 2011, and for the current year up until 31 December 2011, have been submitted in support of the application.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application requires consideration by the Planning Committee as it has been called in by Councillor Waddell.

3. SITE HISTORY

- 3.1 Planning application ref: P/08/0804/FUL for the change of use of former agricultural land/buildings to stables, livery and riding school, siting of temporary staff office and toilet accommodation (retrospective) and erection of temporary manager's living accommodation was granted in January 2010. A timber chalet was approved for the temporary manager's accommodation until 31 December 2011, but it is understood that this has never been sited at the property. The basis for approval of temporary accommodation was to provide a trial period to enable the applicant to develop the business and demonstrate viability in order to justify a permanent dwellinghouse.
- 3.2 Planning application ref: P/09/0127/FUL for the change of use of a former agricultural building to a depot for the storage of plant for hire and servicing/repair of vehicles and plant (retrospective) was withdrawn in June 2009.
- 3.3 Planning application ref: P/09/0128/FUL for the change of use of agricultural land to form a floodlit schooling area (retrospective) was granted in January 2010.
- 3.4 Planning application ref: P/10/0506/FUL for the change of use of an agricultural building to an indoor riding arena was granted in May 2011.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have advised that there are no roads related conditions to attach to any grant of permission. They understand that the proposed dwellinghouse would supersede the manager's temporary accommodation granted under P/08/0804/FUL. They note that the existing vehicular access would serve both the proposed dwellinghouse and the business operations, and advise that this would be acceptable.
- 4.2 Scottish Water have no objection to the application and advise that capacity at their water treatment works is unable to be reserved in advance of formal agreement. They advise that there are no public sewers in the vicinity of the proposed development.
- 4.3 The Environmental Protection Unit have requested the submission of a Contaminated Land Assessment due to farming use of the site and the potential for other sources of contaminated land within 250 metres of the site.
- 4.4 The Council's Rural Business consultant has reviewed the business accounts information and is satisfied, based on the latest available figures, that the equestrian business has been sufficiently developed to demonstrate viability and would support at least one family member (on top of the limited outside labour involved).

5. COMMUNITY COUNCIL

- 5.1 The Denny and District Community Council have objected to the application pending clarification of certain elements of the application relating to the application form and the Land Ownership Certificate.

6. PUBLIC REPRESENTATION

6.1 Two representations have been received to the application. One of these is an objection and the other seeks clarification. The representations can be summarised as follows:-

- A neighbour was not notified of the application;
- The boundary lines are incorrect;
- There are no details on the plans for the dwelling and garage showing distance from the road, distance from the existing entrance, distance from a neighbouring access, base height of the property and final height of the property;
- There is no indication given of whether the building would be sited on 'dirty' ground or green belt;
- There appears to be another entrance proposed, with no details of the exact position;
- The applicant purchased a small number of sheep specifically to support a planning application to build a house on green belt land;
- The small acreage of the site and the very small number of sheep and horses indicates there are insufficient grounds to call the operation an agricultural/equestrian business and to justify building a house in the rural area;
- The buildings have planning permission for a change of use to livery and an indoor riding school and therefore cannot be used for sheep grazing as well;
- The operation is primarily a plant hire business and a landfill with unspecified materials being dumped;
- Planning permission has already been granted for temporary manager's accommodation so why are two houses required?;
- Instead of the approved log cabin, a caravan is in situ and not where the log cabin was to be sited;
- There are a number of houses for sale in the valley which could accommodate their needs and they do not need to be on the site 24/7 for security reasons and there are many security options which could be employed which do not require building another house on green belt land;
- If permitted, it will be the third property at Riverside where until recently there was one; and
- The house would partially obscure the view from the B818 of a Pictish settlement on the opposite side of the Carron and further detract from the amenity and tourist potential of the area.

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 Structure Plan are not relevant.

Adopted Falkirk Council Local Plan

- 7a.2 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.3 This policy supports housing which is essential to the pursuance of a business requiring a countryside location, subject to certain criteria being satisfied. With regard to these criteria, the operational need for on-site accommodation in association with the business, the absence of an existing dwellinghouse that could meet that need and the absence of any reasonable opportunity to reuse or convert a redundant building for residential use in favour of a new building were accepted in grant of planning permission P/08/0804/FUL. Whilst the timber chalet granted under P/08/0804/FUL has not been sited at the property, it is understood that there is a 24 hour on-site presence, as required, in order to meet the operational need.

7a.4 The timber chalet was granted permission to enable a trial period for the applicant to develop the business and demonstrate the viability in order to justify a permanent dwellinghouse. The accounts information submitted with the application indicate a year by year increase in net profit over a 4 year period and the Council's rural business consultant is satisfied, based on the latest accounts information, that the equestrian business has been sufficiently developed to demonstrate viability and support at least one family member. Therefore, the case has now been made to justify a permanent dwellinghouse. The proposed development therefore accords with this policy.

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 requires the scale, siting and design of development to be strictly controlled to ensure there is no adverse effect on the character of the countryside. The scale and design of the proposed development is considered to be sympathetic to vernacular styles and the siting, in being below the road level and avoiding skylines, would integrate with the landform. Whilst the proposed external finishes (cedar roof shingles, stacked stone and 'log lap' timber cladding) may not be traditional in the local context, the proposed dwellinghouse is considered to be high quality, the finishes are sympathetic to a natural environment, they would add visual interest and there are a range of materials in the area. A benefit of the proposed development would be the removal of the existing portacabins, which sit along the road frontage and impact on amenity. Conditions of any grant of planning permission would require the exact colour and specification of the external finishes of the dwellinghouse and details of the boundary treatments to be submitted for approval. Overall, the proposed development is considered to accord with this policy.

7a.7 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.8 This policy protects Areas of Great Landscape Value from development that would be detrimental to its amenity and distinctive landscape quality. This policy is considered to be satisfied for the reasons detailed in paragraph 7a.6. It is considered that the proposed development could be accommodated within the landscape and that a comprehensive landscape and visual assessment is not required.

7a.9 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations in respect of this application are the consultation responses and the representations received.

Consultation Responses

7b.2 The consultation responses are summarised in Section 4 of this report. The matters raised in the responses could be the subject of conditions or informative of any grant of permission. The comments of the Council's rural business consultant are noted, and have informed the assessment of the application against Policy SC3 (refer to paragraph 7a.4).

Representations Received

7b.3 The public representations are summarised in Section 6 of this report. Section 7 indicates that the Denny and District Community Council have objected to the application, pending clarification of certain elements of the application. In response, the following comments are considered to be relevant:-

- Neighbour notification was carried out by the Council in accordance with the statutory procedures;

- It is considered that sufficient information accompanies the application to enable its assessment against the relevant planning considerations;
- In response to the queries of the Denny and District Community Council, the applicant amended the application form and the Land Ownership Certificate. It is considered that the additional information and clarification should, in the main, address their queries but it is accepted that the postal address or location of the proposed development (given as West Riverside Farm) could have been more detailed, to assist the public in identifying the property;
- The amended application form indicates that the current or most recent use of the application site is hardstanding;
- The site plan was amended to remove a proposed separate pedestrian access. The sole access would be via the existing entrance, and would be a shared access for the dwellinghouse and business uses;
- Whilst it is recognised that the breeding ewes contribute to overall income, the operational need for on-site accommodation was previously accepted in respect of the equestrian related uses and the Council's rural business consultant is satisfied, based on the latest accounts information, that the equestrian business has been sufficiently developed to demonstrate viability and support at least one family member;
- The applicant has advised that the building which has permission for change of use to an indoor riding arena will be available for this use in the next few months or so;
- Paragraph 3.2 of this report states that an application (ref: P/09/0127/FUL) to use the site for the storage of plant hire was withdrawn in June 2009. This followed advice from the applicant that an alternative site had been found for the plant hire business. In light of recent concerns, the Planning service visited the site on 14 and 16 February 2012 and found no evidence of a plant hire business operating from the property but the site will be subject to on-going monitoring;
- The proposed dwellinghouse would supersede the previously approved temporary accommodation (timber chalet) which, to date, has not been sited at the property;
- Concerns at the impact on the Pictish settlement (on the opposite side of the River Carron) were raised in respect of the original application (ref: P/08/0804/FUL). The Council's Archaeologist advised that the development would not have an adverse effect on the setting of the settlement, as it is a considerable distance to the north; and
- It is not accepted that the proposed dwellinghouse would have any material impact on the amenity or tourist potential of the area.

7c Conclusion

- 7c.1 The proposed development is considered to accord with the Development Plan for the reasons detailed in this report. Accordingly it is recommended for approval subject to appropriate planning conditions. A planning condition to restrict the occupancy of the dwellinghouse to a person employed at West Riverside Farm (and dependants, etc.) is recommended. It is not considered that there are any material considerations to justify a contrary recommendation.

8. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three of the date of this permission.
- (2) Before the development commences, exact details of the colour and specification of the proposed external finishes shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (3) Unless otherwise agreed in writing a Contaminated Land Assessment shall be submitted to and approved in writing by this Planning Authority before the development commences. Before the dwellinghouse is occupied, any necessary remedial works to make the ground safe shall be carried out in accordance with any approved recommendation strategy and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.
- (4) Before the development commences, exact details of the height, location and construction of all proposed fences, walls and any other means of enclosure shall be submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
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- (8) The occupation of the dwellinghouse hereby approved shall be limited to a person(s) solely or mainly or last employed at West Riverside Farm (as defined in blue on approved plan 02A) in an occupation requiring a rural location, or a partner or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason(s):-

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2,4,6) To safeguard the visual amenity of the area.
- (3) To ensure the ground is suitable for the proposed development.
- (5) The previously approved structures were not considered to be a suitable form of permanent development and the permanent office/amenity arrangements are provided for as part of the development granted by this permission.
- (7) To ensure that adequate drainage is provided.
- (8) The site lies within the countryside where the proposed dwellinghouse is considered to be inappropriate unless related to the essential needs of a rural business.

Informative(s):-

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Deviation from these hours of work are not permitted unless in emergency circumstances and with the prior written approval of the Environmental Health Manager.

- (3) Scottish Water have advised that they are unable to reserve capacity at the Carron Valley Water Treatment Works in advance of formal agreement. They advise that there are no public sewers in the vicinity of the proposed development.

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Director of Development Services

Date: 28 February 2012

LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan.
2. Adopted Falkirk Council Local Plan.
3. Letter of Representation received from Archibald Kirkwood, Forresthill, Denny FK6 5JF on 28 September 2011.
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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/11/0493/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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