

**FALKIRK COUNCIL**

**Subject:** ERECTION OF DWELLINGHOUSE WITH INTEGRAL GARAGE AT AONACH-MOR, GLEN ROAD, TORWOOD, LARBERT, FK5 4SN FOR MR AND MRS COMRIE - P/13/0265/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 25 June 2013

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Bonnybridge and Larbert

Baillie Billy Buchanan  
Councillor Tom Coleman  
Councillor Linda Gow

**Community Council:** Larbert, Stenhousemuir and Torwood

**Case Officer:** John Milne (Senior Planning Officer), Ext. 4815

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

- 1.1 The application site comprises the side garden area of a dwellinghouse currently under construction at Glen Road, Torwood.
- 1.2 The application seeks to establish a detached 1½ storey dwellinghouse within garden ground of the new dwellinghouse. Vehicular access is proposed directly onto Glen Road. The dwellinghouse comprises lounge, study, hallway, family/dining/kitchen and double garage on the ground floor, with 4 bedrooms and verandah on the upper floor.

**2. REASON FOR COMMITTEE CONSIDERATION**

- 2.1 The application has been called to Planning Committee at the request of Councillor Tom Coleman.

**3. SITE HISTORY**

- 3.1 P/12/0359/MSD - Erection of Dwellinghouse with Integral Garage and formation of new access driveway - MSD granted 19 October 2012.

- 3.2 P/11/0573/FUL - Erection of 2 Dwellinghouses with Integral Garages and formation of new access - Refused 2 October 2011.
- AP/12/001/REV\_DD - Planning Committee Review - Planning Review Committee decision to refuse planning permission - 17 April 2012.
- 3.3 P/11/0496/MSC - Erection of Dwellinghouse with Integral Garage and formation of new access driveway - Application returned.
- 3.4 P/11/0495/MSC - Erection of Dwellinghouse with Integral Garage and formation of new access driveway - Application returned.
- 3.5 P/10/0589/PPP - Sub-division of Garden Ground and Erection of Dwellinghouse - Granted planning permission in principle - 11 March 2011.
- 3.6 F/2002/0593 - Erection of Dwellinghouse (Outline) - Refused.
- 3.7 F/92/0525 - Erection of Dwellinghouse (Outline) - Refused.
- 3.8 F/92/0524 - Erection of Dwellinghouse (Outline) - Refused.
- 3.9 F/91/0407 - Erection of Dwellinghouse (Outline) - Refused.
- 3.10 F/91/0009 - Erection of Dwellinghouse and Garage (Detailed) - Granted - this being the dwelling known as Aonach-Mor.

#### **4. CONSULTATIONS**

- 4.1 Scottish Water advise that they have no objection to the application, but are not able to guarantee a connection to Scottish Water's infrastructure.
- 4.2 Falkirk Council's Roads Development Unit advise that, should the application be approved, conditions regarding road access, visibility and drainage be imposed.
- 4.3 Falkirk Council's Environmental Protection Unit advise that, should the application be approved, conditions regarding potential contaminated land being encountered during construction be imposed. In addition, an informative should be imposed restricting noisy working on site.

#### **5. COMMUNITY COUNCIL**

- 5.1 Larbert, Stenhousemuir & Torwood Community Council object to the proposal for the following reasons:-
- Concern over the number of ongoing developments in the area outwith the local plan and housing allocation for the area;
  - The application is not for an in-fill site but instead appears to be continuing to expand the settlement by back-fill;

- Concern over the impact on local infrastructure of this and other developments in the area;
- There would appear to be continued potential access issues to the site;
- Concern over encroachment on the woodland area which is thought to be protected;
- The number of properties currently for sale in the Torwood area which brings into question the demand for additional housing in the area.

## 6. PUBLIC REPRESENTATION

6.1 No public representation has been 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 No evidence has been submitted by the applicant that, in principle, development of a dwellinghouse at this site requires a countryside location.

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

7a.3 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.4 The application site lies predominantly outwith the village boundary and no information has been submitted in support of the application in relation to the dwellinghouse location, in terms of tourism, rural employment or rural recreation. In addition, the proposed site is not a 'gap site', the site formerly being part of the garden ground to the rear of an existing dwellinghouse and the side garden of a dwellinghouse on which development has been initiated.

7a.5 The site, if developed, would result in an unacceptable form of backland development, outwith the established settlement boundary.

7a.6 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.7 The application has failed to meet the terms of the above policy, as the proposed new dwellinghouse does not involve the rehabilitation or conversion of an existing building and no other provisions within the policy would favour the proposal, which would result in an unacceptable form of backland development.

7a.8 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.”*

7a.9 The proposal is considered to offend the above policy in that, if the application is approved, the proposal would not respect the townscape character of the area and result in backland development, where restricted direct road frontage would be enjoyed by the new dwellinghouse.

7a.10 In addition, the proposal would not comply with other Local Plan policies (see 7c.1 Conclusion).

7a.11 Policy EQ26 - ‘Trees, Woodland And Hedgerows’ states:

*“The Council recognises the ecological, landscape, economic and recreational importance of trees, woodland and hedgerows. Accordingly:*

- (1) *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*

- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7a.12 Policy EQ26 gives protection to existing areas of woodland, particularly of ancient or semi-natural origin, as a habitat resource, and affords protection to trees and hedgerows of amenity value affected by development.

7a.13 Given the surrounding woodland cover and the existing dwellings to the north-east along Glen Road, any additional dwelling here would be screened in the wider landscape. However, if the proposal were to be accepted here, regardless of it being contrary to policy, it could set a precedent for further backland development of this type just outside the village limit; such further development would cumulatively result in woodland loss and make a permanent change to the local landscape character of the village as a result of additional build and loss of tree cover.

7a.14 Accordingly, the proposal does not accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material consideration to be assessed are Scottish Planning Policy (February 2010), the points raised through comment, the planning history of the site and the terms of the emerging Falkirk Local Development Plan.

### ***Scottish Planning Policy***

7b.2 Scottish Planning Policy (SPP) gives more policy support to development in rural areas. Its provisions are directed at Development Plans which are expected to set out a strategy which "supports more opportunities for small scale housing development in rural areas, including new clusters and groups, extensions to existing clusters and groups, replacement housing, plots on which to build individually designed, houses, holiday homes and new build or conversion housing which is linked to rural businesses or would support the formation of new businesses by providing funding". The site is not supported by the adopted Falkirk Council Local Plan and the proposal is not supported by SPP.

### ***Points Raised Through Comment***

7b.3 With regard to the points raised by the Community Council:-

- the matter of increased development is noted;
- the application does represent further backland development of the site;
- no adverse comments have been received from consultees on the inadequacy of infrastructure, apart from Scottish Water, who submit precautionary advice on connectivity;

- the applicant site comprises of garden ground, with no encroachment onto wooded areas; which are not statutorily protected;
- the matter of housing availability is noted, but is not a material planning consideration.

### ***Site History***

- 7b.4 Since the grant of planning permission for the dwellinghouse Aonach-Mor in 1991, there have been a number of applications to erect housing on the associated garden ground. Dwellinghouses have been proposed on various parts of the site; and been refused on planning grounds regarding the expansion of the village limit, unwarranted new development in the countryside and the introduction of backland development.

Planning permission P/10/0589/PPP - Sub-division of Garden Ground and Erection of Dwellinghouse - Granted planning permission in principle – was granted in January 2011 following consideration by the Planning Committee.

A subsequent planning application - P/11/0573/FUL - Erection of 2 Dwellinghouses with Integral Garages and formation of new access was refused in October 2011.

Referral of the refusal to a Local Review Board saw the dismissal of the appeal, where it was noted that the Planning Committee had previously granted planning permission (ref: P/10/0589/PPP) in principle for the erection of a single dwellinghouse on the application site. The previous decision was contrary to the Development Plan but the Planning Committee had considered that the applicant's argument that a single dwellinghouse was required to meet the accommodation needs of his family should be given greater weight and therefore granted planning permission in principle. The Planning Review Committee concluded that the applicant's subsequent detailed planning application for the erection of 2 dwellinghouses on the site was a materially different proposal. It was not convinced that there were any material considerations to justify allowing a further exception to the Development Plan. In addition, the Planning Review Committee expressed concern that a decision to grant planning permission contrary to the Development Plan and in the absence of any outweighing material considerations would set a dangerous precedent.

It should also be noted that planning approval P/12/0359/MSD - Erection of Dwellinghouse with Integral Garage and formation of new access driveway - has been initiated on site. Condition No. 11 of P/12/0359/MSD states:-

11. For the avoidance of doubt, the site shall only be occupied by one dwellinghouse and the garden ground associated with it shall only be used for purposes incidental to the enjoyment of the dwellinghouse.

Reason:-

11. To allow the Planning Authority to control the future use of the site.

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

7b.5 The proposed Falkirk Local Development Plan was approved by the Council for consultation on 6 March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the extant Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan Policy and constitutes a material consideration in the determination of planning applications.

7b.6 The following policies of the emerging Falkirk Local Development Plan are relevant to the assessment of the application under consideration:

Policy CG01 - 'Countryside'

Policy GSG05 - 'Infill Development and Subdivision of Plots'

Policy CG03 - 'Housing in the Countryside'

Policy GN04 - 'Trees, Woodland and Hedgerows'

D04 - 'Low and Zero Carbon Development'

7b.7 The above policies reinforce and develop relevant policies in the extant Falkirk Structure Plan and Falkirk Council Local Plan.

7b.8 The proposal is not considered to be in accordance with these policies, as expanded upon within paras. 7a.3-7a.13.

### **7c Conclusion**

7c.1 The proposal is located in an area outwith the village envelope, albeit in garden ground. As such, the proposal is considered to occupy a rural location, and there is an "in principle" policy presumption against development. Any proposal would have to demonstrate that it requires a countryside location and meet other exceptions to the general presumptions against development.

7c.2 No justification for a countryside location has been provided.

7c.3 The decision to allow limited development on the site is clearly reflected in the previous planning history and the works currently underway. That matter aside, the proposal represents backland development within a rural location, and therefore would not conform to the policy advice.

7c.4 It is therefore recommended that there is a policy presumption against the proposed development, consistent with previous recommendations on development proposals on the site.



## **8. RECOMMENDATION**

**8.1 It is recommended that the Planning Committee refuse planning permission for the following reason(s):-**

- (1) The proposal is considered contrary to Falkirk Council Structure Plan Policy ENV.1 'Countryside and Protected Areas' - as the site is in a rural location and no essential justification for a dwellinghouse has been demonstrated.**
- (2) The proposal is considered contrary to Falkirk Council Local Plan Policy SC3 - 'Housing Development In The Countryside' and Policy EQ19 - 'Countryside' - as the site is in a rural location and no essential justification for a dwellinghouse has been demonstrated.**
- (3) The proposal is considered contrary to Falkirk Council Local Plan Policy SC8 - 'Infill Development and Subdivision of Plots' - as it would result in backland development, not respecting the townscape character of the area and, if approved, the application would represent an unwarranted precedent which could not be fairly resisted in similar application sites.**

**Pp**

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**Director of Development Services**

**Date: 17 June 2013**

### **LIST OF BACKGROUND PAPERS**

1. Scottish Planning Policy.
2. Falkirk Council Structure Plan.
3. Falkirk Council Local Plan.
4. Falkirk Local Development Plan.
5. Consultation response from Larbert, Stenhousemuir and Torwood Community Council.
6. P/12/0359/MS.
7. P/11/0573/FUL.
8. AP/12/001/REV\_DD.
9. P/11/0496/MS.
10. P/11/0495/MS.
11. P/10/0589/PPP.
12. F/2002/0593.
13. F/92/0525.
14. F/92/0524.
15. F/91/0407.
16. F/91/0009.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne, Senior Planning Officer.

# Planning Committee

## Planning Application Location Plan **P/13/0265/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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