

FALKIRK COUNCIL

MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 22 APRIL 2009 at 9.30 A.M.

PRESENT: Councillors Buchanan, Carleschi, H Constable, J Constable, Lemetti, A MacDonald, Mahoney, McLuckie, McNeill, Nicol and Oliver.

APOLOGY: Councillor C Martin

CONVENER: Councillor Buchanan.

ATTENDING: Director of Development Services; Acting Director of Law and Administration Services; Acting Head of Planning and Transportation; Development Manager; Acting Legal Services Manager (D Blyth); Senior Forward Planning Officer; Senior Planning Officer (J Milne); Development Management Co-ordinator (D Campbell); Transport Planning Co-ordinator; Roads Development Officer (C Russell) and Committee Officer (H Oliver).

DECLARATIONS OF INTEREST: Councillor J Constable declared a non-financial interest in agenda item P15 (planning application P/08/0278/FUL) due to his connection with the Bo'ness Chemical Workers Social Club. Councillor J Constable left the meeting during consideration of this item of business.

Councillor H Constable declared a non-financial interest in agenda item P15 (planning application P/08/0278/FUL) due to his connection with the Bo'ness Chemical Workers Social Club. Councillor H Constable left the meeting during consideration of this item of business.

Councillor Mahoney declared a non-financial interest in agenda item P22 (planning application P/07/1229/FUL) due to his family relationship with the applicant. Councillor Mahoney left the meeting during consideration of this item of business.

Councillor Lemetti declared a non-financial interest in agenda item P18 (planning application P/08/0999/FUL) due to its close proximity to his business in Main Street, Camelon, and having regard to issues of public perception. Councillor Lemetti left the meeting during consideration of this item of business.

Councillor McLuckie declared a non-financial interest in agenda Item P10 (planning application P/08/0353/FUL) due to his prior knowledge of the application. Councillor McLuckie left the meeting during consideration of this item of business.

Prior to consideration of business, the Members below made the following statements:-

- Councillor J Constable informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0353/FUL, P/08/0799/FUL and P/08/0086/FUL (minutes P10, P14 and P17) but that he would take part in consideration of planning application P/08/0888/FUL (minute P16) as he was sufficiently familiar with the site.
- Councillor H Constable informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0353/FUL, P/08/0799/FUL and P/08/0086/FUL (minutes P10, P14 and P17) but that he would take part in consideration of planning application P/08/0888/FUL (minute P16) as he was sufficiently familiar with the site.
- Councillor Mahoney informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0799/FUL, P/08/0888/FUL and P/08/0086/FUL (minutes P14, P16 and P17) but that he would take part in consideration of planning application P/08/0915/OUT and P/08/0278/FUL (minute P9 and P15) as he was sufficiently familiar with the sites.
- Councillor Carleschi informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0915/OUT and P/08/0278/FUL (minutes P9 and P15), but that he would take part in consideration of planning applications P/08/0799/FUL, P/08/0888/FUL and P/08/0086 (minutes P14, P16 and P17) as he was sufficiently familiar with the sites.
- Councillor MacDonald informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0353/FUL and P/08/0086/FUL (minutes P10 and P17) but that he would take part in consideration of planning applications P/08/0915/OUT, P/08/0799/FUL, P/08/0278/FUL and P/08/0888/FUL (minutes P9, P14, P15 and P16) as he was sufficiently familiar with the sites.
- Councillor McNeill informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0353/FUL, P/08/0995/FUL and P/09/0005/FUL (minutes P10, P11 and P12) but that he would take part in consideration of planning applications P/08/0915/OUT, P/08/0657/FUL, P/08/0799/FUL, P/08/0278/FUL, P/08/0888/FUL and P/08/0086/FUL (minutes P9, P13, P14, P15, P16 and P17) as he was sufficiently familiar with the sites.
- Councillor Nicol informed the Committee that as he had not attended the site visits he would not take part in consideration of planning applications P/08/0353/FUL, P/08/0995/FUL and P/09/0005/FUL (minutes P10, P11 and P12) but that he would take part in consideration of planning applications P/08/0915/OUT, P/08/0657/FUL, P/08/0799/FUL, P/08/0278/FUL, P/08/0888/FUL and P/08/0086/FUL (minutes P9, P13, P14, P15, P16 and P17) as he was sufficiently familiar with the sites.

P7. ADDITIONAL ITEM OF BUSINESS – CONVERSION OF PIGGERY TO FORM 3 DWELLINGS (DETAILED) AT 45 MANNERSTON HOLDINGS, LINLITHGOW, EH49 7ND FOR MR RUSSELL – P/07/1229/FUL

The Convener advised that, in terms of Standing Order 9.1, he had **AGREED** to accept an additional item of business onto the agenda having regard to the special circumstances thereof, viz, the length of time the application had been under consideration and that no new planning considerations had emerged since the last occasion when the application had been considered by Committee.

This item of business would be considered at the end of the meeting.

P8. MINUTES

There were submitted and **APPROVED**:-

- (a) Minute of Meeting of the Planning Committee held on 25 March 2009; and
- (b) Minute of Meeting of the Planning Committee held On Site on 6 April 2009, subject to correction that Councillor Carleschi had submitted his apologies for the site visits.

P9. MIXED USE DEVELOPMENT COMPRISING RESIDENTIAL, BUSINESS, HOTEL, LEISURE FACILITIES AND ANCILLARY WORKS (RENEWAL OF OUTLINE CONSENT REF: F/2004/0063) AT DRUM FARM, GRAHAMSDYKE ROAD, BO'NESS EH51 9SY FOR GRANGE ESTATE - P/08/0915/OUT (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 March 2009 (Paragraph P47 refers), Committee gave further consideration to Report (circulated) dated 17 March 2009 by the Director of Development Services and an additional Report (circulated) dated 15 April 2009 by the said Director on an application to renew existing outline planning permission (F2004/0063) granted on 24 November 2004.

Councillor J Constable, seconded by Councillor H Constable, moved refusal of the application due to its prominent location and that it was not in the best interests of the public to allow continued uncertainty regarding the development of the site.

By way of an Amendment, Councillor Mahoney, seconded by Councillor Buchanan moved that outline planning permission be renewed, as detailed in the report.

On a division, 5 Members voted for the Motion and 5 Members voted for the Amendment.

In accordance with Standing Order 21.6, in the case of equality of votes, the Convener used his casting vote for the Amendment.

Accordingly, **AGREED** to **RENEW** planning permission, subject to the following conditions:-

- (1) Before development commences, written approval from the Planning Authority must be obtained for the details of the siting, design and external appearance of any buildings, the means of access and the landscaping (collectively) termed 'reserved matters'. The quality of siting, design, external appearance and landscaping of the business use area shall be the subject of a design brief, to be submitted for the written approval of the Planning Authority. The brief shall reflect the gateway and prestige concepts referred to in the submissions accompanying the planning application. Details of recreation facilities within the residential areas shall also be included in the details submitted.
- (2) Plans and particulars of the reserved matters shall be submitted for consideration by the Planning Authority and no work shall begin until the written approval of the Planning Authority has been given.
- (3) Application for the approval of reserved matters shall be made to the Planning Authority within 3 years from the date of this permission.
- (4) The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date of approval by the Planning Authority of the last of the reserved matters to be approved.
- (5) The hotel element of the development as proposed is not permitted.
- (6) No building or structure exceeding 180 metres AOD shall be constructed within the site.
- (7) The business uses shall be confined to Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended.
- (8) No development shall commence until a Traffic Impact Assessment has been submitted to and agreed in writing with the Planning Authority. The measures recommended in the agreed study shall be implemented thereafter.
- (9) No development shall commence until a management regime for Kinnigars Wood has been submitted to and approved in writing by the Planning Authority. That regime shall be implemented thereafter.
- (10) No existing trees on the site shall be removed without the written approval of the Planning Authority.
- (11) The Iron Age enclosure within the site shall be fenced off for the duration of construction works on adjacent land.
- (12) Drainage shall be on the separate system.
- (13) No development shall commence until a comprehensive and detailed SUDS scheme for the site (or such sub-division of the site as the

Planning Authority agree), in accordance with the relevant CIRIA design manual, has been submitted to and approved in writing by the Planning Authority (in consultation with SEPA and Scottish Water).

- (14) There shall be no culverting of watercourses. The possibility of de-culverting and restoring the top end of Carriden Burn at the site shall be investigated; those works shall be implemented unless the Planning Authority agrees in writing that this is not feasible or desirable.
- (15) Drainage from domestic sewage, service yards, loading bays and waste skip storage areas shall be connected to the public foul sewer. Work shall not commence on any phase of the development until the Planning Authority is satisfied (after consultation with Scottish Water), and has agreed in writing, that there is sufficient capacity in the public foul sewerage system for that phase.
- (16) No development shall commence until details of facilities to be provided for the separation and recycling of waste have been submitted to the Planning Authority and (in consultation with SEPA), agreed in writing.
- (17) A method statement regarding the protection of watercourses and SUDS features from pollution during the construction works shall be submitted to the Planning Authority for written approval (in consultation with SEPA) and implemented thereafter.
- (18) No development on any phase shall commence until the Planning Authority has expressed its satisfaction in writing that the stability of the land has been investigated and any necessary remedial works are to be undertaken.

Reasons(s):

- (1-4) To comply with Section 59(2) of the Act and the masterplan.
- (5,7) To ensure that the Planning Authority can control the future use of the premises.
- (6) So that Obstacle Limitation Surfaces detailed in CAA publication CAP 168 are not breached, and to avoid endangering the safe operation of aircraft through interference with navigational aids.
- (8) In the interests of the safety and control of traffic movement.
- (9-10) To reinforce the landscape setting of the development, contribute to neighbourhood amenity, and improve wildlife habitat.
- (11) To protect the archaeological interest of the site.
- (12-13) To ensure that adequate drainage is provided.
- (14) To enable the Planning Authority to consider this/these aspect(s) in detail.

- (15) The capacity of the existing sewer network downstream of the proposed development may not be able to support a development of this size without prior upgrading.
- (16) To ensure that adequate facilities are provided.
- (17) To protect watercourses and SUDS features from pollution.
- (18) To check that the developer takes appropriate steps to ensure the stability of the land for development.

In accordance with his declaration of interest in the following item of business, Councillor McLuckie left the meeting and took no part in the discussion on this matter.

P10. ERECTION OF DWELLINGHOUSE (DETAILED) AT 39A AND 39B WAGGON ROAD, BRIGHTONS, FALKIRK FK2 0EL FOR MR AND MRS MACDONALD - P/08/0353/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Planning Committee held on 25 February and 25 March 2009 (Paragraphs P17 and P35 refer), and of the Planning Committee held On-Site on 19 March 2009 (Paragraph P27 refers), Committee gave consideration to Report (circulated) dated 15 April 2009 by the Director of Development Services to which were attached, as appendices, copies of the Reports to the aforementioned Committees by the said Director on an application for detailed planning permission for the erection of a one and a half storey detached dwellinghouse at 39A and 39B Waggon Road, Brightons, Falkirk.

AGREED to **GRANT** planning permission, subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years from the date of this permission.
- (2) The driveway shall be constructed with a maximum gradient of 1:10 and shall be constructed to ensure that no surface water or loose material is discharged onto the access road.
- (3) Any access gates shall only open inwards.
- (4) A 2.0 metre wide footway shall be constructed over the site's frontage to Waggon Road in accordance with Falkirk Council's Design Guidelines and Construction Standards and the existing dropped kerbs shall be extended to suit the width of the proposed driveway; the footway shall be constructed and completed prior to the occupancy of the dwellinghouse hereby approved.
- (5) There shall be no obstruction to visibility over 1 metre in height above carriageway level within 2.5 metres of the road edge over the site frontage to Waggon Road.
- (6) All of the windows on both gable elevations at both ground and first floor level shall be obscure glazing.

- (7) In accordance with the details on the approved plans, the garage roof shall not be used as a roof terrace or sitting area and the proposed 1.1m high railings shall be retained in perpetuity. At no time shall the garage roof area be accessible to the occupants / visitor of the dwellinghouse unless solely for maintenance purposes.

Reason(s):

- (1) To comply with section 58 of the town and country planning (Scotland) act 1997.
- (2-5) to safeguard the interests of the users of the highway.
- (6-7) to safeguard the privacy of the occupants of adjacent properties.

Councillor McLuckie re-entered the meeting following consideration of the foregoing item of business.

Councillor McNeill left and re-entered the meeting during consideration of the foregoing item of business.

P11. INSTALLATION OF 3 NO. 3G ANTENNAS, EQUIPMENT CABINET, EXTENDED COMPOUND AND ANCILLARY DEVELOPMENT AT TELEPHONE EXCHANGE, BORROWSTOUN CRESCENT, BO'NESS EH51 0PN FOR ARQIVA SERVICES LTD - P/08/0995/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Planning Committee held on 25 February and 25 March 2009 (Paragraphs P21 and P37 refer), Committee gave consideration to Report (circulated) dated 15 April 2009 by the Director of Development Services to which were attached, as appendices, copies of the reports to the aforementioned Committees by the said Director on an application for detailed planning permission for the installation of three 3G antennas, an equipment cabinet, an extended compound and ancillary development at the telephone exchange, Borrowstoun Crescent, Bo'ness.

Councillor J Constable, seconded by Councillor H Constable, moved refusal on health and safety grounds, the cumulative effect of emissions on children attending local schools, and having regard to the failure of the applicant to produce information to ameliorate these concerns.

By way of an Amendment, Councillor McLuckie, seconded by Councillor Mahoney, moved to grant the application, as detailed within the Report.

Following discussion and in accordance with Standing Order 19.8 and with the unanimous consent of the meeting, Councillors H and J Constable agreed to withdraw their Motion and Councillors McLuckie and Mahoney agreed to withdraw their Amendment.

Accordingly, **AGREED** to **CONTINUE** consideration of this item of business to allow information to be obtained from ICNIRP on cumulative emissions.

P12. ERECTION OF 17.2 METRE HIGH MONOPOLE TELECOMMUNICATIONS MAST, 3 NO. ANTENNAS, 1 NO. 600MM AND 1 NO. 300MM TRANSMISSION DISHES, FORMATION OF COMPOUND WITH 1.8 METRE HIGH PALISADE FENCING, SITING OF OUTDOOR EQUIPMENT CABINET AND ANCILLARY DEVELOPMENT AT SITE TO THE WEST OF UNIT 2, BO'MAINS INDUSTRIAL ESTATE, LINLITHGOW ROAD, BO'NESS FOR VODAFONE LTD - P/09/0005/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Planning Committee held on 25 February and March 2009 (Paragraphs P22 and P38 refers, Committee gave consideration to Report (circulated) dated 15 April 2009 by the Director of Development Services to which were attached, as appendices, copies of the reports to the aforementioned Committees by the said Director on an application for detailed planning permission for the erection of a 17.2 high monopole telecommunications mast, three antennas, one 600mm and one 300mm transmission dish, formation of a compound with 1.8 metre high palisade fencing, siting of an outdoor equipment cabinet and ancillary development at the site to the west of Unit 2, Bo'mains Industrial Estate, Linlithgow Road, Bo'ness.

AGREED to **CONTINUE** consideration of this item of business to allow information to be obtained from ICNIRP on cumulative emissions.

P13. ERECTION OF 14.2 METRE HIGH MONOPOLE TELECOMMUNICATIONS MAST WITH 1 NO. 300MM TRANSMISSION DISH, EQUIPMENT CABINETS AND ANCILLARY WORKS, SITE TO THE WEST OF 71 BRECHIN DRIVE, GILSTON CRESCENT, POLMONT, FALKIRK FOR VODAFONE - P/08/0657/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Regulatory Committee held on 3 December 2008 and 28 January 2009 (Paragraphs R111 and R126 refer) and of the Planning Committee held on 25 February and 25 March 2009 (Paragraphs P12 and P40 refers), Committee gave consideration to Report (circulated) dated 15 April 2009 by the Director of Development Services to which were attached, as appendices, copies of the reports to the aforementioned Committees by the said Director on an application for detailed planning permission for the erection of a 14.2 metre high monopole telecommunications mast with a 300mm transmission dish, equipment cabinets and ancillary works on a site to the west of 71 Brechin Drive, Gilston Crescent, Polmont, Falkirk.

AGREED to **REFUSE** planning permission as the proposed structure would have a detrimental impact on the visual amenity of the area.

Councillor J Constable left the meeting prior to consideration of the following item of business.

P14. MIXED USE DEVELOPMENT COMPRISING 54 FLATS AND RETAIL UNITS ON LAND TO THE SOUTH EAST OF 1 WILLIAMSON STREET, WILLIAMSON STREET, FALKIRK FOR PALISADE ESTATES - P/08/0799/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 March 2009 (Paragraph P48 refers), Committee gave further consideration to Report (circulated) dated 17 March 2009 by the Director of Development Services and an additional Report (circulated) dated 15 April 2009 by the said Director on an application for mixed commercial and residential development comprising 54 flats and retail units on land to the south east of 1 Williamson Street, Falkirk.

AGREED that Committee is **MINDED** to **GRANT** planning permission subject to the successful completion of an appropriate Legal Agreement requiring the payment of £102,600 and £97,500 to mitigate development impacts on education provision and car parking respectively.

On completion of the Legal Agreement, it is remitted to the Director of Development Services to grant planning permission, subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years from the date of this permission.
- (2) Development shall not commence until a written scheme of archaeological investigation and programme of work has been submitted to and approved in writing by the Planning Authority.
- (3) Development shall not begin until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
- (4) Development shall not commence until additional contaminated land remediation information has been submitted to and approved in writing by the Planning Authority. The additional information sought is in the memorandum from Falkirk Council's Environmental Protection Unit (Ref: 85055) dated 28 October 2008.
- (5) Development shall not commence until details of all hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:-
 - i. Location and design, including materials, of walls, fences and gates.
 - ii. Soft and hard landscaping works.
 - iii. Other artefacts and garden structures.
 - iv. A programme for completion and subsequent maintenance.

- (6) Development shall not commence until details of the phasing of the development have been submitted to and approved in writing by the Planning Authority. Following approval, the development shall be implemented in accordance with the approved scheme.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that any archaeological remains are safeguarded.
- (3) To safeguard the interests of the users of the highway.
- (4, 6) To safeguard the environmental amenity of the area.
- (5) To safeguard the visual amenity of the area.

Informative:-

All drainage should comply with the requirements of the Scottish Environment Protection Agency and Scottish Water.

In accordance with their declarations of interest in the following item of business, Councillors H and J Constable left the meeting and took no part in the discussion on this matter.

P15. EXTENSION TO SOCIAL CLUB, BO'NESS CHEMICAL WORKERS SOCIAL CLUB, 69 LINLITHGOW ROAD, BO'NESS EH51 0DS FOR BO'NESS CHEMICAL WORKERS SOCIAL CLUB - P/08/0278/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 March 2009 (Paragraph P43 refers), Committee gave further consideration to Report (circulated) dated 17 March 2009 by the Director of Development Services and an additional Report (circulated) dated 15 April 2009 by the said Director on an application for detailed planning permission for the erection of a single storey extension to the existing Social Club at Bo'ness Chemical Workers Social Club, 69 Linlithgow Road, Bo'ness.

AGREED to **GRANT** planning permission, subject to appropriate conditions, as determined by the Director of Development Services.

Councillors H and J Constable re-entered the meeting following consideration of the foregoing item of business.

P16. ERECTION OF 14 FLATTED DWELLINGHOUSES ON LAND TO EAST OF 50 STATION ROAD, WHITECROSS FOR LAND 4 LEISURE LTD (DETAILED) - P/08/0888/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 March 2009 (Paragraph P46 refers), Committee gave further consideration to

Report (circulated) dated 17 March 2009 by the Director of Development Services and an additional Report (circulated) dated 15 April 2009 by the said Director on an application for detailed planning permission for the erection of 14 flats in a single block, three and four storeys in height at 50 Station Road, Whitecross.

AGREED that Committee is **MINDED** to **GRANT** planning permission subject to the referral to Scottish Ministers and subject also to appropriate conditions, as determined by the Director of Development Services.

Councillor Mahoney left and re-entered the meeting during consideration of the foregoing item of business.

Councillor Carleschi left the meeting during consideration of the foregoing item of business.

P17. FORMATION OF WASTE RECYCLING FACILITY AT CRAIGEND WORKS, STANDBURN, FALKIRK FK1 2HY FOR RESTORATION AND DEVELOPMENTS LIMITED - P/08/0086/FUL (CONTINUATION)

With reference to Minute of Meeting of the Planning Committee held on 25 March 2009 (Paragraph P45 refers), Committee gave further consideration to Report (circulated) dated 17 March 2009 by the Director of Development Services and an additional Report (circulated) dated 15 April 2009 by the said Director on an application for detailed planning permission for the formation of a waste recycling facility at Craigend Works, Standburn, Falkirk.

AGREED to **GRANT** planning permission subject to the following conditions:-

- (a) that prior to the commencement of works, surveys are carried out in respect of badgers and water voles;
- (b) that mitigation measures be put in place on commencement of demolition works with regards to bats;
- (c) Operational hours will be Monday to Friday - 08.00 until 17:00, Saturday - 08.00 until 13:00, Sunday and public holidays – no operations works to be undertaken, and no operations to take place outwith the forementioned times; and
- (d) to remit to the Director of Development Services to agree an appropriate condition to safeguard the retention and upkeep of the chimney.

and subject also to the following conditions:-

- (1) The development to which this permission relates must be begun within five years of the date of this permission.
- (2) All vehicles exiting the site shall use the wheel washing equipment.
- (3) The proposed development shall not be brought into use until such time as the wheel washing equipment has been installed and is in operation.

Thereafter, the wheel washing equipment shall be kept operational at all times when the site is in operation.

- (4) The proposed development shall not be operational at any time the wheel washing equipment is not in operation, whether for maintenance, repair or any other reason.
- (5) Prior to the commencement of any work on site the form and construction of the proposed alternative footpath connection along the northern and eastern boundaries of the site, as shown on the approved plan (SAP 1085/002 Rev B), shall be approved in writing by the Planning Authority.
- (6) Prior the development being brought into use, the footpath connection referred to in Condition 5 of this permission shall be formed and completed in accordance with a specification to be approved in writing by the Planning Authority.
- (7) Prior to the development being brought into use, the perimeter fence shall be completely erected using green coloured materials, or painted green, the shade to be approved in writing by this Planning Authority.
- (8) The proposed development shall be operated to process, recycle and treat concrete, bricks, tiles, ceramics, soils and stones and road base material and plannings only. No other material shall be processed or stored at the site without the written approval of this Planning Authority.
- (9) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by this Planning Authority.
- (10) Prior to the recycling facility being brought into operation the site access road shall be widened to a width of 7.3 metres for a distance of 15 metres from its junction with the C53 Boxton Road.
- (11) Prior to the commencement of work on site the junction of the B825 Linlithgow to Avonbridge road and the C53 Boxton Road shall be widened at the applicants expense to a width of 6.5 metres to a minimum distance of 20 metres back from the junction. The junction widening shall be kerbed with new concrete kerbs showing 100mm upstand. Alternatively, prior to the commencement of work on site, works to improve visibility to the east of the junction of the B825 and the C53 Boxton Road shall be carried out. Works to improve visibility at the east side of the junction shall have the prior written approval of the Planning Authority and shall be carried out at the applicant's expense.
- (12) Prior to the commencement of work on site two passing places shall be formed, at the applicant's expense, on the C53 Boxton Road between the site entrance and the B825. The position and details of the passing places shall have the prior written approval of the Planning Authority. The passing places shall be a minimum of 2.5 metres in width and 15 metres in length.

- (13) Notwithstanding any details previously submitted, any vehicle entering or leaving the site at any time which is carrying any material for recycling shall have its load fully covered.
- (14) Notwithstanding any details previously submitted, no work shall commence on site until such time as details have been submitted of litter catching fencing to be erected at the two lay bys to be formed at the C53 Boxton Road.
- (15) The site shall not become operational until such time as the litter catching fencing, the details of which are approved in writing by the planning authority, has been erected at the two lay bys to be formed at the C53 Boxton Road.
- (16) Prior to the commencement of work on site a survey of the existing condition of the road verges at the C53 Boxton Road between the application site entrance and the B825 shall be approved in writing by the planning authority. The survey shall include a statement of measures to be taken to maintain and repair road verges which sustain damage arising from the intrusion of vehicles.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To safeguard the interests of the users of the highway.
- (5-6) To ensure that public countryside access is maintained.
- (7-8,13-15) To safeguard the environmental amenity of the area.
- (9) To ensure that the development is carried out to the satisfaction and approval of this Planning Authority.
- (10) In the interests of road safety.
- (11-12) To safeguard the interests of the users of the highway.
- (16) To safeguard the condition of road verges at the C53 Boxton Road between the site entrance and the B825 Linlithgow to Avonbridge Road.

Councillor Carleschi re-entered the meeting during consideration of the foregoing item of business.

In accordance with his declaration of interest in the following item of business, Councillor Lemetti left the meeting and took no part in the discussion on this matter.

P18. ERECTION OF 2 RETAIL UNITS, 4 FLATTED DWELLINGS AND ASSOCIATED PARKING ON LAND TO THE EAST OF 320 MAIN

STREET, CAMELON, FALKIRK FOR GEORGIAN FINANCE CO LTD - P/08/0999/FUL

There was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for detailed planning permission for the erection of two retail units, 4 flatted dwellings and associated parking on land to the east of 320 Main Street, Camelon, Falkirk.

AGREED to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

Councillor Lemetti re-entered the meeting following consideration of the foregoing item of business.

P19. ERECTION OF 5 DWELLINGHOUSES ON LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LIMITED - P/08/0377/FUL

There was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for detailed planning permission for the erection of five one and a half storey dwellinghouses on land to the south east of Byways, Glen Road, Torwood.

Councillor Buchanan, seconded by Councillor Nicol, moved that consideration of this item of business be **CONTINUED** to allow an inspection of the site by Committee.

By way of an Amendment, Councillor J Constable, seconded by Councillor H Constable, moved that the application be refused, for the following reasons:-

- (1) that the proposed development was contrary to the Development Plan;
- (2) that there was no discernable housing need to justify a departure from the Development Plan;
- (3) that the proposal would result in destruction of an area which is an amenity to the local community in terms of active and passive leisure; and
- (4) that the development would destroy woodland of traditional value to the local community and would destroy wildlife and habitats in the locality.

On a division, 7 Members voted for the Motion and 4 for the Amendment.

Accordingly, **AGREED** to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

P20. FORMATION OF ROUNDABOUT ON LAND TO THE SOUTH WEST OF ALMONDHALL FARM, FALKIRK FOR LAND OPTIONS WEST - P/08/0844/OUT

There was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for outline planning permission for the

formation of a roundabout on land on the A801 roadway to the south west of Almondhall Farm, Falkirk.

AGREED to **CONTINUE** consideration of this item of business to allow an inspection of the site by Committee.

P21. ERECTION OF 72 FLATS AND PROVISION OF ANCILLARY CAR PARKING, LANDSCAPING AND INFRASTRUCTURE AT LORNE ROAD, LARBERT FOR CARRONVALE HOMES LTD - P/08/0827/FUL

There was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for detailed planning permission for the erection of 72 flats and the provision of ancillary car parking, landscaping and infrastructure at Lorne Road, Larbert.

AGREED to **REFUSE** planning permission, as detailed within the Report.

In accordance with his declaration of interest in the following item of business, Councillor Mahoney left the meeting and took no part in the discussion on this matter.

P22. CONVERSION OF PIGGERY TO FORM 3 DWELLINGS (DETAILED) AT 45 MANNERSTON HOLDINGS, LINLITHGOW EH49 7ND FOR MR RUSSELL – P/07/1229/FUL

With reference to Minute of Meeting of the Regulatory Committee held on 28 January 2009 (Paragraph R137 refers) and of the Planning Committee held on 25 March 2009 (Paragraph P41 refers), Committee gave consideration to Report (circulated) dated 21 April 2009 by the Director of Development Services to which were attached, as appendices, copies of the reports to the aforementioned Committees by the said Director on an application for detailed planning permission for the restoration and conversion of part of a disused piggery to form three dwellinghouses at 45 Mannerston Holdings, Linlithgow.

AGREED to **GRANT** planning permission, subject to appropriate conditions, as determined by the Director of Development Services.

FALKIRK COUNCIL

MINUTE of MEETING of the PLANNING COMMITTEE held ON SITE on TUESDAY 5 MAY 2009 commencing at 10.15 a.m.

PRESENT: Councillors Buchanan, Carleschi (application P/08/0377/FUL); J Constable (for applications P/08/0999/FUL and P/08/0377/FUL), Lemetti, A MacDonald (for applications P/08/0999/FUL and P/0377/FUL), Mahoney, McLuckie, McNeill (for applications P/08/0999/FUL and P/08/0844/OUT), Nicol (for applications P/08/0999/FUL and P/08/0844/OUT) and Oliver (for applications P/08/0999/FUL and P/08/0377/FUL).

CONVENER: Councillor Buchanan.

APOLOGIES: Councillor H Constable.

ATTENDING: Acting Head of Planning and Transportation (for application P/08/0844/OUT); Development Management Coordinator (D Campbell) (for applications P/08/0999/FUL and P/08/0377/FUL); Senior Planning Officer (J Milne) (for application P/08/0844/OUT); Senior Planning Officer (Landscape) (P Harris)(for application P/0377/OUT); Transport Planning Officer (K Collins) (for application P/08/0844/OUT); Roads Development Officer (C Russell); Planning Officer (D Paterson) (for applications P/08/0999/FUL and P/08/0377/FUL); Assistant Planning Officer (G Clark)(for application P/08/0377/FUL); Solicitor (K Quin); and Committee Services Officer (H Oliver).

DECLARATION OF INTEREST:

Councillor Lemetti declared a non-financial interest in planning application P/08/0999/FUL due to his knowledge of the site and its close proximity to his business in Main Street, Camelon. Councillor Lemetti left the meeting during consideration of this item of business.

In accordance with his declaration of interest in the following item of business, Councillor Lemetti left the meeting and took no part in the discussion on this matter.

P23. ERECTION OF 2 RETAIL UNITS, 4 FLATTED DWELLINGS AND ASSOCIATED PARKING ON LAND TO THE EAST OF 320 MAIN STREET, CAMELON, FALKIRK FOR GEORGIAN FINANCE CO LTD - P/08/0999/FUL

With reference to Minute of Meeting of the Planning Committee held on 22 April 2009 (Paragraph P18 refers), there was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for detailed planning permission for the erection of two retail units, 4 flatted dwellings and associated parking on land to the east of 320 Main Street, Camelon, Falkirk.

The Planning Officer (D Paterson) outlined the nature of the application.

Ms A Harris, the applicant, was heard in support of the application.

Mr G Stevenson, an objector, was heard in support of his written objection.

Ms Anderson, an objector, was heard in support of her written objection.

Mr K Russell, an objector, was heard in support of his written objection.

Mr D Walker, an objector, was heard in support of his written objection.

The objectors were concerned with the following issues:-

- Issues relating to the relocation of wheelie bins
- Access arrangements to existing retail outlets
- That the loss of existing car parking site could result in fewer people using the shops and other business in the local area due to insufficient parking provision in the Camelon area.
- Concern that the number of allocated car parking spaces for the proposed development would exacerbate current parking issues
- Concern regarding access to the site during construction
- Conditions regarding use of proposed retail units for hot/cold food
- Concern regarding the junction of Union Road and Main Street, Camelon and associated traffic problems
- The proposed development would compromise the safety of persons using the fire exit of local business to the rear of proposed development
- Security issues associated with youths congregating to the rear of the building

The applicant replied addressing the concerns raised.

Questions were then asked by Members of the Committee.

Councillor Thomson, as a local Member for the area, was heard in relation to the application.

Councillor Patrick, as a local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Committee on 20 May 2009.

Following conclusion of the foregoing item of business, Councillor Lemetti re-entered the site meeting.

P24. FORMATION OF ROUNDABOUT AT SITE TO THE SOUTH WEST OF ALMONDHALL FARM, FALKIRK FOR LAND OPTIONS WEST - P/08/0844/OUT

With reference to Minute of Meeting of the Planning Committee held on 22 April 2009 (Paragraph P20 refers), there was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for outline planning permission

for the formation of a roundabout on land on the A801 roadway to the south west of Almondhall Farm, Falkirk.

The Senior Planning Officer (J Milne) outlined the nature of the application.

Mr A Bell, the agent, was heard in support of the application.

Mr J Wilson, an objector, was heard in support of his written objections

Mr D Dodge, an objector, was heard in support of his written objection.

Mr P Jones, an objector, was heard in support of his written objection.

The objectors were concerned with the following issues:-

- That the development may prejudice other developments
- That the Committee does not have adequate information such as comprehensive traffic impact survey to determine this application
- The objectors requested that this application be deferred to allow a new application to be submitted from their organisation, which would take into consideration two junctions to access this site.

The applicant replied addressing the concerns raised.

Questions were then asked by Members of the Committee.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Committee on 20 May 2009.

P25. ERECTION OF 5 DWELLINGHOUSES ON LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LIMITED - P/08/0377/FUL

With reference to Minute of Meeting of the Planning Committee held on 22 April 2009 (Paragraph P19 refers), there was submitted Report (circulated) dated 15 April 2009 by the Director of Development Services on an application for detailed planning permission for the erection of five one and a half storey dwellinghouses on land to the south east of Byways, Glen Road, Torwood.

The Planning Officer (D Paterson) outlined the nature of the application.

Mr R Mitchell, the applicant, was heard in support of the application.

Mr H Forrester, on behalf of the applicant, spoke in support of the application.

Ms A Neilson, an objector, was heard in support of her written objection.

Mr A Gardner, an objector, was heard in support of his written objection.

Ms E Bell, an objector, was heard in support of her written objection.

Mr R Miller, an objector, was heard in support of his written objection.

Mr C Ambrose, on behalf of Larbert, Stenhousemuir and Torwood Community Council, was heard in support of the written objection.

Mr O'Rourke, an objector, was heard in support of his written objection.

Ms I Lawton, an objector, was heard in support of her written objection.

Mr A MacKie, an objector, was heard in support of his written objection.

Ms C Burn, on behalf of Woodland Trust, was heard in support of the written objection.

Mr & Mrs Paton, objectors, were heard in support of their written objections.

Mrs L Douglas, an objector, was heard in support of her written objections.

Mr R Miller, an objector, was heard in support of his written objections.

The objectors were concerned with the following issues:-

- Felling of site in 2002 had detrimental impact on woodland including the removal of old trees such as silver birch, oak and beech and wildlife, in particular, a colony of bats.
- The existing woodland should be retained.
- The proposed development would set a precedent for further developments in the area.
- In the current economic climate, opportunities for low cost recreational pursuits should be encouraged.
- The need to preserve rural village of Torwood.
- The development would be detrimental to the rural village and surrounding area.
- The development does not accord with the Development Plan, Policy Rural 1 of the Rural Local Plan "New Development in the Countryside" and Policy Rural 2 "Village Limits".
- The classification of woodland by Scottish National Heritage is incorrect and reclassification should be sought.
- The tree survey submitted by the applicant does not address biodiversity issues.
- The Forestry Commission had not been consulted on this application.
- Concerns regarding drainage of water from site.
- Policy SC8 "Infill Development and Subdivision of Plots" relevant to urban situations and not rural and that the policy relates only to "small" gap site, while the report referred to the size as an "extended" gap site, therefore, policy not relevant.
- The development would be detrimental to road safety.
- The development would result in the loss of woodland of historic importance and make no positive contribution to the amenity and recreational opportunities of the area.
- There is no recognised need for additional housing in Torwood.

The applicant replied addressing the concerns raised.

Questions were then asked by Members of the Committee.

Councillor J Constable, read out a letter on behalf of a local member, Councillor Coleman, in relation to the application.

Councillor Gow, as a local Member for the area, was heard in relation to the application.

The Convener concluded by thanking the parties for their attendance and advising that the matter would be determined by the Committee on 20 May 2009.

FALKIRK COUNCIL

Subject: ERECTION OF 2 RETAIL UNITS, 4 FLATTED DWELLINGS AND ASSOCIATED PARKING AT LAND TO THE EAST OF 320 MAIN STREET, CAMELON, FALKIRK FOR GEORGIAN FINANCE CO. LTD. – P/08/0999/FUL
Meeting: PLANNING COMMITTEE
Date: 20 May 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor John Patrick
Councillor Gerry Goldie
Councillor Joe Lemetti
Councillor Georgie Thomson

Community Council: Camelon and District

Case Officer: David Paterson (Planning Officer), ext 4757

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall this application was originally considered at the Planning Committee on 22 April 2009 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This took place on 5 May 2009.
2. The applicant spoke in support of the proposal, and advised that in her view the proposal was acceptable and would benefit the Camelon area. In addition, the public use of the car park was allowed only by the goodwill of the owner.
3. At the site meeting, objectors to the proposed development raised the following concerns which have been addressed previously in the report of 22 April 2009: loss of the car parking area, impact on on-street car parking in Camelon; impact on traffic and the use of a fire exit at the adjacent building at Main Street, Camelon.
4. Objectors raised the following issues which had not previously been raised:
 - 4.1. The impact on the storage of wheelie bins in respect of adjacent premises. It is noted that the adjacent premises at Main Street, Camelon store refuse bins at the site. It was highlighted that these bins are at present stored on land over which the owners of bins have no control. The proposed development would not alter this situation. The applicant advised that access to the application site for this purpose would continue. This is not considered to be a significant issue.

- 4.2 Access arrangements to adjacent properties at Main Street, Camelon, particularly access for emergency vehicles. It was highlighted that such access is being taken via land over which no adjacent property has any control. In any case, such access would at present be restricted by parked vehicles and a locked gate. It is not considered that this issue is significant.
- 4.3 Access for construction traffic. It was highlighted that access for construction traffic would be no more limited than that for most development sites. In any case, control of construction sites is regulated by other legislation and is not a material planning consideration.
- 4.4 The proposed retail units may be used for the sale of hot food. Planning officers confirmed that the use of a retail unit for the sale of hot food requires planning permission for change of use and that such an application would be treated on its own merits.
- 4.5 Security risk from the congregation of youths at the application site. It was noted by the applicant that access to the application site would be restricted and therefore there is no significant change in relation to present circumstances. In any case it is considered that a residential presence is a deterrent to anti social behavior. It is not considered that this is a significant issue.
5. Councillors Georgie Thompson and John Patrick, as Local Members, were also heard in relation to the proposal.
6. **It is recommended that planning permission be granted subject to the following conditions:**
- (1) The development to which this permission relates must be begun within five years from the date of this permission.**
 - (2) Notwithstanding any details previously submitted and prior to the occupation of any of the retail units or flats, the access over the existing footway on Union Road shall be formed as a dropped kerb and the remainder of the existing footway crossing shall be reinstated to a standard footway construction. All construction shall be in accordance with "The Design Guidelines and Construction Standards For Roads In The Falkirk Council Area".**
 - (3) Prior to the commencement of works on site, the applicant shall undertake and submit to the planning authority for written approval, a site investigation to establish if contamination (or defined by Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination has been identified the site investigation shall include a scheme of identification and mitigation measures to include: -**
 - (a) The nature, extent and type(s) of contamination on the site.**
 - (b) Measures to treat / remove contamination to ensure the site is fit for the proposed use. Measures to be taken shall include timescales.**
 - (c) Measures to deal with contamination during the construction works.**
 - (d) Condition of the site on completion of decontamination measures.**
 - (e) Details of a monitoring programme following site redemption.**

- (4) Where contamination has been identified on site, no retail unit or flat shall be occupied until such time as the applicant has demonstrated to the planning authority, and with the written agreement of the planning authority, that measures approved in writing by the planning authority to decontaminate the site have been fully implemented.
- (5) No work shall commence on site until such time as a noise survey to determine the impact of transport noise on the development has been approved in writing by the planning authority. The noise survey shall be conducted in terms of Planning Advice Note (PAN) 56 "Planning for Noise" and shall include details of noise mitigation measures to be undertaken.
- (6) Notwithstanding any details previously submitted, no work shall commence on site until such time as details of the new retaining wall to be erected at the north and west side of the parking and turning area have been approved in writing by the planning authority.
- (7) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the planning authority.

Reason(s)

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the interests of the users of the highway.
- (3-4) To safeguard the environmental amenity of the area.
- (5) To ensure that there will be detrimental impact on the proposed development from transportation noise.
- (6) To ensure the safety of persons accessing the site on foot and by vehicle.
- (7) To ensure that the development is carried out to the satisfaction and approval of the Planning authority.

R Geisler

.....
For Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Supplementary Planning Guidance “Housing Layout and Design”.
4. Supplementary Planning Guidance “Shopfronts”.
5. Letter of objection from Mr. Mohammad Iqbal, Camelon Newsagent, 336 Main Street, Camelon.
6. Letter of objection from Nelsons Solicitors and Notaries, 326 Main Street, Camelon of 24 December 2008.
7. Letter of objection from Mr. G. Gow and Ms. C. Anderson, Gordon’s Newsagents, 306 Main Street, Camelon of 23 December 2008.
8. Letter of objection from George Stevenson, Managing Director, Mathieson’s Bakeries Ltd, 2 Central Park Avenue, Larbert, FK5 4RX on 21 April 2009.
9. Letter of objection from Kevin Russell, Bites and PC’s, 344 Main Street, Camelon, FK1 4EG on 20 April 2009.
10. Letter of objection from Mr Harmai Singh Gill, Indianos, 342 Main Street, Camelon on 1 May 2009.

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 2 RETAIL UNITS, 4 FLATTED DWELLINGS AND ASSOCIATED PARKING AT LAND TO THE EAST OF 320 MAIN STREET, CAMELON, FALKIRK FOR GEORGIAN FINANCE CO. LTD. – P/08/0999/FUL
Meeting: PLANNING COMMITTEE
Date: 22 April 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor John Patrick
Councillor Gerry Goldie
Councillor Joe Lemetti
Councillor Georgie Thomson

Community Council: Camelon and District

Case Officer: David Paterson (Planning Officer), ext 4757

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprises land at the corner of Union Road and Main Street, Camelon, currently used as a car park, and land to the rear of 320-334 Main Street which is currently enclosed vacant land. It is noted that the car parking area is surfaced with a bituminous material and marked out with white lining. It is also noted that the car parking area is privately owned and that parking is allowed on an informal basis. The car parking area can accommodate 10 vehicles.
- 1.2 It is proposed to develop the land currently used as a car park to erect a 3 storey building comprising two retail units on the ground floor with four 2 bedroom flats above. It is proposed that the currently enclosed vacant land to the rear of 320–334 Main Street is proposed to be used as a vehicle access, parking and turning area in respect of the proposed development.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor Joe Lemetti.

3. SITE HISTORY

- 3.1 There is no relevant planning site history.

4. CONSULTATIONS

- 4.1 The Roads and Development Unit has raised no objections. It is advised that details of the retaining wall at the north side of the car parking area be approved in writing prior to the commencement of work on site. It is also advised that the access over the footway on Union Road should be shown as a new 6 metre wide dropped kerb footway crossing and the remainder of the footway reinstated.
- 4.2 The Environmental Protection Unit has advised that the applicant should undertake: -
- 4.3 A noise survey to determine the impact of transportation noise on the development which should be conducted in Terms of Planning Advice Note (PAN) 56 "Planning For Noise."
- 4.4 A site investigation to establish if contamination (as defined by Part 11a of the Environmental Protection Act 1990) is present on site.
- 4.5 Scottish Water has raised no objections.

5. COMMUNITY COUNCIL

- 5.1 No representation received.

6. PUBLIC REPRESENTATION

- 6.1 Three letters of objection have been received. Concerns raised are: -
- 6.2 The application site is not a gap site. The site is an existing car parking facility.
- 6.3 The loss of the existing car parking site could result in fewer people using the shops and other businesses in the local area. There is already insufficient parking provision in the Camelon area.
- 6.4 The junction of Union Road and Main Street, Camelon is a very busy junction. The proposal to erect an additional two retail units will increase the number of vehicles servicing retail units close to the junction. The proposed development is therefore a hazard to pedestrians and road users.
- 6.5 There has never been a three storey development at the site.
- 6.6 The existing building gable overlooking the site on the west side has an advertisement sign in respect of a local business displayed on it. The advertisement sign incorporates a clock. The clock is well known and relied upon in the area. The clock would be lost as a result of the proposed development which would be detrimental to the amenity of the local people.
- 6.7 There is no demand for retail units and flats in the area which are vacant.
- 6.8 There would be a noise nuisance caused as a result of the building works should the site be developed.

- 6.9 A local business has a fire exit which leads into the enclosed vacant land to the rear of 320 – 334 Main Street. The proposed development would compromise the safety of persons visiting the fire exit.
- 6.10 An adjacent 1st floor business to the application site consists of the conversion of two former flats. Should the property be subdivided again at a future date, one part would only have access from land at the rear which forms part of the application site. The proposed development would compromise the use of this access.
- 6.11 The proposed development is not acceptable as the land at the rear of 320 – 334 Main Street is narrow and cannot be accessed by vehicle other than possibly via the Health Centre car park adjacent to the South.
- 6.12 The sewer infrastructure in the area is not capable of servicing the proposed development.
- 6.13 The proposed development will block light to adjacent properties and interrupt view from such properties.
- 6.14 The proposed development will result in an unacceptable level of overlooking with respect to adjacent properties.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly: -

7a The Development Plan

Falkirk Council Structure Plan 2007

- 7a.1 The proposed development raises no strategic issues.

Falkirk Local Plan

- 7a.2 Policy FAL 5.6 ‘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:

- (i) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (ii) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or function of existing gardens;*
- (iii) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (iv) 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;*

- (v) *the proposed houses would have a direct street frontage; and*
- (vi) *the proposed vehicular access and other infrastructure is of an adequate standard.”*

- 7a.3 It is considered that the scale, density, disposition and design of the flats reflects the architectural and townscape character of the building form at the east side corner of Union Road and Main Street, and the townscape beyond.
- 7a.4 Adequate privacy will be afforded to the proposed flats and to surrounding properties.
- 7a.5 There is no significant impact on the functioning of any adjacent properties.
- 7a.6 There is no proposed loss of trees or walls.
- 7a.7 The proposed development accords with Policy FAL 5.6.
- 7a.8 Policy FAL 7.2 ‘Retail Development in Existing Centres’ states:
- “The Council will generally support new retail development which is located in, or adjacent to, Falkirk Town Centre or the Local Centres, provided that it is of a scale appropriate to the centre's catchment, and will help to reinforce the centre's role in the shopping hierarchy.”*
- 7a.9 It is considered that the scale and design of the proposed retail units is proportionate and appropriate to the Camelon catchment.
- 7a.10 The proposal accords with Policy FAL7.2.
- 7a.11 Accordingly the proposed development accords with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Supplementary Planning Guidance (SPG) “Housing Layout and Design, SPG “Shopfronts”, consultation responses from the Roads and Development Unit and the Environmental Protection Unit and the public representations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 7b.2 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.”*

- 7b.3 Sections 7a.1 – 7a.6 of this report are noted as relevant.
- 7b.4 It is noted that the Roads and Development Unit has raised no objections.
- 7b.5 The proposal accords with Policy SC8.
- 7b.6 Policy EQ11 ‘Shopfronts’ states:
- “(1) *The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part. The retention and restoration of existing traditional shopfront features such as stallrisers, pilasters, cornices, friezes and mouldings will be required; and*
 - (2) *External security measures should not detract from the character of the building or the area in general. Where such measures are necessary, there will a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.”*
- 7b.7 The design of the new shopfronts are proportionate with, and sympathetic to, the character and streetscape of the buildings adjacent.
- 7b.8 The proposal accords with Policy EQ11.
- 7b.9 Policy EQ3 ‘Townscape Design’ states:
- “New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*
- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
 - (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
 - (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
 - (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
 - (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
 - (6) *The contribution to the townscape of important landmarks, skylines and views should be respected.”*
- 7b.10 The proposed development respects and complements the application site’s environs. The design of the new building reflects the surrounding urban fabric in terms of scale, height massing and building line.
- 7b.11 The proposal accords with Policy EQ3.
- 7b.12 Accordingly, the proposed development accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Supplementary Planning Guidance (SPG) “Housing Layout and Design”

- 7b.13 The SPG states that “where there is a gap site, whether in an urban terrace or within a looser group of buildings, it is important to achieve a harmonious “fit” of new with existing”. This should pay attention to the adjacent building line, height, scale, window and other arrangements, proportions and detailed decoration and materials.
- 7b.14 The proposed flats achieve a “harmonious” fit into the streetscape in terms of building line, height, scale and fenestration arrangement.
- 7b.15 The proposed development accords with the SPG in terms of infill development.

Supplementary Planning Guidelines (SPG) “Shopfronts”

- 7b.16 The SPG provides design guidance for new shopfronts in relation to design elements of shopfront form including facias, stall risers and doorways.
- 7b.17 The proposed shopfronts accord with the SPG in terms of the formation of facias and stall risers. The proposed development does not include recessed doorways. In terms of this issue the proposed development does not accord with the SPG.
- 7b.18 Accordingly the proposed development does not fully accord with the SPG.

Consultation Responses from the Roads and Development Unit and the Environmental Protection Unit

- 7b.19 The issues raised in sections 4.1 - 4.4 of this report are noted. It is considered that these issues can be addressed by condition.

Public Representations

- 7b.20 Concerns relating to the loss of an existing car parking area are noted. It is noted however that there is no record of any requirement for a parking area as an ancillary or essential facility in association with any development in the area. The application site is not in the ownership of the Council. The application site is in private ownership. The owner allows car parking at the site as an informal gesture of goodwill, even though the site may be hard surfaced and white lined. The owner could at any time clear the site and deny access for parking. In such circumstances, the Council would have no power to compel the owner of the site to retain its use as a car parking area. A developer contribution towards the provision of car parking in the area is not appropriate in this case.
- 7b.21 In terms of road safety it is noted that the Roads and Development Unit has raised no objections.
- 7b.22 The issue of property demand is not a material planning consideration.
- 7b.23 It is not considered that the proposed development raises any significant privacy, daylighting or overlooking issue.

- 7b.24 It is noted that there are existing doorway accesses on to land at the rear of 320 – 334 Main Street which comprises part of the application site. It is noted that the Roads and Development Unit has raised no objection in respect of such access arrangements. It is presumed that the owner of the site would have to respect any right of access of any occupier of the adjacent buildings. This issue is not, however, a material planning consideration. Planning permission, should it be granted, would not override any rights of any adjacent occupier.
- 7b.25 It is not considered that the obscuring of the advertisement sign and clock at the existing gable wall to the site is reason to refuse planning permission. If this issue raises any legal issues whereby the applicant may not achieve authorisation to carry out the proposed development, this is a civil matter between the parties concerned.

7c Conclusion

- 7c.1 The proposed development accords with the Development Plan and the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7c.2 The proposed development achieves a harmonious fit into the streetscape. The scale, density, disposition and design of the flats reflects the architectural and townscape character of the building form at the east side corner of Union Road and Main Street and the townscape beyond.
- 7c.3 It is noted that the proposed development does not fully accord with the terms of the Supplementary Planning Guidance “Shopfronts”. It is also noted, however, that the proposed development reflects the streetscape in which the site is located and achieves a harmonious fit. On balance the proposal is considered to be acceptable.
- 7c.4 It is also noted that the proposed development would result in the loss of a car parking area for 10 vehicles. The car parking area is, however, privately owned and parking is allowed by the owner on an informal basis as a gesture of goodwill. The use of the site as a car park has no formal status and the Council has no power to secure the future use of the site as a car park should the owner cease to allow the site to be used for this purpose.
- 7c.5 Issues raised by consultees can be addressed by condition.
- 7c.6 There are no material considerations which would justify refusal of planning permission.

8. RECOMMENDATION

- 8.1 It is recommended that detailed planning permission be granted subject to the following conditions: -
- (1) The development to which this permission relates must be begun within five years from the date of this permission.

- (2) Notwithstanding any details previously submitted and prior to the occupation of any of the retail units or flats, the access over the existing footway on Union Road shall be formed as a dropped kerb and the remainder of the existing footway crossing shall be reinstated to a standard footway construction. All construction shall be in accordance with "The Design Guidelines and Construction Standards For Roads In The Falkirk Council Area".
- (3) Prior to the commencement of works on site, the applicant shall undertake and submit to the Planning authority for written approval, a site investigation to establish if contamination (or defined by Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination has been identified the site investigation shall include a scheme of identification and mitigation measures to include: -
- (a) The nature, extent and type(s) of contamination on the site.
 - (b) Measures to treat / remove contamination to ensure the site is fit for the proposed use. Measures to be taken shall include timescales.
 - (c) Measures to deal with contamination during the construction works.
 - (d) Condition of the site on completion of decontamination measures.
 - (e) Details of a monitoring programme following site redemption.
- (4) Where contamination has been identified on site, no retail unit or flat shall be occupied until such time as the applicant has demonstrated to the Planning authority, and with the written agreement of the Planning authority, that measures approved in writing by the Planning authority to decontaminate the site have been fully implemented.
- (5) Notwithstanding any details previously submitted, no work shall commence on site until such time as a structural survey in respect of the existing stone wall at the south boundary of the site has been submitted to, and approved in writing by, the Planning authority. Should the wall be found to be unstable in any way, the survey shall include a scheme of mitigation measures. In the case that the wall is found to be unstable, any remedial measures approved in writing by the Planning authority shall be implemented prior to the commencement of work on site.
- (6) Notwithstanding any details previously submitted, no work shall commence on site until such time as details of the new retaining wall to be erected at the north and west side of the parking and turning area have been approved in writing by the Planning authority.
- (7) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning authority.

Reason(s)

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the interests of the users of the highway.
- (3-4) To safeguard the environmental amenity of the area.
- (5) To ensure the structural integrity of the existing stone wall at the south boundary of the site and the safety of persons accessing the site on foot and by vehicle.
- (6) To ensure the safety of persons accessing the site on foot and by vehicle.
- (7) To ensure that the development is carried out to the satisfaction and approval of the Planning authority.

.....
For Director of Development Services

Date: 15 April 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Supplementary Planning Guidance "Housing Layout and Design".
4. Supplementary Planning Guidance "Shopfronts".
5. Letter of objection from Mr. Mohammad Iqbal, Camelon Newsagent, 336 Main Street, Camelon.
6. Letter of objection from Nelsons Solicitors and Notaries, 326 Main Street, Camelon of 24 December 2008.
7. Letter of objection from Mr. G. Gow and Ms. C. Anderson, Gordon's Newsagents, 306 Main Street, Camelon of 23 December 2008.

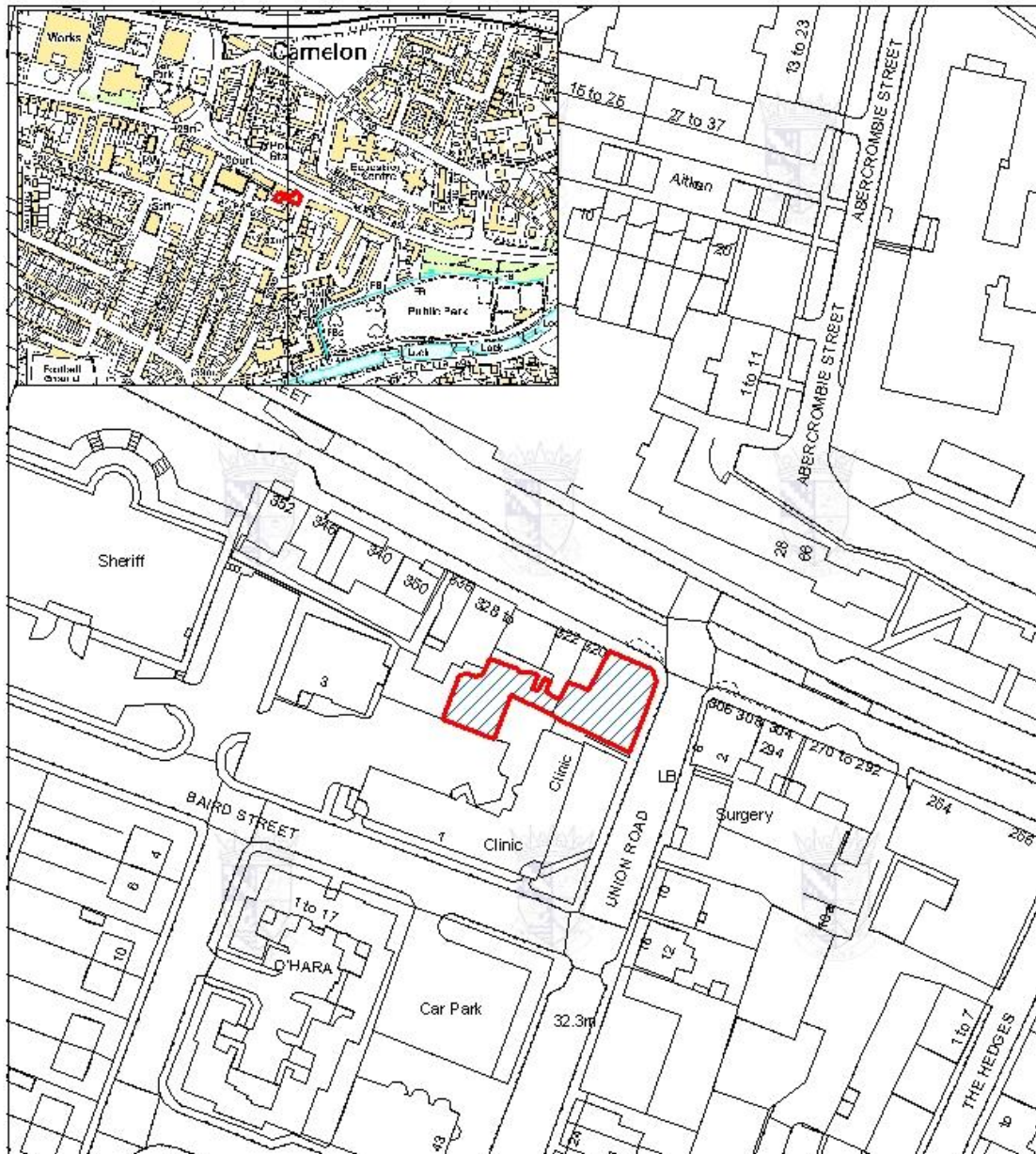
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for David Paterson (Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0999/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: FORMATION OF ROUNDABOUT, AT SITE TO THE SOUTH WEST OF ALMONDHALL FARM FALKIRK FOR LAND OPTIONS WEST (P/08/0844/OUT)
Meeting: PLANNING COMMITTEE
Date: 20 May 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Maddiston

Case Officer: John Milne (Senior Planning Officer), ext 4815

UPDATE REPORT FOLLOWING SITE VISIT

1. Members will recall that a site inspection took place on Tuesday 5 May and that the issues raised can be summarised as follows: -
 - 1.1 That the development may prejudice development at Whitecross.
 - 1.2 That the Committee does not have adequate information such as comprehensive traffic impact survey to determine this application.
 - 1.3 A request that, should Committee be minded not to refuse this application, this matter be deferred to allow a further application to be submitted within 8 weeks by Tyler Parkes Partnership which would take into consideration two junctions on A801 to provide access to the east and west of the road.
2. In response to these issues, it is considered that: -
 - 2.1 The emerging Local Plan is a material consideration in the determination of this application. It includes a proposal for the Whitecross SIRR and anticipates access levels via a junction on A801 (p 279 of the draft plan). Without detail in relation to the roundabout proposed in this application and without information, yet to be produced, (see para 1.3) in relation to the access to the Whitecross SIRR, it is not possible to eliminate the possibility that the roundabout proposed in this application might impact adversely on the access to the Whitecross SIRR.

- 2.2 No traffic impact assessment has been submitted in support of this application. A traffic impact assessment was not sought by the planning authority prior to recommendation of this application as: -
- (i) There is no Local Plan designation for new housing in the western area, therefore the proposed level of vehicle traffic generated by new development is not quantifiable to any accurate degree.
 - (ii) The indicative drawing accompanying the application shows access only to land on the west of the site being served and does not consider any impact of the additional development i.e. Whitecross SIRR, potentially utilising the A801 roadway.
 - (iii) The principle of development is not considered acceptable in terms of the Development Plan and the emerging Local Plan and any request for substantial survey information was considered financially abortive for the applicant.
- 2.3 Members should be aware that, should the application be deferred, the applicant is at liberty to submit an appeal against non-determination of the application. The applicant is entitled to have the current application assessed on its individual merits and is not compelled to enter into a joint venture with another party to secure a planning permission.
3. One additional letter of comment has been received from the Tyleparkes Partnership representing the Morston Assets, who are the land developer for the Whitecross SIRR, to the effect;-
- 3.1 There is no proposal within the current Local Plan review to allocate land within this area, and obviously any such allocation is a matter for the Council to consider as part of the next round of policy review. In that sense, the application is premature.
- 3.2 Whilst it was suggested that the proposed roundabout could provide some local traffic benefits by providing an alternative access onto the A801 and the M9 motorway, these benefits could only be achieved following the allocation of land for a substantial housing development in the successor to the current Local Plan. The roundabout, and any future relief link, would not be provided in advance of any such allocation, and there would be no local benefit to be achieved by granting planning permission now.
- 3.3 The applicants pointed to the likely difficulties involved in seeking consent for a new access onto the A801 in the event that it became a trunk road, and the desire to ‘future-proof’ the situation by seeking consent now.
- 3.4 In reality, however, there is little likelihood that the A801 will be trunked in the near future, since it is not included within any transport Scotland programme. It seems that any decision on possible trunking will be dependent on the A801 Avon Gorge improvement, which itself is not yet committed. In addition, there can be no certainty that Park Hall Farm will be allocated as a site for substantial residential development in the next planning policy round, and that therefore there is no need to pre-judge that position now, by ‘future-proofing’ a decision that has not yet been made.

- 3.5 The proposed roundabout is obviously intended to serve a substantial new housing development, and will also attract existing traffic seeking a more convenient access onto the principal road network. The applicants' agent himself said that the link would attract a 'large amount of traffic', but no attempt has been made by the applicants to quantify what that volume of traffic would be, nor whether that would cause unacceptable levels of congestion at the Whitecross roundabout, or even at the nearby motorway junction.
- 3.6 At the site visit, the applicant indicated that he was seeking permission in principle only and that the size of the roundabout could be adjusted to cater for whatever traffic levels were likely to be generated in the future. This is a gross oversimplification of the potential problem. The additional traffic brought on to the A801 by the proposed access may well cause congestion beyond the boundary of the application site, which the scheme will not be capable of resolving.
- 3.7 Tylerparkes suggest that the above makes it clear that much more needs to be done before the Committee can be satisfied that the proposed application would not prejudice a future Whitecross access, and the matter is simply too important to take a decision until that has happened. Morston continue to have grave concerns over the lack of information that has been provided.

This letter has been copied to the applicant's agent for information

4 It is recommended that planning permission be refused for the following reasons:-

- (1) The proposal is considered contrary to Policy ENV.1 – Countryside and Protected Areas – within the Falkirk Council Structure Plan, Rural Area Local Plan Policy Rural 1 – New Development in the Countryside and Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy EQ19 – Countryside, in that no exception to the presumption against development in the countryside has been justified by the applicant or identified by Falkirk Council.**
- (2) The proposal is considered contrary to the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy ST6 – Improving the Road Network – in that no improvement in the A801 at this location is required as a consequence of development or as a consequence of Development Plan land allocations.**
- (3) The proposal is considered contrary to the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy ST7 – Transport Assessments – in that the quantifiable traffic impact on the A801 as a consequence of the introduction of a roundabout has not been able to be assessed on basis of the information provided.**

.....
For Director of Development Services

Date: 13 May 2009

FALKIRK COUNCIL

Subject: FORMATION OF ROUNDABOUT, AT SITE TO THE SOUTH WEST OF
ALMONDHALL FARM FALKIRK FOR LAND OPTIONS WEST
(P/08/0844/OUT)
Meeting: PLANNING COMMITTEE
Date: 22 April 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Maddiston

Case Officer: John Milne (Senior Planning Officer), ext 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprises an area of land on the A801 roadway, between the Lathallan roundabout and Bowhouse roundabout. More specifically, the site is identified as south of the Union Canal and north of “The Haining”.
- 1.2 While the application is for the principle of the formation of a roundabout, the applicant has included an indicative drawing showing a roundabout set within the existing A801 carriageway and a spur leg taken to the west and extending outwith the application site. The area of land adjacent to the site is currently agricultural land. Development opportunities exist at nearby Parkhall and Gilston, with the applicant suggesting that the proposal may serve a potential expansion (not allocated in any Local Plan) of the Parkhall development which may be subject to future planning applications.

2. REASON FOR CONSIDERATION BY COMMITTEE

- 2.1 The planning application has been called to the Planning Committee at the request of Councillor Malcolm Nicol.

3. SITE HISTORY

- 3.1 No relevant site history.

4. CONSULTATIONS

- 4.1 Transport Scotland has advised that the A801 roadway is not within its scope of interest.
- 4.2 The Transport Planning Unit advise that no indication has been given as to the context of the proposed development, beyond a submitted plan annotated as relating to the Proposed Gilston Development (drawing ref. 07656/SK/04 - project : proposed development, Gilston). Any access arrangements on the A801 should not prejudice the proposed Whitecross SIRR (Special Initiative for Residential-Led Regeneration). The Transport Planning Unit consider the current proposals to lack sufficient detail on what will be accessed from the roundabout, and no inclusion of the potential Whitecross development seems to have been addressed.
- 4.3 The Roads Development and Flooding Unit can only give a qualified response as the extent of land to be developed and served by the proposed roundabout is unknown. Given that adjoining land is outwith the urban limit, the current proposal is considered premature as a roundabout may or may not be appropriate, and its size cannot be determined at this time.
- 4.4 Scottish Water has no objection to the application.

5. COMMUNITY COUNCIL

- 5.1 Maddiston Community Council has not submitted comments.

6. PUBLIC REPRESENTATION

- 6.1 One representation has been received, commenting that:-
- 6.2 The Falkirk District Local Plan Finalised Draft (Deposit Version) requires the Whitecross development to be served by a new access from a roundabout to be constructed on the A801.
- 6.3 The concern from the contributor is not about the applicant's desire to construct an access, but about any prejudicial impact that such an access may have on the feasibility of constructing what would then be an additional access on the A801.
- 6.4 The contributor is confident that an acceptable solution, involving a double roundabout arrangement, may be achievable.
- 6.5 The contributor has asked that the current planning application be deferred but, as the contributor is not the applicant nor agent to the applicant, such a request cannot be acceded to.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the 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 justification for the development at this location has been submitted in the context of the existing roadway network. The proposal would infringe the road network infrastructure and adjoining agricultural land without demonstrating that the works are likely to improve the quality of life for local residents or established uses within the rural area. Therefore, the proposal does not accord with this policy.

Rural Area Local Plan

7a.3 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

- 1. Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
- 2. On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*
- 3. Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
- 4. Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
- 5. Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council’s Tourism Strategy are particularly welcomed.*

6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

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

7a.4 The applicant has not substantiated the reason for the introduction of a roundabout at this location beyond speculation that adjoining land may be developed in the future. From consultation responses, the proposal is not required to improve the highway infrastructure within the rural area and would have an adverse effect on adjoining agricultural land.

7a.5 Accordingly the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be addressed are the policies within the Falkirk Council Local Plan Finalised Draft (Deposit Version) and points raised through comment.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 Policy ST7 - 'Transport Assessments' states:

- "(1) Falkirk Council will require transport assessments of developments where the impact of that development on the transport network is considered likely to require mitigation. In all cases, this mitigation will be delivered to a level that achieves no net detriment to the capacity of the network.*
- (2) Transport assessments will include travel plans and, where necessary, safety audits of proposed mitigation measures and assessment of the likely impacts on air quality as a result of proposed development.*
- (3) Developers will agree the scope of the assessment with Falkirk Council, then undertake the assessment in accordance with the scoping. In all cases, the assessment will focus on the hierarchy of transport modes, favouring the use of walking, cycling and public transport over unnecessary use of the car.*
- (4) The Council will only grant planning permission where it is satisfied that the transport assessment and travel plan has been appropriately scoped, the network impacts properly defined and suitable mitigation measures identified."*

7b.3 In this instance, there is a lack of identifiable linkage of the roundabout to established/proposed development identified in the Development Plan and emerging Development Plan. Also, the proposal is not required at this time to enhance the existing road network provision. This renders the submission and analysis of a Transport Assessment as hypothetical. The variation in potential traffic impact on the existing A801 cannot be quantified or analysed at this juncture.

7b.4 Policy ST8 - 'Transport Safety' states:

- “(1) Falkirk Council will require safety audits of new schemes where appropriate. These will be undertaken in line with the Institute of Highway and Transportation’s ‘Guidelines for the Safety Audit of Highways’.”*
- “(2) Developers will provide or contribute to the provision of safety based infrastructure where this is agreed through the scoping for Transport Assessments, Freight Partnerships or other appropriate processes.”*

7b.5 No statistical analysis of the existing road network has been submitted in support of the proposal and no quantifiable information as to what the roundabout will access is available.

7b.6 Policy EQ19 - 'Countryside' states:

- “(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*
 - it can be demonstrated that they require a countryside location;*
 - they constitute appropriate infill development; or*
 - they utilise suitable existing buildings.*
- “(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*
 - the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
 - building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council’s ‘Design Guide for Buildings in the Rural Areas’; and*
 - boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

7b.7 There is no reasoned justification for the proposed roundabout to be located at the site proposed on existing road infrastructure within a rural location.

7b.8 Policy ST6 - 'Improving The Road Network' states:

“Falkirk Council will work with other authorities, the Scottish Executive and developers in delivering necessary improvements to the road network. Any improvements identified will be taken forward as part of packages of measures that support sustainable transport.”

7b.9 The proposed roundabout is not required to address deficiencies in the existing A801 traffic management nor is it required to service identified development opportunities within the current Development Plan.

Proposals and Opportunities

7b.10 Opportunities (SIRR)

W.WHT1	Whitecross New Settlement
Site Area	Unknown
Capacity	1000-1500
Developer	Private
Status	Opportunity – SIRR
Comment	See paragraphs 5.1 – 5.6 Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.11 It is envisaged that while a full Transport Assessment and Travel Plan will be required, a new access via a roundabout from the A801 will be required.

7b.12 The impact of the current planning application on the proposed Whitecross SIRR (Special Initiative for Residential Led Regeneration) cannot be evaluated as no detailed proposals for the initiative have yet been lodged.

Points Raised Through Comment

7b.13 While the proposal may or may not have a detrimental impact on the proposed Whitecross SIRR (Special Initiative for Residential led Regeneration), as identified in the emerging Development Plan in terms of road access, no planning application for the development has yet been lodged. It could therefore be suggested that such considerations may be premature and the application for the roundabout should be considered on its individual merits, setting aside aspirations of the Whitecross SIRR.

7b.14 The applicant has failed to quantify the development to be served by the proposed roundabout, beyond drawing reference to nearby development at Parkhall. It is understood that the Parkhall development is currently served by adequate road infrastructure.

7b.15 The applicant suggests the roundabout is to provide a link from Parkhall to the A801, but will not be constructed unless relevant consents for additional housing is forthcoming. However, if this application is granted, the roundabout could be constructed in advance and may prejudice future consideration of development strategy.

7b.16 The applicant suggests that the proposed roundabout is ‘forward planning’. However, this ‘forward planning’ on the part of the applicant has no basis in either the current or proposed Development Plan.

7b.17 The applicant has offered to substantiate potential Traffic Impacts subject to qualification of criteria from Falkirk Council. Given the lack of Development Plan basis for development, such an exercise would be considered abortive at this juncture, given the application is for the principle of a roundabout and Falkirk Council has no development intentions as envisaged by the applicant.

7c Conclusion

- 7c.1 While the application for the roundabout is in principle, it reflects the aspirations of the applicant to provide - at some future date and dependent on further successful applications for development - a link route from the nearby Parkhall development. However, at this moment in time, there is no Development Plan basis for the additional roadway linkage nor has any evidence been submitted that the roundabout would contribute to an improvement in the existing roadway infrastructure. It is considered that the proposal is not supported by policies in the Development Plan and emerging district wide Local Plan and that there are no material planning considerations which would overturn a refusal of planning permission.
- 7c.2 If Members are minded to grant planning permission, the application has been advertised as development potentially contrary to the Development Plan in the Falkirk Herald on 27 January 2009. However, the proposal is not considered to be of such significance as to merit referral to Scottish Ministers.

8. RECOMMENDATION

8.1 It is recommended that planning permission be refused for the following reasons:-

- (1) The proposal is considered contrary to Policy ENV.1 – Countryside and Protected Areas – within the Falkirk Council Structure Plan, Rural Area Local Plan Policy Rural 1 – New Development in the Countryside and Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy EQ19 – Countryside, in that no exception to the presumption against development in the countryside has been justified by the applicant or identified by Falkirk Council.**
- (2) The proposal is considered contrary to the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy ST6 – Improving the Road Network – in that no improvement in the A801 at this location is required as a consequence of development or as a consequence of Development Plan land allocations.**
- (3) The proposal is considered contrary to the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy ST7 – Transport Assessments – in that the quantifiable traffic impact on the A801 as a consequence of the introduction of a roundabout has not been able to be assessed on basis of the information provided.**



.....
For Director of Development Services

Date: 15 April 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan (2007)
2. Rural Area Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version) 2007
4. Letter of representation from The Tyler Parkes Partnership Centre Court 1301 Stratford Road Hall Green, Birmingham dated 9 March 2009

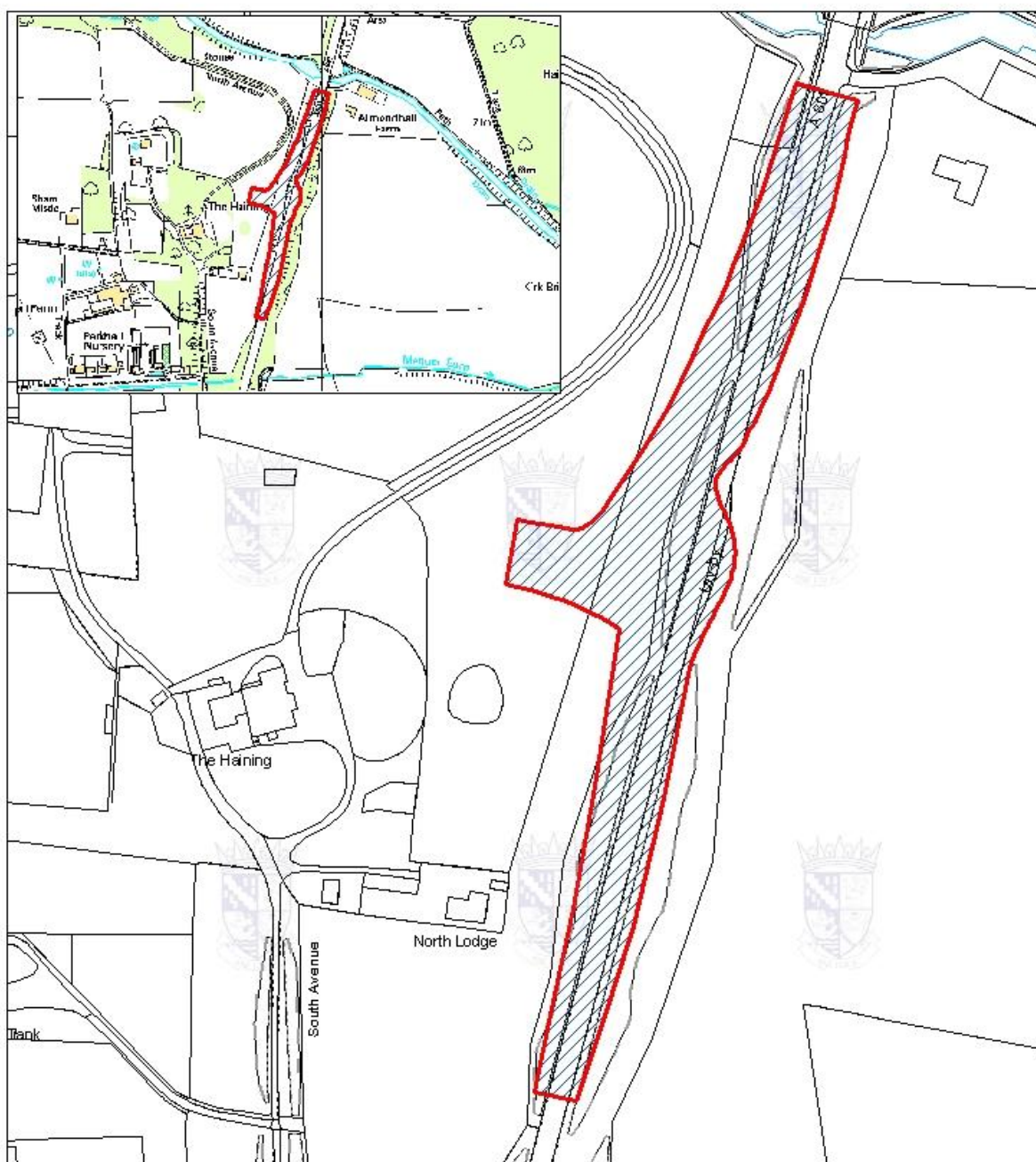
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne (Senior Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0844/OUT

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: **ERECTION OF 5 DWELLINGHOUSES AT LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LTD – P/08/0377/FUL**
Meeting: **PLANNING COMMITTEE**
Date: **20 May 2009**
Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Member: **Councillor Billy Buchanan**
 Councillor Tom Coleman
 Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: David Paterson (Planning Officer), ext 4757

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall this application was originally considered at the meeting of the Planning Committee on 22 April 2009 (copy of previous report appended), when it was agreed to continue the application and to undertake a site visit. This took place on 5 May 2009.
2. The applicant was heard, in support of the proposal, and referred to the recently submitted petition from 50 households in Torwood in favour of the proposal. He stated that this equated to some 60% of the village population. He referred to the petitions against the proposal and noted that many signatures were from locations far removed from Torwood and outwith the Falkirk Council area. The applicant highlighted that the application site forms a very small peripheral part of the woodland in the Torwood area and would not impact on the setting of Torwood Castle and Broch. He advised that the design and layout of the proposal had taken account of the setting of the site and the existing trees and it has been revised in consultation with planning and landscape officers of the Council. He also advised that felling on the site had been by a previous landowner.
3. A forestry adviser was heard on behalf of the applicant. The applicant's adviser displayed documentation which supported the view of Scottish Natural Heritage that the application site is in an area of commercial forestry and is not recorded as an area of "ancient woodland".
4. A number of objectors, the majority being residents of Torwood and members of the Torwood Community Group were heard in opposition to the proposal and referred to the following:
 - Petitions totaling 456 signatories opposing the proposal on the grounds that it would result in the loss of an ancient woodland of historic importance and impact on the setting of Torwood Castle and Broch.
 - Previous illegal felling of trees on a larger area included the site.

- The proposed development would set a precedent for further development in the area.
 - The proposal is contrary to the provisions of the development plan as it lies outwith the Torwood village limit and has not been identified for housing purposes.
 - There has been no change in circumstance since the previous refusals on the site and the site does not represent an infill or gap site.
 - The proposal should be resisted as the economy is experiencing difficulties, and opportunities for countryside recreation should be safeguarded.
 - The Council should be encouraging recreational pursuits in the area.
 - The need to preserve the rural village character of Torwood.
 - Roads safety concerns in relation to additional traffic generation on Glen Road.
 - Concerns regarding drainage.
 - The woodland is classed as being within an ancient woodland and the records of Scottish Natural Heritage (SNH) are not correct in that SNH does not have the woodland recorded as such.
 - There is no need for additional housing in Torwood.
6. A member of the Woodlands Trust also spoke against the proposal as did a representative of the Larbert, Stenhousemuir and Torwood Community Council.
7. A statement was read on behalf of Councillor Tom Coleman as Local Member. Councillor Linda Gow, also a Local Member, was also heard in relation to the proposal.
8. It should be noted that following the Planning Committee's original consideration of the proposed development, the Keeper of Archaeological and Local History has advised that the application site is far enough removed from Torwood Castle and Broch to have a negligible impact on their setting.

9. RECOMMENDATION

- 9.1 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 five years from the date of this permission.**
 - (2) Prior to the commencement of any work on site the location and construction of a fence to protect existing trees at the site shall be approved in writing by the Planning Authority.**

- (3) Prior to commencement of any work on site, the tree protection fencing shall be erected at the site with the written approval of the Planning Authority and shall remain in situ until the completion of the last dwellinghouse.
- (4) There shall at no time be any materials stored or deposited in any way, plant or equipment of any kind stored or deposited in any way or vehicles parked within the area of tress to be retained.
- (5) The landscaping at the south boundary shall be completed prior to the occupation of any dwellinghouse at the site.
- (6) Prior to the commencement of any work on site a tree and landscaping management plan shall be approved in writing by the Planning Authority.
- (7) Should any part of the existing boundary wall at Glen Road which is to be retained be demolished or become damaged in any way, the breach or damage shall be repaired and made good within 14 days of the notification of the breach by the Council.
- (8) Prior to the commencement of any work on site the applicant shall undertake, and have approved in writing by the Planning Authority a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination is identified the site investigation shall include:-
 - (a) The nature, extent and type(s) of contamination.
 - (b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - (c) Measures to deal with contamination during construction works.
 - (d) The condition of the site on completion of decontamination measures.
 - (e) Timescales for dealing with contamination.
 - (f) Details of a monitoring programme following site redemption.
- (9) Driveways shall be constructed with a gradient no greater than 1 in 10 and in a manner to ensure that surface water run-off does not discharge, or loose material is not carried out onto the public highway.
- (10) All access gates shall open inwards.
- (11) There shall be no construction or planting of any kind or placement or deposit of any materials, plant, equipment or machinery at any time between the boundary wall fronting Glen Road and the public highway.
- (12) Prior to the commencement of works on site a walkover survey of the site for badgers shall be carried out and if setts are identified, mitigation measures shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.
- (13) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To ensure the protection of existing trees at the application site.
- (5-8) To safeguard the environmental amenity of the area.
- (9-11) To safeguard the interests of the users of the highway.
- (12) To safeguard the environmental amenity of the area.
- (13) To ensure that the development is carried out to the satisfaction and approval of the Planning Authority.

Informative(s)

- (1) In respect of the Badger Survey requirement, where existing infrastructure and development allows, the survey should be conducted out to 30m beyond the site boundary. A licence may be required for any badger mitigation - please contact SNH for further advice.

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

- 1. Letter of representation from Alison Neilson, Willowdene, Glen Road, Torwood, Larbert on 02 May 2008
- 2. Letter of representation from R.G. Phillips, "Byways", Glen Road, Torwood, FK5 4SN on 8 May 2008
- 3. Letter of representation from Mr & Mrs Laing, Bracken Lea, Glen Road, Torwood, Larbert on 8 May 2008
- 4. Letter of representation from J Paton, Wallacebank, Glen Road, Torwood, Larbert on 9 May 2008
- 5. Letter of representation from Torwood Community Woodlands, FAO Isobel Lawton, Willowdene, Glen Road, Torwood on 14 May 2008
- 6. Letter of representation from Mr Stuart McConnell, Newington, Glen Road, Torwood, Larbert on 14 May 2008
- 7. E-mail dated 3 April 2009 from Christina Byrne of The Woodlands Trust.
- 8. Letter dated 12 9 March 2009 from Mr Gordon Millar, Rowandale, Torwood, Larbert, FK5 4SN.
- 9. E-mail dated 6 April 2009 from Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert, FK5 4GR.

10. Petition objecting to the proposed development containing 450 signatories, from Torwood Community Woodland Group on 16 April 2009.
11. Petition objecting to the proposed development containing 6 signatories, from Isabel Lawton, Hollings Cottage, Glen Toad, Torwood on 21 April 2009 on behalf of Torwood Community Woodland Group.
12. Petition in support of the application from the applicant containing 50 signatories on 5 April 2009.

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 5 DWELLINGHOUSES AT LAND TO THE SOUTH EAST OF BYWAYS, GLEN ROAD, TORWOOD FOR ROY MITCHELL DESIGN LTD – P/08/0377/FUL
Meeting: PLANNING COMMITTEE
Date: 22 April 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: David Paterson (Planning Officer), ext 4757

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is located on the south side of Glen Road, Torwood south east of the dwellinghouse known as Byways.
- 1.2 The site is undeveloped land (previously in forestry use) which is located outwith the village boundary of Torwood as defined in the Rural Local Plan. The site is covered by mixed nature broadleaf woodland with a mixture of mature trees and shrub species (including birch, rowan, cherry and hawthorn).
- 1.3 It is proposed to erect five 1½ storey dwellinghouses of traditional design character with access via three new vehicular accesses from Glen Road.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposal constitutes a departure from the Development Plan.

3. SITE HISTORY

- 3.1 Planning application F/2002/0881 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of this application site and extending significantly more to the rear.
- 3.2 Planning application F/2002/0882 was refused planning permission on 17 January 2003 for the erection of a dwellinghouse on a site approximately half the width of the current application site and extending significantly more to the rear.

- 3.3 Planning permission was refused in respect of the above planning applications on grounds that:-
- The proposals were not considered to be absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The proposals did not therefore accord with Policy Rural 1 of the Rural Local Plan 'New Development in the Countryside' and Policy Rural 2 of the Rural Local Plan 'Village Limits'.
 - The proposals would be detrimental to the character of the landscape as the site is part of a historically wooded area. The proposals did not therefore accord with Policy Rural 20 of the Rural Local Plan 'Trees and Woodland'.
- 3.4 Both refusals of planning permission were subject to appeal to the Scottish Executive and the appeals were considered together. The Reporter concluded that:-
- The proposed developments would accentuate the ribbon character along Glen Road contrary to Policy Rural 1 of the Rural Local Plan 'New Development in the Countryside'.
 - The developments lies outwith the village limit and would not therefore accord with Policy Rural 2 of the Rural Local Plan 'Village Limits'.
 - There is a need to preserve the rural character of the application sites and implementation of the proposals would undermine Policy Rural 20 of the Rural Local Plan 'Trees and Woodland'.
- 3.5 The Reporter dismissed the appeals. The Reporter also made comment that the decision was reached in the absence, at that time, of any policies of the emerging Falkirk Council Local Plan.
- 3.6 It is noted that the above application site extended beyond the south west boundary of the application site to which this report refers by a distance of between 35 metres and 60 metres.
- 3.7 Planning application F/2002/0846 was refused planning permission on 18 February 2003 for the provision of an access and a hardstanding/turning area in connection with a timber extraction operation; this being the same site as that covered by F/2002/0881 and F/2002/0882. The reasons for refusal related to the lack of justification and contravention of Local Plan Policy.
- 3.8 Also relevant is planning application P/08/0688/FUL which was approved on 11 December 2008 for the demolition of an existing dwellinghouse and erection of a new dwellinghouse at Byways, Glen Road, adjacent to the current application site to the west. This site forms part of the established pattern of buildings within which the current application site sits.
- 3.9 It is also noted that this development is currently being implemented. The dwellinghouse at Byways has been demolished and is to be redeveloped with the dwellinghouse approved under the terms of planning permission P/08/0688/FUL

4. CONSULTATIONS

- 4.1 The Roads Development Unit has raised no objections. It is noted that the existing stone wall which runs along the development site frontage at Glen Road is to remain. The wall sits at a distance of 2.7 metres from the road edge. There would be no obstruction to visibility between the existing wall and the public road edge and as such satisfactory visibility for vehicular traffic entering and leaving the site can be achieved. The Roads Development Unit has provided advice with respect to the formation of driveways and the erection of entrance gates.
- 4.2 The Environmental Protection Unit has advised that databases indicate that there has historically been potentially contaminative activity within 250 metres of the application site. The applicant should undertake a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site.
- 4.3 Scottish Water has raised no objection.
- 4.4 The Scottish Environment Protection Agency has raised no objection. It is noted that the Roads Development Unit has raised no objection in respect of drainage or flooding.
- 4.5 Central Scotland Police has raised no objection.
- 4.6 Scottish Natural Heritage (SNH) has raised no objection. SNH has advised that a walkover survey for badgers should be carried out and has advised that conditions be attached to protect trees which it is proposed to retain on site.
- 4.7 Education Services has raised no objection.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has objected to the proposed development on the following grounds:-
- The proposed development does not accord with the Development Plan.
 - There is no capacity in the drainage and water supply infrastructure of the area to accommodate the proposal.
 - The application site is not a gap site.
 - The proposed development would be detrimental to road safety.
 - The proposed development would result in the loss of woodland which is of historic importance and makes a positive contribution to the amenity and recreational opportunities of the area.

6. PUBLIC REPRESENTATION

- 6.1 Nine letters of objection have been received. The objectors' concerns partially reflect the concerns raised by the Community Council detailed in section 5 above.

- 6.2 In addition the following concerns have also been raised:-
- 6.3 The application site lies outwith the Torwood Village Limit as defined in the Rural Local Plan. The proposal does not therefore accord with Policy Rural 1 of the Rural Local Plan, “New Development In The Countryside”.
- 6.4 In 2002 another party carried out illegal felling of trees in an area to the south west of the application site. This resulted in prosecution.
- 6.5 At the time of the illegal felling, a colony of bats in the area was lost.
- 6.6 There is no recognized need for additional housing in Torwood.
- 6.7 The existing trees at the application site were planted historically as a buffer zone to prevent the spread of tree diseases to the village of Torwood. Felling the trees at the site would leave the village of Torwood vulnerable to the spread of tree diseases.
- 6.8 It is noted that the proposed development is for the erection of five 1½ storey dwellinghouses although the application form refers to the erection of 1½ storey bungalows. The objectors note that a bungalow is a single storey dwellinghouse.
- 6.9 The proposed development constitutes inappropriate ribbon development.
- 6.10 There would be unacceptable noise pollution during construction.
- 6.11 The construction works at the site would result in restriction of access to residential properties in Glen Road.
- 6.12 The existing wall at the site adjacent to Glen Road should not be breached.
- 6.13 The proposed development would result in the loss of an area of ancient woodland. The application site is not identified in the Rural Local Plan as an area of ancient woodland.
- 6.14 The tree survey submitted by the applicant does not address biodiversity issues.
- 6.15 The proposed development would compromise the preservation and setting of an Iron Age broch and the 17th Century Torwood Castle located in the woodland in the Torwood area.
- 6.16 It is noted that an extract from a Scottish Inquiry Reporters letter in respect of a development in a countryside area, which recommends refusal of planning permission has been submitted in support of the objections raised. It is not clear to which development this letter extract relates.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 The proposed development does not raise any matters of a strategic nature and does not require to be assessed under the terms of the Falkirk Council Structure Plan.

Rural Local Plan

- 7a.2 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

- 1. Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
- 2. On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*
- 3. Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
- 4. Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
- 5. Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council’s Tourism Strategy are particularly welcomed.*
- 6. Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

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

- 7a.3 The proposal is not absolutely essential to the pursuance of agriculture, forestry or other economical activity appropriate to a rural location.
- 7a.4 The application site is located between the residential properties at Aonach – Mor and Byways. The application site is considered to be an identifiable gap site between these properties albeit an extended gap. It is not considered that the proposal constitutes ribbon development as the proposed development is in keeping with the well established settlement pattern which has developed on both sides of Glen Road.

7a.5 Due to the extended nature of the gap site it is not considered that the proposed development fully accords with Policy Rural 1.

7a.6 Policy RURAL 2 ‘Village Limits’ states:

“That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside.”

7a.7 It is noted that the proposed development would extend the village limit, as defined in the Rural Local Plan to include the gap between the residential properties at Aonach – Mor and Byways. However, infilling the gap would not constitute undesirable sporadic development in the countryside. It is noted that the western limit of Torwood village would not be extended as a result of the proposal.

7a.8 The proposed development does not fully accord with Policy Rural 2.

7a.9 Policy RURAL 20 ‘Trees and Woodland’ states:

“That the District Council recognises the economic, landscape, ecological and recreational importance of trees, woodland, afforested land and hedgerows and accordingly :-

- 1. Felling detrimental to the character of the landscape or to the economic, nature conservation or recreational value of the planted area itself will be discouraged. The enhancement and management of existing woodland and other natural landscape features will be encouraged.*
- 2. Where necessary, endangered areas and trees will be statutorily protected through the designation of Tree Preservation Orders. Within an area covered by a T.P.O. there will be a presumption against development unless it can be proven that the proposal would not adversely affect the stability or appearance of protected species. Where permission is given to fell a tree within a Conservation Area or an area covered by a T.P.O., the District Council will normally require the provision of replacement planting appropriate in terms of number, size, species and position.*
- 3. Appropriate proposals for community woodlands and amenity planting will be encouraged, in particular within and adjacent to the rural villages, along urban fringes and transport corridors, within the Green Belt and in relation to derelict and industrial sites and farmed landscapes.*
- 4. When consulted on forestry planting proposals the District Council will support the provisions of the indicative forestry strategy as outlined by Central Regional Council in its approved Structure Plan.*

The District Council favors the use of appropriate native species of trees and shrubs in new planting.”

7a.10 It is noted that the proposal includes the clearing of small trees and shrubs within the less dense planted southern section of the site. The proposal would also include the removal of a minimal number of trees adjacent to Glen Road in order to accommodate the three vehicular access points proposed.

- 7a.11 A detailed tree survey has been undertaken by the applicant for all trees over 150mm stem diameter, in the application site plus trees over 75mm stem diameter that would be within 5 metres of the centre line of the proposed access driveways. A plan is included with the tree survey that shows trees to be removed, and trees to be retained together with the location of essential protective fencing (a construction exclusion zone). A total of 48 trees of varying sizes and conditions have been identified for removal in order to accommodate the proposed dwellinghouses and driveways. The tree survey provides arboricultural recommendations in light of the proposal and includes an arboricultural method statement to ensure the protection of the retained trees.
- 7a.12 An assessment of the submission has been undertaken and it is considered that the report is accurate, contains sound recommendations and the method statement is acceptable.
- 7a.13 It is considered that appropriate mitigation in the form of protection of existing trees and additional planting can be achieved by condition, and that subsequently the visual impacts of the proposed housing would be acceptable.
- 7a.14 It is not considered that the proposed development would be detrimental to the character of the landscape or to the economic nature or conservation or recreational value of the area.
- 7a.15 The proposed development accords with Policy Rural 20.
- 7a.16 Taking into the account the foregoing policy assessment, the proposed development does not fully accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Scottish Planning Policy (SPP) 3 “Planning for Housing”, SPP15 “Rural Development”, Supplementary Planning Guidance Note “Trees and Development”, Supplementary Planning Guidance Note “Housing Layout and Design”, the representation from the Larbert, Stenhousemuir and Torwood Community Council, the letters of public representation and the planning history.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 7b.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.”*

7b.3 It is not considered 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.

7b.4 It is noted that the application is located within an existing well established linear pattern of buildings which have been developed along the south side of Glen Road, Torwood. It is not considered that the proposed development constitutes a ribbon development extension to the Torwood village limit. The proposal does not prejudice the well established western limit to the village defined by the track to Torwood Castle at the west side of the dwellinghouse known as Mar-Lea.

7b.5 The proposed development is considered to be an appropriate infill opportunity under the terms of Policy SC3.

7b.6 The proposed development is therefore considered to accord with Policy SC3.

7b.7 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.”*

7b.8 The scale, density, disposition and design of the proposed dwellinghouses respect the architecture and character of the housing pattern at Glen Road.

7b.9 Adequate garden ground would be provided in respect of the proposed dwellinghouses.

7b.10 Adequate privacy would be afforded to both the proposed dwellinghouses and existing dwellinghouses at Glen Road.

- 7b.11 It is noted that it has been advised that adequate protection of existing trees can be achieved by conditions. Section 7a.13 – 19 of this report are noted.
- 7b.12 It is noted that the Roads Development Unit has not objected in terms of access.
- 7b.13 The proposed development meets the principles emphasised in Policy SC8 and is in accordance with this policy.
- 7b.14 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.”*

- 7b.15 Sections 7a.13 – 7a.20 above referring to Policy Rural 20 of the Rural Local Plan “Trees and Woodland” are noted.
- 7b.16 The proposed development accords with Policy EQ26.
- 7b.17 It is therefore concluded that the proposed development accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Scottish Planning Policy (SPP) 3 “Planning for Housing”

- 7b.18 SPP3 states that planning policies have traditionally sought to restrict the development of new houses in the countryside to maintain the rural character and amenity and safeguard agricultural production. It is recognized, however, that major changes taking place in farming and the rural community mean that some aspects of housing policy may need adjustment. SPP3 also recognizes that an adjustment of housing policy could assist economic and social regeneration and the proposals for sustainable development using innovative energy efficient technologies with particularly low impacts on the environment may be acceptable at locations where more conventional buildings would not.
- 7b.19 SPP3 also states, however, that the control of innovative low impact uses through the planning system is best achieved by a Development Plan led approach. Proposals should be carefully assessed against specific sustainable development criteria and the wider policy objections of the Development Plan.

- 7b.20 It is noted that at present there are no Development Plan led initiatives for controlled regeneration of rural areas either by the consideration of single dwelling units in areas remote from existing settlements or in terms of specific sustainable development criteria.
- 7b.21 The terms of policies Rural 1 and SC3 above take precedence in relation to proposed development of this nature.

Scottish Planning Policy (SPP) 15 “Rural Development”

- 7b.22 SPP15 advances policy in respect of small scale rural housing development, including plots on which to build individually designed houses. The message is that there is scope for allowing more housing development of this nature. This should, however, be expressed in Development Plans. The plan led nature of the advice given in SPP15 is important if development is to be sustainable and residents are to have acceptable access to services. As detailed previously in this report, whilst the proposal does not fully accord with the Rural Local Plan, it is in accord with the Falkirk Council Local Plan (Finalised Draft) Deposit Version. It is considered that the proposal is in compliance with the aim of SPP15.

Supplementary Planning Guidance Note “Trees and Development”

- 7b.23 The SPG emphasises that existing landscaping and tree cover has a significant impact and role in terms of screening, shelter from the wind and visual impact and is considered to add design value to the development.
- 7b.24 Sections 7a.13 – 7a.20 of this report above are noted.
- 7b.25 The proposed development accords with the SPG.

Supplementary Planning Guidance Note “Housing Layout and Design”

- 7b.26 The SPG emphasises issues to be addressed and steps to be taken if good planning practice is to be adopted and a high level of design achieved.
- 7b.27 It is noted that the topography of the site has been incorporated into the design, the dwellinghouses are in keeping with houses at Glen Road in terms of scale, design and plot size and that there would be a high level of amenity landscaping and impact on neighbouring properties.
- 7b.28 It is considered that the proposal is in keeping with the planning practice and design advice emphasised in the SPG.
- 7b.29 Accordingly the proposed development accords with the SPG.

Representation From Larbert, Stenhousemuir and Torwood Community Council

- 7b.30 It is noted that the application site lies outwith the Torwood village limit as identified in the Rural Local Plan and that the development does not fully accord with the Development Plan.
- 7b.31 There is no evidence to support the view that the proposed development cannot be supported in terms of drainage and water supply infrastructure.

- 7b.32 The application site is an extended gap between the properties at Aonach – Mor and Byways. It is not considered that infilling the gap constitutes undesirable sporadic development and it is noted that the western limit of Torwood village would not be extended as a result of the proposal.
- 7b.33 There is no evidence to support the view that the proposal is detrimental to road safety.
- 7b.34 An assessment of the tree survey submitted in support of the proposed development has been undertaken. The survey concludes that tree cover at the site can be significantly retained to the extent that amenity would not be compromised. This is accepted and it is considered that the survey is accurate, and that sufficient landscaping/tree cover can be retained to safeguard amenity.

Public Representations

- 7b.35 Felling of trees in the area of the application in the past is not relevant to the proposal. The felling referred to relates to felling of commercial woodland. Sections 7a 13 – 19 of this report are noted in terms of trees and woodland.
- 7b.36 It is noted that the application site is not identified as a housing opportunity in the Rural Plan.
- 7b.37 The proposed development includes the significant retention of trees at the site.
- 7b.38 The comments regarding 1½ storey design housing are noted. The proposal is in keeping with houses at Glen Road in terms of scale, design and plot size.
- 7b.39 The proposed development is considered to constitute appropriate infilling of an extended gap which reflects the historic development of properties and land at Glen Road. It is noted however that the proposed development does not fully accord with the terms of policy Rural 1 of the Rural Local Plan, "New Development in the Countryside" as detailed in Section 7a of this report.
- 7b.40 There is no evidence to support the view that there would be significant pollution arising from development of the site.
- 7b.41 There is no evidence to support the view that the proposed development would have a detrimental impact on properties at Glen Road in terms of access.
- 7b.42 The existing wall forming the site frontage to Glen Road is to be, by and large, retained with the exception being the openings to achieve site access.
- 7b.43 It is not clear to which development the previous Reporter's letter extract refers. The proposed development should in any case be considered on its own merits.
- 7b.44 There has been no biodiversity concerns raised as a result of the consultation process.
- 7b.45 The Iron Age broch and 17th Century Castle in the Torwood Area are sufficiently isolated from the application site that the preservation and setting of these sites would not be compromised by the proposed development.

Planning History

- 7b.46 The planning history detailed in section 3 of this report is noted.

- 7b.47 It is considered that the proposed development differs from the dwellinghouses which were refused planning permission under the terms of planning applications F/2002/0881 and F/2002/0882.
- 7b.48 The application has less depth when measured from the public road at Glen Road by a distance of between 35 metres and 60 metres and integrates well with the established settlement pattern.
- 7b.49 The proposed development proposes to retain a significant tree cover at the site and is considered to be in accordance with Policy Rural 20 of the Rural Local Plan 'Trees and Woodland' and Policy EQ26 of the Falkirk Council Local Plan Finalised Draft (Deposit Version) 'Trees, Woodland and Hedgerows'.
- 7b.50 It is noted that since the dismissal of appeals against refusal of planning permission F/2002/0881 and F/2002/0882 the Falkirk Council Local Plan has reached the finalised draft (deposit version) stage. Policies in respect of the emerging plan, which will replace the policies of the Rural Local Plan adopted in 1994, are now a material consideration. The Reporter noted at the time of appeal that such policies were not available for his consideration.
- 7b.51 The refusal of planning permission in respect of planning application F/2002.0846 is noted. At that time it was not considered that the formation of an access directly into Glen Road to service a hardstanding in associating with tree felling accorded with the Development Plan or was complementary to the character of the village. Tree felling which did not require authorisation by the planning authority has subsequently been carried out taking access from the track to Torwood Castle to the west of the application site.
- 7b.52 It is noted that felling of the trees has altered the character of the area of the application site.
- 7b.53 A detailed policy appraisal of the proposed development is addressed in Section 7a of this report.

7c Conclusion

- 7c.1 The proposed development does not fully accord with the Development Plan.
- 7c.2 It is noted however that the proposed development constitutes an appropriate infill development under the terms of Policy SC3 of the Falkirk Council Local Plan Finalised Draft (Deposit Version). Sections 7b.2 to 7b.6 of this report are noted. The proposed development fully accords with the Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 7c.3 The proposed housing is in keeping with dwellinghouses at Glen Road in terms of scale, design and plot size.
- 7c.4 It has been demonstrated that significant tree cover at the site can be retained at the site to safeguard amenity.
- 7c.5 The existing boundary wall fronting Glen Road would be significantly retained with minimal removal to accommodate access to the site.
- 7c.6 The boundary with the countryside to the north would be well landscaped and no precedent for further development would be set.

- 7c.7 It is noted that the Rural Local Plan was adopted in 1994. Since that time the settlement pattern of Glen Road has developed considerably resulting in the well established linear pattern which now exists on both sides of Glen Road. Furthermore it is noted that the application site lies within a well established pattern of existing buildings on the south side of the road.
- 7c.8 It is considered that the policies of the Falkirk Council Local Plan Finalised Draft (Deposit Version) are more pertinent in respect of the proposed development. This is due to the time which has lapsed since the adoption of the Rural Local Plan and the linear settlement pattern which has become established at both sides of Glen Road since that time.
- 7c.9 On balance it is considered that there is justification for a departure from the Development Plan in this case. It is also considered that the proposed development does not represent a significant departure from the Development Plan as the site lies within a well established pattern of development and if Members accept the recommendation below, there would be no need to notify Scottish Ministers.

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 five years from the date of this permission.**
- (2) Prior to the commencement of any work on site the location and construction of a fence to protect existing trees at the site shall be approved in writing by the Planning Authority.**
- (3) Prior to commencement of any work on site, the tree protection fencing shall be erected at the site with the written approval of the Planning Authority and shall remain in situ until the completion of the last dwellinghouse.**
- (4) There shall at no time be any materials stored or deposited in any way, plant or equipment of any kind stored or deposited in any way or vehicles parked within the area of tress to be retained.**
- (5) The landscaping at the south boundary shall be completed prior to the occupation of any dwellinghouse at the site.**
- (6) Prior to the commencement of any work on site a tree and landscaping management plan shall be approved in writing by the Planning Authority.**
- (7) Should any part of the existing boundary wall at Glen Road which is to be retained be demolished or become damaged in any way, the breach or damage shall be repaired and made good within 14 days of the notification of the breach by the Council.**
- (8) Prior to the commencement of any work on site the applicant shall undertake, and have approved in writing by the Planning Authority a site investigation to establish if contamination (as defined in Part 11a of the Environmental Protection Act 1990) is present on site. Where contamination is identified the site investigation shall include:-**

- (g) The nature, extent and type(s) of contamination.
 - (h) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - (i) Measures to deal with contamination during construction works.
 - (j) The condition of the site on completion of decontamination measures.
 - (k) Timescales for dealing with contamination.
 - (l) Details of a monitoring programme following site redemption.
- (9) Driveways shall be constructed with a gradient no greater than 1 in 10 and in a manner to ensure that surface water run-off does not discharge, or loose material is not carried out onto the public highway.
 - (10) All access gates shall open inwards.
 - (11) There shall be no construction or planting of any kind or placement or deposit of any materials, plant, equipment or machinery at any time between the boundary wall fronting Glen Road and the public highway.
 - (12) Prior to the commencement of works on site a walkover survey of the site for badgers shall be carried out and if setts are identified, mitigation measures shall be implemented to the satisfaction of the Planning Authority in consultation with Scottish Natural Heritage.
 - (13) The development shall be implemented in accordance with the approved drawings and any other submitted details which have been approved in writing by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2-4) To ensure the protection of existing trees at the application site.
- (5-8) To safeguard the environmental amenity of the area.
- (9-11) To safeguard the interests of the users of the highway.
- (12) To safeguard the environmental amenity of the area.
- (13) To ensure that the development is carried out to the satisfaction and approval of the Planning Authority.

Informative(s)

- (1) In respect of the Badger Survey requirement, where existing infrastructure and development allows, the survey should be conducted out to 30m beyond the site boundary. A licence may be required for any badger mitigation - please contact SNH for further advice.



.....
For Director of Development Services

Date: 15 April 2009

LIST OF BACKGROUND PAPERS

1. Letter of representation from Alison Neilson, Willowdene, Glen Road, Torwood, Larbert on 02 May 2008
2. Letter of representation from R.G. Phillips, "Byways", Glen Road, Torwood, FK5 4SN on 8 May 2008
3. Letter of representation from Mr & Mrs Laing, Bracken Lea, Glen Road, Torwood, Larbert on 8 May 2008
4. Letter of representation from J Paton, Wallacebank, Glen Road, Torwood, Larbert on 9 May 2008
5. Letter of representation from Torwood Community Woodlands, FAO Isobel Lawton, Willowdene, Glen Road, Torwood on 14 May 2008
6. Letter of representation from Mr Stuart McConnell, Newington, Glen Road, Torwood, Larbert on 14 May 2008
7. E-mail dated 3 April 2009 from Christina Byrne of The Woodlands Trust.
8. Letter dated 12 9 March 2009 from Mr Gordon Millar, Rowandale, Torwood, Larbert, FK5 4SN.
9. E-mail dated 6 April 2009 from Joanna Stevenson, Yew Bank, Central Park Avenue, Larbert, FK5 4GR/

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/08/0377/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2008)

FALKIRK COUNCIL

Subject: DEMOLITION OF EXISTING DWELLINGHOUSE, ERECTION OF NEW DWELLINGHOUSE AND CHANGE OF USE OF FIELD TO GARDEN GROUND AT MACLAREN PARK, GLEN ROAD, TORWOOD, FK5 4SN FOR MR & MRS C FREW (P/09/0038/FUL)

Meeting: PLANNING COMMITTEE

Date: 20 MAY 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

**Local Member: Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow**

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Stephen McClure (Planning Officer), ext 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The proposal comprises the demolition of the existing dwelling and erection of a new large dwelling within the current Maclaren Park site, and a change of use of the section of field to the rear of the Maclaren Park site to garden ground.
- 1.2 The overall site comprises both the existing Maclaren Park dwelling and its garden ground, and a section of the field which bounds the garden ground at the rear. Maclaren Park and its existing garden ground are located in an established residential area and are contained within the existing village limit of Torwood as identified in the Rural Local Plan.
- 1.3 The section of field to the rear of Maclaren Park is currently out with the existing village limit and is therefore considered to be classified as countryside. It has been proposed to extend the existing northern boundary of Maclaren Park in a straight line until the boundary with the Greenacres dwellings garden ground. The section of field proposed would be used for garden ground associated with the new replacement dwellinghouse at MacLaren Park with no structures proposed. This section is currently bound on three sides by existing garden ground, including that of Maclaren Park.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposal will extend the current plot out with the existing village Limit. Therefore, the proposal does not accord with the Development Plan.

3. SITE HISTORY

- 3.1 P/08/0707/FUL was submitted by the previous owner of the site to also demolish the existing dwelling and erect a new dwelling and create a second plot for a future dwelling. This was withdrawn after discussions with the applicant and the Development Management Unit. The site was then sold on and the new owner has now submitted the current proposal.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has been consulted on the application and is satisfied with the proposed access, turning and parking arrangements.
- 4.2 The Environmental Protection Unit has advised that it would require a site investigation to be undertaken to establish if contamination (as defined by Part 2a of the Environmental Protection Act 1990) is present on site.
- 4.3 Scottish Water did not object to the application at this stage.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has not made representations.

6. PUBLIC REPRESENTATION

- 6.1 Three letters of objection have been received during the neighbour notification process. Issues raised:
- The electrical supply to the neighbouring property, Bracken Lea, is connected to the underground cable at one of the proposed entrances for the new dwelling.
 - The height and scale of the proposed dwellinghouse is out of proportion to the existing dwellings on either side of the site.
 - The owner of the neighbouring property of Willowdene, applied for planning permission in 1994 to extend their bungalow to a two storey dwelling. At the time they were told that only a 1½ storey extension would be acceptable. Why would this not apply to the proposed dwelling?
 - Again, in 1994 the owner of the neighbouring property of Willowdene, was told that they could not have a car port or garage added onto the side of their dwelling. It was said that planning policy was to protect amenity and maintain gaps between the properties on Glen Road. It would therefore be expected that the proposed garage at the new dwelling is removed from the plans.
 - The proposed dwelling does not follow the building line along this section of Glen Road and the proposed dwelling should be moved forward towards Glen Road.
 - The application site extends into McLaren Park. This would be contrary to the local plan policy of extending beyond the existing village limit.
 - If the site does not extend into McLaren Park, the proposed property would be an overdevelopment of the existing plot.

- There are currently no three storey dwellings in the village of Torwood.
- Glen Road currently experiences a large number of vehicle movements and has been identified by the Roads Authority as an area of traffic calming. The application would add another access into Glen Road which would increase the dangers on the road.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 There are no specific policies in the Structure Plan that relate to the proposal and therefore, no strategic issues require to be addressed.

The Rural Local Plan

- 7a.2 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

1. *Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
2. *On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*
3. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
4. *Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
5. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council’s Tourism Strategy are particularly welcomed.*

6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

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

- 7a.3 The dwelling which is being proposed at Maclaren Park would actually be within the village limit of Torwood. This would result in the existing dwelling on the site being demolished and the proposed dwelling placed further back on the plot. Due to the larger dwelling and it being repositioned on the existing plot, it is proposed to extend the overall plot by encompassing a section of the grass field to the rear, which would be used as garden ground. This section of field is currently outwith the existing village limit of Torwood.
- 7a.4 Although outwith the existing village limit, extending the garden at this location would not contribute to ribbon, backland or sporadic development forms. The section of the field which the applicant proposes to include in the redevelopment of Maclaren Park is currently surrounded by existing residential developments on three sides. The proposal is to use this section of the field as garden ground, which the proposed dwelling would require due to its larger size and repositioning on the existing plot. Currently, this ground to the rear is a section of the larger grass field which runs along a section of the rear of Glen Road. By encompassing the section of grass field proposed, it would create a more established boundary to the urban growth of the village.
- 7a.5 It must also be noted that several existing and established dwellings within Torwood Village have garden grounds which extend beyond that of the existing village limit. The proposed dwelling would therefore not be an individual case. It is proposed to keep the existing tree line to the north-east of the site and where possible on the south-east boundary. The applicant also proposes to plant up around the boundary of the site to amplify the privacy to the Maclaren Park plot and the proposed extended garden ground.
- 7a.6 Accordingly, the proposal as it comprises a garden area is an appropriate infill site which will not lead to sporadic, backland or ribbon development and is in accordance with the development plan.
- 7a.7 Policy RURAL 2 'Village Limits' states:
- "That the boundary of the village areas as indicated on the Village Maps is regarded as the desirable limit to the growth of the villages at least for the period of the Local Plan. Accordingly, there will be a general presumption against proposals for development which would either extend the village areas beyond this limit or which would constitute undesirable sporadic development in the countryside."*
- 7a.8 The proposed garden ground would extend beyond the existing village limit into a section of grass field to the rear. This would not, however, constitute undesirable sporadic development into the countryside, as the section of field proposed as garden ground is currently surrounded on three sides by residential developments. The proposed garden ground would therefore create a more established boundary to urban growth within this section of the village.

7a.9 As stated before, there are several established dwellings within the village with garden grounds which extend beyond the village limit. The proposed would not, as with some of the other examples within village, create a sporadic push into the countryside. On the contrary, it would create a neat infill and more established perimeter to the urban development within this section of the village.

7a.10 Accordingly, the proposal does not fully accord with the Development Plan.

7a.11 Policy RURAL 3 'Development within the Village Areas' states:

"That within the village areas as defined on the Village Maps :-

- 1. Development will generally be acceptable provided that it is compatible with neighbouring uses and the character of the village and it accords with the Local Plan strategy and all other relevant District Council policies and standards of provision.*
- 2. Favourable consideration will only be given to business activities which are compatible with the residential character of the village and in particular, there will be a presumption against class 5 - 10 industrial uses, in terms of The Town and Country Planning (Use Classes) (Scotland) Order 1989.*
- 3. Development proposals should take cognisance of the District Council's "Design Guide For Buildings In The Rural Areas" and any relevant supplementary design briefs."*

7a.12 The current use of the Maclaren Park plot is residential, currently there is one dwelling located on the plot. This would remain with the proposed development, with the existing dwelling demolished and replaced by a larger dwelling, set further back within the plot. The surrounding area is residential and consists of a mixture of plot sizes and dwelling types. The proposed dwelling is of a modern design; although it retains some very traditional features.

7a.13 The village of Torwood, and Glen Road especially, contain a wide variety of dwelling types and sizes. Although the dwelling would be larger than some of its immediate neighbours, it has used the natural slope in the ground to facilitate this and incorporates a design which takes cognizance of the sloping nature of the site. This allows a two storey design at the front reaching to 3 storeys at the rear.

7a.14 The proposed dwelling, as stated previously, is of a modern design, although has where possible taken into consideration the Council's "Design Guide for Buildings in the Rural Areas". The proposal uses materials and stonework which is more traditionally found within rural areas and the design is a modern interpretation of a traditional large country manor.

7a.15 The proposed section of the development within the village limit is therefore compatible with neighbouring uses and the character of the village. It has also taken into consideration the Council's "Design Guide for Buildings in the Rural Areas". Overall, the section proposed within the village limit complies with the relevant policies and guidance. However, this is only possible due to the additional area of ground included in the proposed site which, as stated before, is out with the village limit.

7a.16 Accordingly, the proposal does not fully accord with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the Falkirk Council Housing Layout and Design Supplementary Planning Guidance Note and the representations received in so far as they relate to material planning considerations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 7b.2 Policy EQ19 - 'Countryside' states:

“(1) The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:

- it can be demonstrated that they require a countryside location;*
- they constitute appropriate infill development; or*
- they utilise suitable existing buildings.*

(2) In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:

- the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*
- building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species.”*

- 7b.3 The proposed demolition of Maclaren Park and the erection of a new larger dwelling on the site are within the existing village limit. However, to accommodate the repositioning of the proposed dwelling on the plot and its larger size, garden ground would have to be taken from the grass field to the rear of the existing plot.

- 7b.4 As stated before, it would be considered that the proposed section of the field to be converted to garden ground occupies an area which would be a logical extension to the site, despite the fact that it lies outwith the exist village boundary. It is currently surrounded on three sides by residential plots, and by extending the garden to accommodate this section of the grass field, would create a more prominent boundary to the urban growth of the village. It can also be seen that there are existing established dwellings with garden ground out with the village limit. However, several of these existing dwellings have created more sporadic development, the proposed garden ground being a more natural extension to the existing plot. The existing tree lines would also be kept around the site, and the applicant proposes to establish further tree planting bounding onto what would be the remaining area of the grass field.

7b.5 As stated before, the development as a whole is making use of its surrounding natural features to integrate into the landform, and appears as a two storey dwelling to the front, blending in with the mixed streetscape. The dwelling has also taken consideration of the Council's "Design Guide for Buildings in the Rural Areas", and will be using boundary and curtilage treatments expected of a dwelling in a rural village.

7b.6 Accordingly, the proposal does not fully accord with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.7 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."*

7b.8 The proposed plot extends beyond the village limit; however, the proposed dwelling would be contained within the existing boundary with only proposed garden ground extending beyond. As stated previously, the proposed extension to the garden ground outwith the village limit would not create ribbon, backland or sporadic development. The proposed garden ground would extend into an area of the grass field which runs along the rear of a section of Glen Road. However, the proposed section to be used is surrounded on three sides by residential dwellings and would be considered as the natural route to extending the plot. The resulting plot as a whole would then create a more established urban boundary to the village at this location.

7b.9 Accordingly, the proposal is in accordance with Policy SC3 as identified in the Falkirk Council Local Plan Finalised Draft (Deposit Version).

7b.10 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."*

7b.11 The scale, disposition and design of the proposed dwelling would respect the architectural and townscape character of the area. Glen Road currently consists of a mix of dwelling sizes and styles. The combined plot would provide adequate garden ground to the proposed dwelling and would not have an unacceptable impact on any existing garden grounds.

7b.12 Adequate privacy would be afforded to both the proposed dwelling and the neighbouring properties. The proposed dwelling would have a raised terrace to the rear; however, this is using the existing land gradients and would not sit too much higher than the existing ground levels. The terrace has also been designed to have the main element to the centre rear area of the proposed dwelling. The existing tree lines would also be maintained, where possible, for added privacy, and the applicant intends to plant up the boundary of the property. The garage has been positioned on the north-west of the site to allow more privacy to the proposed dwelling and the neighbouring property of Willow Dene. The dwelling has also been positioned to ensure no window to window overlooking occurs. Its position also increases the overall privacy to the proposed dwelling and the existing neighbouring dwellings.

7b.13 The proposal is to keep the existing established tree lines at the property and the applicant has proposed to plant up the remaining boundary areas to provide additional privacy. The proposed property to be removed is of no great architectural interest and is not a traditional countryside property. No features would therefore be lost which would adversely affect the character and amenity of the area, the proposed dwelling's design being more in keeping with the Design Guidance for a rural area, albeit in a modern style.

7b.14 The proposal is satisfactory from the Roads Units point of view. Adequate turning facilities and parking would be provided within the proposed layout of the site.

7b.15 Accordingly, the proposal is in accordance with the Falkirk Council Local Plan Finalised Draft (Deposit Version).

The Falkirk Council Housing Layout and Design Supplementary Guidance Note

- 7b.16 The proposed dwelling is of a very modern design and has complied where possible with the above guidance. There is no specific character of properties in this particular location and therefore the design, although individual, has tried to follow the building line, height and scale of neighbouring dwellings. The materials used are also of a high quality and are general those found in more traditional rural dwellings.
- 7b.17 The property is located on sloping ground and, as stated in the above guidance, has used this to its advantage by creating a split level design. As per the guidance, the property has used window openings and glazing to avoid large blank walls.
- 7b.18 Overall, the proposed dwelling has complied with the Falkirk Council Housing Layout and Design Supplementary Guidance where possible on such a modern and individual design.

Representations Received

- 7b.19 The positioning of underground electrical cabling is not a material planning consideration in this case.
- 7b.20 The proposed dwelling although of a large scale has been positioned and designed to take this into account and is compatible with the neighbouring properties. Glen Road in Torwood has a mixture of dwelling sizes and types, and the proposed follows this tradition in being individually designed. With the larger plot proposed, the dwelling would be comfortably accommodated and has been designed as two storey to the front elevation onto Glen Road. Owing to the mixed property types and sizes along Glen Road, the property would not appear out of proportion in size or height.
- 7b.21 Each individual application is looked at on its own merits. There are no specific policies or guidance which restricts dwellings to a certain number of storeys. Therefore, this would not be a material planning consideration in this case.
- 7b.22 Again, each application is looked at individually and the proposal is to erect a separate garage to the north-west of the site, primarily to offer greater privacy to Willow Dene. The garage location is similar in position to that of Wallacebank, the neighbouring property at the opposite side of Willow Dene. Owing to the size of the proposed plot and position of the main dwelling, the amenity of the street and individual plots would be maintained.
- 7b.23 There is no established building line on Glen Road in Torwood, therefore the dwelling's position would not require to be altered.
- 7b.24 The proposed plot includes a section of the grass field to the rear of the existing Maclaren Park. This would be outwith the existing village limit but, as stated above, is considered an infill site and therefore would not be contrary to policy.
- 7b.25 The proposal would not be a full three storey dwelling, it would be split level using the existing ground levels at the site. There are several examples of this style of dwelling within the village of Torwood.
- 7b.26 The Roads Unit were consulted on the application and are satisfied with the proposals for accessing and exiting the site.

7c Conclusion

- 7c.1 It is considered that, although the proposal does not fully accord with the relevant policies, the overall development would on its own merits be acceptable. The section of grass field included in the proposal is currently surrounded on three sides by residential dwellings. The extension to form the garden ground creates a natural infill and would create a more established boundary to the urban growth of the village, even if outwith the existing established village limit. Several established properties within the village already contain garden ground which is outwith the established village limit in a sporadic manner. The proposal would not form sporadic, ribbon or backland development by extending the original plot. The proposed dwelling is acceptable in its design and location in the proposed plot and has, where possible with a modern design, followed the relevant Council guidance for dwellings within the rural area. It is therefore considered appropriate to recommend the proposal for approval.
- 7c.2 Members should also be advised that the proposal does not constitute a significant Departure to the Development Plan for reasons local to the application site and would therefore not require to be referred to Scottish Ministers prior to the grant of planning permission.

8. RECOMMENDATION

- 8.1 It is recommended that detailed planning permission be granted subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years of the date of this permission.
- (2) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
 - i. the nature, extent and types(s) of contamination on the site.
 - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - iii. measures to deal with contamination during construction works.
 - iv. condition of the site on completion of decontamination measures.

Before any unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (3) The driveway shall be constructed with a maximum gradient of 1:10 and shall be constructed to ensure that no surface water or loose material is discharged onto the access road.
- (4) Any access gates shall only open inwards.
- (5) At the proposed accesses to the site from Glen Road, there shall be no building, structure, tree, shrub or other obstruction to visibility above carriageway/footway level within a visibility splay of 2.4 metres by 70 metres in both directions.

- (6) Vehicular access to the dwellinghouse shall be by means of dropped kerb footway crossing formed in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area."
- (7) The applicant shall submit details of the proposed boundary treatments and access gates at the site before work commences on the dwelling.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure the ground is suitable for the proposed development.
- (3-6) To safeguard the interests of the users of the highway.
- (7) To safeguard the residential amenity of the area.

Informative:-

- (1) For the avoidance of doubt, the plans to which this decision refers bear our reference 01, 02, 03, 04, 05, 06, 07, 08, 09 and 10.
- (2) The Roads Manager within Development Services should be contacted to obtain a Minor Roadworks Consent before forming the vehicular accesses onto the public road or undertaking any work on, or under, the public road. Two lighting columns and a telegraph pole on Glen Road, within the frontage of the proposed development site, may require to be relocated at the applicant's expense to allow the proposed driveway to be accommodated.

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Letter of Objection – Bracken Lea, Glen Road, Torwood.
2. Letter of Objection – Willowdene, Glen Road, Torwood.
3. Letter of Objection – Rowandale, Glen Road, Torwood.
4. Falkirk Council – The Rural Local Plan.
5. Falkirk Council Local Plan Finalised Draft (Deposit Version).
6. The Falkirk Council Housing Layout and Design Supplementary Guidance Note.
7. Falkirk Council – Design Guide for Buildings in the Rural Area.

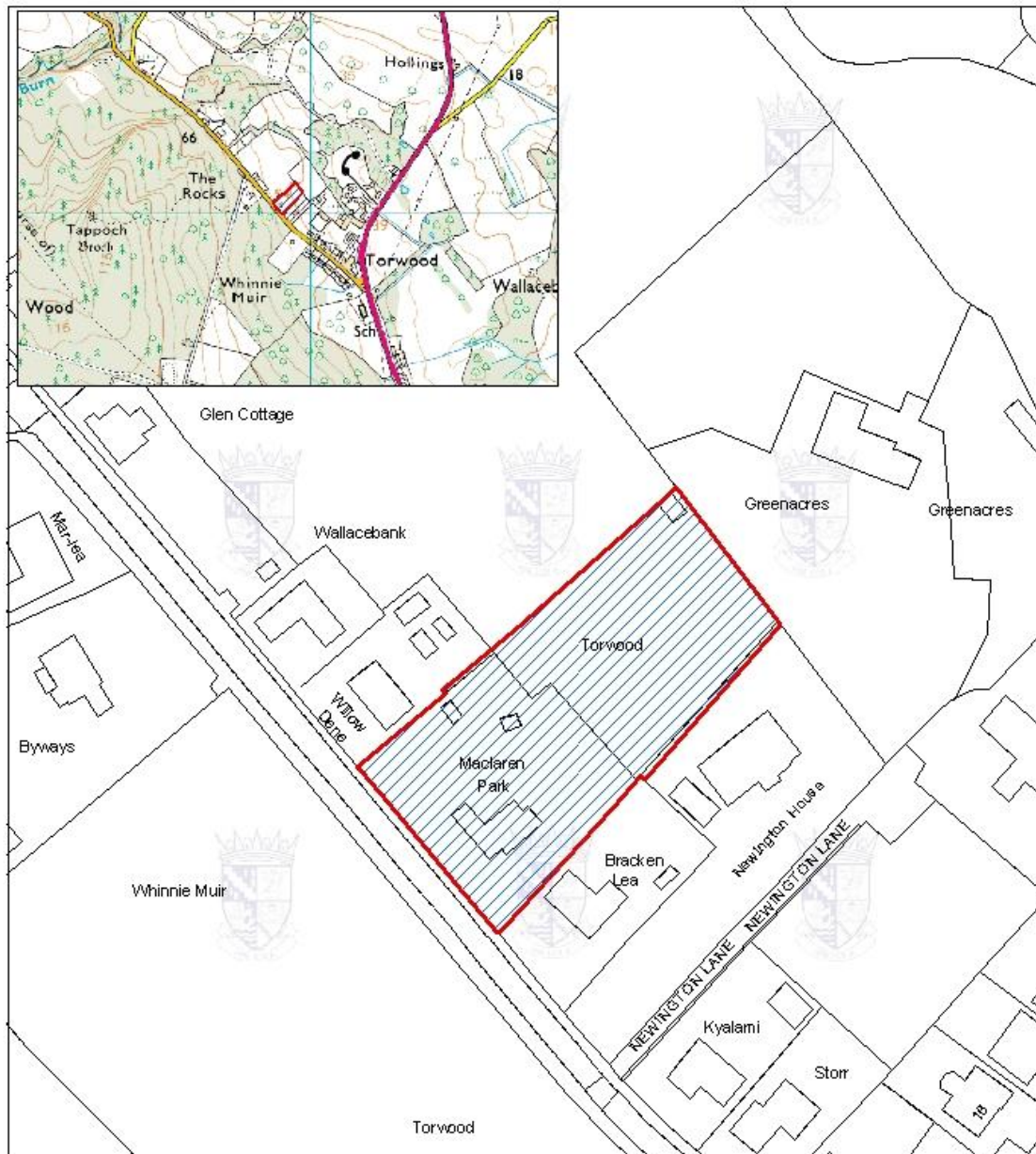
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure (Planning Officer).

Planning Committee

Planning Application Location Plan

P/09/0038/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM SHOP (CLASS 1) TO OFFICE (CLASS 2) (RETROSPECTIVE) AT 13 PRINCES STREET, FALKIRK, FK1 1LS FOR CENTURY 21 FALKIRK – P/09/0198/FUL

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

**Local Members: Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn
Councillor Pat Reid**

Community Council: Falkirk Central

Case Officer: Stephen McClure, Planning Officer, 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site comprises a shop unit located on Princes Street in Falkirk town centre. The unit is located at the end of a row of small units, within an area containing a mix of business uses and domestic properties.
- 1.2 The proposal is for the change of use from Class 1 (Shop) to Class 2 (Office – Estate Agents) (Retrospective), this application does not include any exterior changes to the unit or consent to display advertisements.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Councillor Carleschi, an elected member of the council, has a significant shareholding in the applicant company.

3. SITE HISTORY

- 3.1 None relevant to the current proposal.

4. CONSULTATIONS

- 4.1 The Roads Unit was consulted on the application and did not require any roads conditions to be attached.

5. COMMUNITY COUNCIL

- 5.1 The Falkirk Central Community Council has not made representation.

6. PUBLIC REPRESENTATION

- 6.1 No public representation received.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 There are no specific policies in the Structure Plan that relate to the proposal and therefore, no strategic issues require to be addressed.

The Falkirk Local Plan

- 7a.2 Policy FAL 7.9 ‘Protected Shopping Frontages’ states:

“The Council will protect the primary retail function of principal shopping streets and shopping malls within Falkirk Town Centre. Accordingly:

- (i) Within those primary shopping frontages indicated on the Policies, Proposals and Opportunities Map, the Council will not normally permit changes of use of ground floor premises to, or new development on vacant ground floor sites for, uses other than shops as defined by Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. In certain circumstances, favourable consideration may be given to applications for restaurants, cafes, banks and building societies provided that, in the opinion of the Council, such applications would be of benefit to the shopping function of the area, and no undesirable concentration of non-retail uses would be created;*
- (ii) Within the Callendar Square Shopping Centre, there will be a similar presumption against the introduction of uses other than Class 1 except, where appropriate, restaurants, cafes, banks and building societies; and*
- (iii) Within other secondary shopping frontages, the introduction of uses other than Class 1 will generally be viewed favourably provided the proposed use is compatible with the shopping character of the street and is satisfactory in amenity terms.”*

7a.3 The unit is outwith the protected shopping frontages allocated within the Town Centre, being located within an area of secondary shopping frontages. It is considered that the change of use to Class 2 of the Use Class Orders, in this particular case to an estate agency, would be acceptable. The use is considered compatible with the shopping character of the street, and would be satisfactory in amenity terms.

7a.4 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 Policy FAL4 - 'Falkirk Town Centre' states:

- “(1) The Council will promote the role of Falkirk Town Centre as the Sub-Regional Centre within the Council area.*
- (2) Within the core area, Class 1 retailing should predominate. The Council will not permit changes of use from Class 1 retail in ground floor premises, except where it is demonstrated that an alternative use would be of benefit to the retail function of the core area, and would not lead to a concentration of non-retail uses within the street frontage.*
- (3) Within the secondary area, the Council will promote a balance of Class 1 retail, leisure, food and drink, Class 2 business, community and residential uses. Proposals for changes of use of ground floor properties from Class 1 retail will be permitted provided this balance is maintained, an active frontage is provided within shopping streets, and the proposal is satisfactory in amenity terms.*
- (4) Within Central Retail Park, proposals for non-food retail, leisure and food and drink will be supported provided they comply with the Section 75 Agreement covering the Retail Park, including restrictions on the type of goods that may be sold within Phase 2.*
- (5) Within upper storeys of Town Centre properties, the reuse of vacant floorspace for residential use will be supported.”*

7b.3 This affirms policy FAL 7.9 of the Falkirk Local Plan. The unit is located within an area considered as a secondary shopping street within the Town Centre of Falkirk. There is a good balance of differing uses on the street, which would be maintained with the unit being converted to Class 2 (Estate Agency). The proposal is also acceptable in amenity terms.

7b.4 Accordingly, the proposal accords with the Development Plan.

7c Conclusion

7c.1 It is considered that the proposal is acceptable development, is in accordance with Policy FAL 7.9 the Falkirk Local Plan and Policy FAL4 of the Falkirk Council Local Plan Finalised Draft (Deposit Version). There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

8.1 It is recommended that detailed planning permission be granted.

... R Geisler
Ds

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council – Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure (Planning Officer).

Planning Committee

Planning Application Location Plan

P/09/0198/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: ERECTION OF DWELLINGHOUSE AT LAND TO THE WEST OF
WESTER BOWHOUSE FARM, BOWHOUSE, FALKIRK FOR MR I
MCGILLIVARY (P/07/1208/OUT)

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Avonbridge and Standburn

Case Officer: John Milne(Senior Planning Officer), 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This is an outline planning application for the erection of a single dwellinghouse, to be used as a residence for an agricultural worker. The applicant is not the intended occupant of the property, the occupant being Mr Andrew McGillivary – the son of the applicant, Mr Ian McGillivary.
- 1.2 Mr Ian McGillivary is the owner and occupier of Bowhouse Farm with associated bed & breakfast facility on which the application site is located.
- 1.3 The application site itself comprises a 0.26 Ha area of land located on the south side of the B825 roadway, west of Bowhouse Farm, Falkirk.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor Gordon Hughes.

3. SITE HISTORY

- 3.1 05/1076/FUL – Proposed erection of dwellinghouse and garage – withdrawn 2 August 2006.

4. CONSULTATIONS

- 4.1 Falkirk Council's Rural Business Consultants – Laurence Gould Partnership Ltd – considers that the agricultural operation of Bowhouse Farm only justifies one full time person and, if required, any additional seasonal increase could be met by the part-time participation of additional labour – a common approach undertaken within the farming community. Despite repeated approaches to justify an additional agricultural requirement from the applicant. Independent advice remains that an additional full-time worker is not required, nor justified in terms of securing an additional dwellinghouse.
- 4.2 The Scottish Environment Protection Agency has no objection in principle to the proposed development.
- 4.3 Scottish Water has no objection but advises that there are no public sewers in the vicinity and septic tank provision may be necessary.
- 4.4 Falkirk Council's Environmental Protection Unit considers that noise need not be a determining factor in considering the application. However, the applicant should undertake a site investigation to establish if contamination is present on site.
- 4.5 Falkirk Council's Roads Development Unit has no objections subject to conditions.
- 4.6 The Health and Safety Executive do not advise against the proposal.

5. COMMUNITY COUNCIL

- 5.1 Avonbridge and Standburn Community Council has not made representations.

6. PUBLIC REPRESENTATION

- 6.1 No representation received.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the 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 applicant has failed to demonstrate that a countryside location is essential or that the dwellinghouse will contribute to the agricultural function of the nearby farm operation.

Rural Area Local Plan

7a.3 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

1. *Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*
2. *On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council’s “Guide to Tree Planting/Housing Proposals on Slamannan Plateau”.*
3. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
4. *Industrial/ business development where there is an overriding national or local need and a rural site is the only suitable location.*
5. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council’s Tourism Strategy are particularly welcomed.*
6. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

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

7a.4 It is not considered that the proposed dwelling is absolutely essential to the pursuance of agriculture or other economic activity appropriate to a rural location, all contrary to part (1) of the above policy.

7a.5 Policy RURAL 32 'Pipeline Corridors' states:

"That within the Pipeline Consultation Zones generally indicated on the Policies and Proposals Map, development will not normally be permitted unless the District Council is satisfied that :-

- 1. Future users or occupants will not significantly add to the number of people exposed to the existing risk from a pipeline.*
- 2. The development will not in any way affect the operational safety of a pipeline."*

7a.6 The application site sits on the edge of the shell north west pipeline – some 310 metres within the 320 metre zone of influence – and results in a 'do not advise against' from the Health and Safety Executive. The proposal therefore accords with this policy.

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

7b Material Considerations

7b.1 The material considerations to be addressed are the policies contained within the Falkirk Council Local Plan Finalised Draft (Deposit Version) and points raised through comment.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.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.”*

7b.3 The application has failed to demonstrate that a new dwelling is essential in this rural location in terms of operational need associated with an existing business.

Points Raised Through Comment

7b.4 The applicant has submitted information, via the Scottish Agricultural College, in support of the proposals to justify an additional dwellinghouse.

7b.5 Falkirk Council’s Rural Business Consultants – Laurence Gould Partnership Ltd – considers that the agricultural business on its own represents no more than one and a half full time workers.

7b.6 Hence, in relation to the farming enterprise, only one dwelling can be justified, which is the one which Mr Ian McGillivray and his partner currently reside in.

7b.7 Mr Andrew McGillivray sheep scanning business does not require to be based at Wester Bowhouse Farm.

7b.8 Indeed, presumably part of the reason for Mr Andrew McGillivray undertaking the scanning operation is to enhance his income, since the farm is not large enough to give him full time remuneration.

7b.9 No round-the-year requirement for a second worker has been established.

7c Conclusion

7c.1 The applicant has submitted statements of agricultural support from the Scottish Agricultural College which have been reviewed by Falkirk Council’s rural business consultant. The review determines that an additional full time employee on the farm has not been justified and, as such, there is a lack of justification and no requirement for an additional dwellinghouse. Therefore it does not accord with the Development Plan.

8. RECOMMENDATION

- 8.1 It is recommended that outline planning permission be refused for the following reason:-

The proposal is contrary to the Falkirk Structure Plan Policy ENV.1 – Countryside and Protected Areas, the Rural Area Local Plan Policy Rural 1 – New Development in the Countryside and the Falkirk Council Local Plan Finalised Draft (Deposit Version) Policy SC3 – Housing Development in the Countryside – in that the applicant has failed to demonstrate that a new dwelling in a rural location is essential in terms of operational need associated with an existing agricultural business.

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Rural Area Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version)

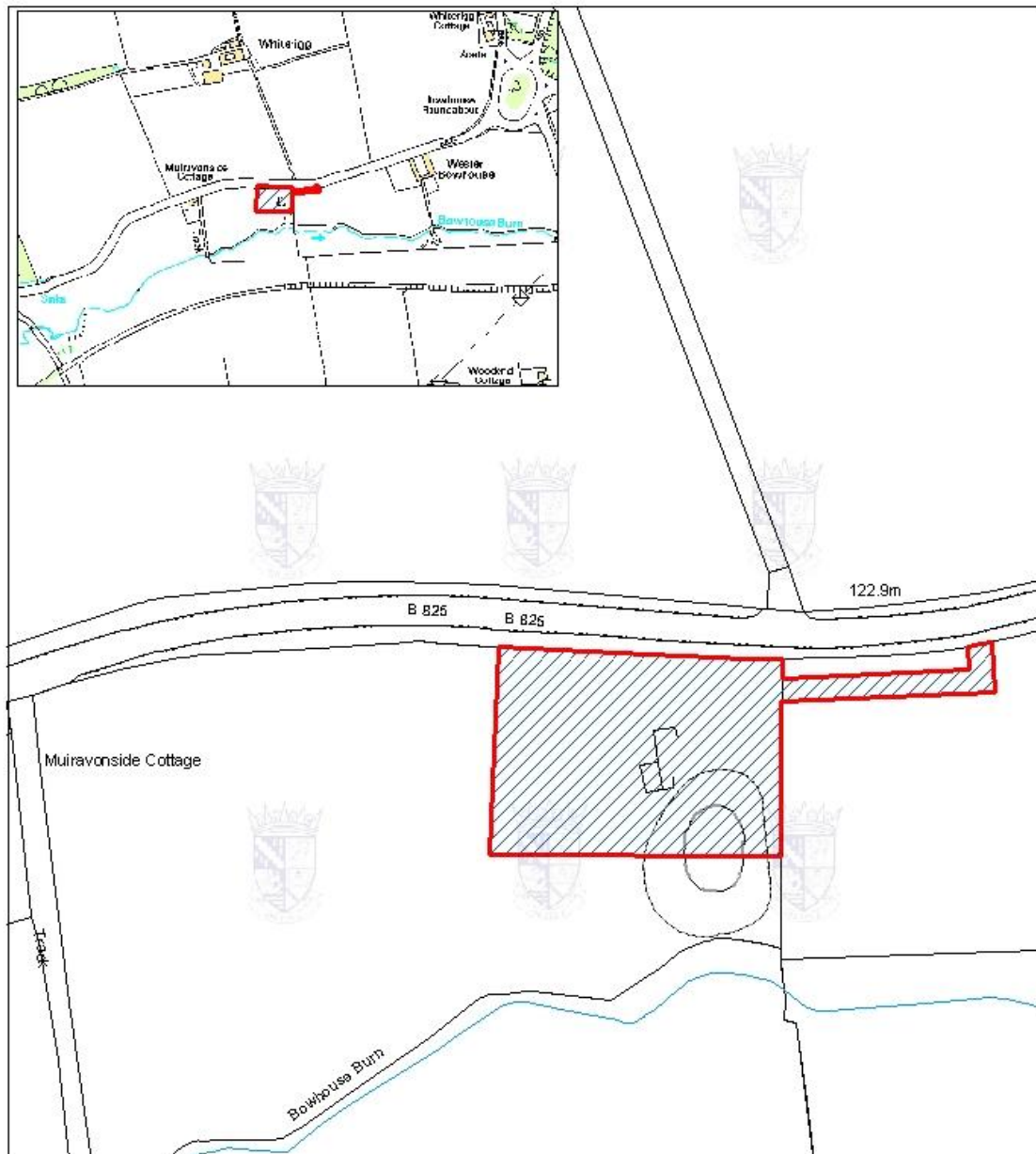
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne (Senior Planning Officer).

Planning Committee

Planning Application Location Plan

P/07/1208/OUT

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: ERECTION OF 30 NO. DWELLINGHOUSES AND ANCILLARY WORKS (AMENDMENT TO CONSENT P/07/0034/REM) COMPRISING REVISED SITE LAYOUT, AT GRANGEMOUTH BURGH DEPOT, WOOD STREET, GRANGEMOUTH, FK3 8LX FOR CARRONVALE HOMES LTD (P/08/0590/REM)

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor Allyson Black
Councillor Angus MacDonald
Councillor Alistair McNeill
Councillor Robert Spears

Community Council: Grangemouth

Case Officer: John Milne (Senior Planning Officer) ext 4815

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is a vacant former Falkirk Council depot measuring some 1.0 hectare in area and is located fronting Wood Street, Grangemouth. The site has existing residential property to the south (Lime Street/Almond Street) a social club to the west, commercial premises to the east and commercial/industrial premises to the north.
- 1.2 The applicant seeks to change the internal road layout to accommodate additional vehicle parking and amend dropped kerb and footpath access arrangements, all to accord with Falkirk Councils Roads and Development Guidelines.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor Robert Spears

3. SITE HISTORY

- 3.1 05/1152/OUT – development of land for housing purposes – granted 1st December 2006.
- 3.2 P/07/0034/REM – Erection of 30 dwellinghouses and ancillary works (Reserved Matters) granted 20th February, 2008.

4. CONSULTATIONS

- 4.1 The Roads and Development Unit have no objections to the proposals.

5. COMMUNITY COUNCIL

- 5.1 Grangemouth Community Council has not made representations

6. PUBLIC REPRESENTATION

- 6.1 One letter of objection has been received, in the form of a facsimile from Grangemouth One Stop Shop, titled “Constituent complaint/enquiry”.
- 6.2 A petition accompanying the letter of objection fails to follow a recognised format in that names and telephone numbers, names and addresses and names with no address nor telephone numbers have been submitted, on a roll of blank labels – purporting some 45 contributors.
- 6.3 The objection centres around the proposed pedestrian link from the application site through Lime Street, with concern that dog walkers will allow additional dog fouling in the Lime Street area.

7. DETAILED APPRAISAL

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 There are no policies of a strategic nature which are relevant to the proposed internal road alterations.

Grangemouth Local Plan (adopted 1985)

- 7a.2 Policy Grangemouth Two ‘Development within the Urban Limit’ states:

“That within the Urban Area, urban uses will generally be acceptable provided they accord with all other relevant District Council policies and standards of provision.”

- 7a.3 The application seeks to amend the internal road layout of the site – previously subject to planning permission – to accord with Falkirk Council's standards of roads provision.

7a.4 Policy Grangemouth Seven ‘Major Hazard Consultation Zones’ states:

“That within a major hazard consultation zone development will not normally be permitted unless the District Council is satisfied that future users or occupants will not significantly add to the number of people exposed to the existing risks in the area.”

7a.5 The alteration to road layout does not fall within a use which is likely to influence societal risk to major hazards in the area. No change to the number of residential units on the site is proposed, merely the vehicle and pedestrian access arrangements.

7a.6 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.1 Proposals and Opportunities H.GRA7 Wood Street:

H.GRA7 Wood Street 4

Site Area: 1.0 hectare

Capacity: 30

Developer: Carronvale Homes

Status: Opportunity

Comment: HSE issues will have to be taken into account in developing this site.

7b.2 The site is an allocated site within the Falkirk Council Local Plan Finalised Draft (Deposit Version) and no issues through reference to the Health and Safety Executive have arisen. The layout has been subject to amendment and is considered acceptable.

Issues Raised Through Comment

7b.3 The proposed footpath through to Lime Street is envisaged to contribute to a safe walking route for children to nearby schools. The footpath benefits from natural surveillance and is considered essential to integrate the new housing with the adjoining community. The associated issue of dog fouling is not a material planning consideration

7c Conclusion

7c.1 The site has previously been granted planning permission for the erection of 30 houses – P/07/0034/REM.

7c.2 A proposed pedestrian access route via Lime Street has previously been granted planning permission.

7c.3 The alteration to internal road layout is considered acceptable to Falkirk Council's Roads Development Unit.

7c.4 The legal status of the submitted petition may be subject to review.

8. RECOMMENDATION

8.1 It is recommended that detailed planning permission be granted subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years from the date of this permission.**
- (2) Samples of materials (roof tiles, facing brick and roughcast) to be used in the development shall be submitted for the consideration of the planning authority and no work shall begin until written approval of the planning authority has been given.**
- (3) Before development begins a scheme for the maintenance of open space, including any play areas, within the development shall be submitted to and approved in writing by the planning authority.**
- (4) The applicant shall undertake a noise survey to determine the effect the existing industrial activity will have on the new development. The survey shall be conducted in terms of BS 4142 and shall be submitted to and approved in writing by the planning authority prior to any work on site.**
- (5) For the avoidance of doubt, the existing site shall not be land raised and finished floor levels shall not exceed 5.3 metres aod.**
- (6) No work shall be initiated on site until an acceptable sustainable urban drainage system is approved in writing by the planning authority.**
- (7) A schedule of flood resistant materials to be incorporated within the development shall be submitted to and approved in writing by the planning authority prior to any works on site.**

Reason:

- (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.**
- (4-7) To safeguard the environmental amenity of the area.**

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Letter of representation received from Mr David Ketchen 71 Lime Street Grangemouth FK3 8LZ on 12 September 2008
2. Falkirk Council Structure Plan
3. Grangemouth Local Plan
4. Falkirk Council Local Plan Finalised Draft (Deposit Version).

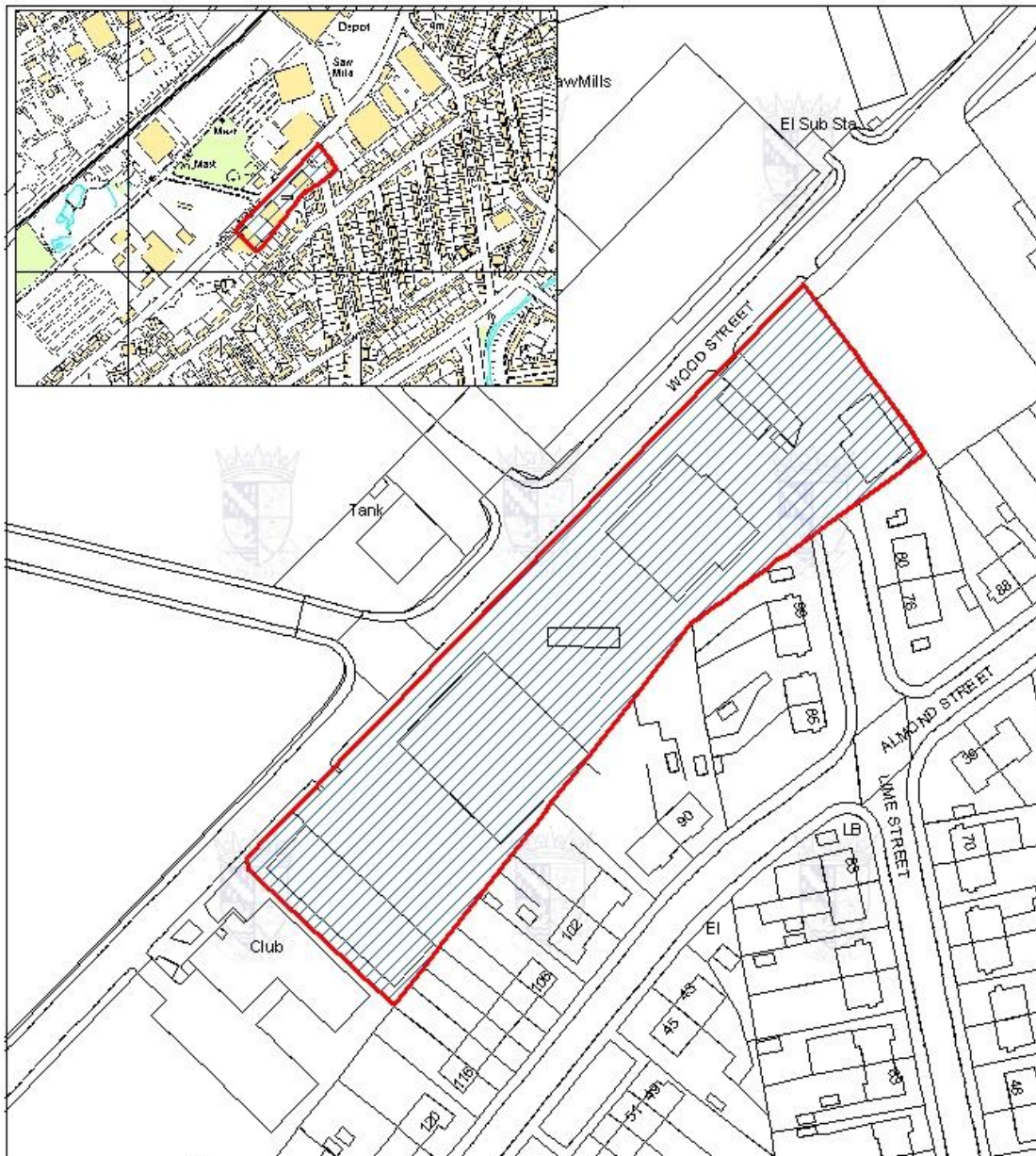
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504815 and ask for John Milne (Senior Planning Officer).

Planning Committee

Planning Application Location Plan

P/08/0590/REM

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: ERECTION OF 20 FLATTED DWELLINGS WITH ASSOCIATED PARKING AND LANDSCAPING (DETAILED) AT THE ROYAL BRITISH LEGION, PARK TERRACE, BRIGHTONS FOR EAGLESTONE HOMES (SELECT) LTD – P/08/1007/FUL

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Brightons

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed application proposes the erection of a predominantly 3 storey block of 20, 2 bedroom flats with associated car parking area. The proposed block of flats has a mono pitch roof and a mixture of facing brick and coloured render as its main finishing materials. The proposed flatted block is located along the southern boundary of the site with the parking area and access in the same location as the existing provision which currently serves the existing social club on the site. The applicant has advised that the flatted accommodation will be built to provide affordable housing units in partnership with Falkirk Council and Link Housing.
- 1.2 The application site is located in a predominantly residential area to the south of Falkirk at Park Terrace, Brightons. The site is currently occupied by a large single story social club with car parking on the eastern portion of the site, accessed directly from Park Terrace.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillor Fry.

3. SITE HISTORY

- 3.1 Planning application P/08/0722/FUL for the erection of 20 flats on this site was withdrawn on 23 December 2008.

4. CONSULTATIONS

- 4.1 Community Services has no objection to the proposal. However they have requested a commuted sum payment of £15,000 (£750 per unit) to go towards the provision of off site park and play enhancements. This payment is requested on the basis that play provision within the area is limited and the nearby Laurie Park facilities are in need of an upgrade.
- 4.2 The Roads Development Unit has no objection to the proposal and has advised that the development is served by sufficient parking and access provision.
- 4.3 The Environmental Protection Unit has no objection to the proposal. However, they have requested that a survey be carried out to establish if contamination is present on the site. It is considered that this can be adequately covered by a condition attached to any consent given.
- 4.4 The Transport Planning Unit has no objection to the proposal.
- 4.5 Education Services has no objection to the proposal and, due to the relatively small impact of this development on local schools, no financial contribution has been requested.
- 4.6 Scottish Water has no objection to the proposal.

5. COMMUNITY COUNCIL

- 5.1 The Brightons Community Council has not made representations.

6. PUBLIC REPRESENTATION

- 6.1 15 Letters of representation have been received following the neighbour notification process. Issues raised include:
- Privacy.
 - Traffic problems, road safety and parking.
 - Design and Materials.
 - Antisocial behaviour associated with existing use will be increased.
 - Loss of daylight and overshadowing.
 - Impact upon Property values.
 - Drainage to private road during construction.
 - Drainage capacity.
 - Construction noise and disturbance.
 - Refuse collection.
 - Education provision
 - Loss of view

7. DETAILED APPRAISAL

7a The Development Plan

When determining planning applications, the status of the Development Plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

Falkirk Council Structure Plan

- 7a.1 There are no policies in the Structure Plan that relate to the proposal and therefore no strategic issues require to be assessed.

Polmont and District Local Plan

- 7a.2 Policy POL 2.2 ‘Urban Limit’ states:

“The Urban Limit, as indicated on the Policies, Proposals and Opportunities Map, is regarded as the desirable limit to the growth of the urban and village areas of Polmont and District for the period of the Plan. Accordingly, there will be a general presumption against development proposals which would extend the urban area beyond this limit or which would constitute sporadic development in the countryside.”

- 7a.3 The proposed development is within the urban limit as defined by the Polmont and District Local Plan and the proposal therefore accords with policy POL 2.2.

- 7a.4 Policy POL 2.4 ‘Developer Contributions to Local Infrastructure and Facilities’ states:

“Where proposed development will create or exacerbate deficiencies in, or impose significantly increased burdens on, local infrastructure, facilities, amenities, or the environment, contributions related in scale and kind to the development being proposed, towards provision or upgrading of such infrastructure may be sought from prospective developers and/or landowners. Mechanisms, including the discriminate use of Section 75 agreements, may be used to seek developer contributions where it is clear that it would be wrong to grant planning permission without them.”

- 7a.5 Community Services has requested developer contributions towards the upgrading of play and open space provision in the area. The applicant has agreed to enter into an appropriate legal agreement to secure these funds. The proposal therefore accords with Policy POL 2.4.

- 7a.6 Policy POL 3.1 ‘New Residential Development’ states:

“New residential development is directed towards sites H1 to H28, as identified on the Policies, Proposals and Opportunities Map. Other brownfield sites which become available within the Urban Limit will also be considered favourably for housing, subject to other Local Plan policies and proposals, provided that:

- (i) the proposed housing use is compatible with neighbouring uses;*

- (ii) *a satisfactory level of residential amenity can be achieved;*
- (iii) *access, parking, drainage and other infrastructure can be provided to a standard acceptable to the Council; and*
- (iv) *essential services and community facilities such as shops, public transport and schools are readily accessible and can accommodate any increase in use associated with the proposed new development (see also POL 2.4)."*

7a.7 The proposed development of flatted properties is considered compatible with the residential nature of the surrounding area and the applicant has managed to amend the design to ensure that an appropriate level of residential amenity is achieved for both the new properties and those neighbouring the site.

7a.8 Access, parking and drainage can all be achieved to an adequate standard and the site is within easy reach of essential services and community facilities which are capable of accommodating the likely increase in use.

7a.9 The proposal is therefore in accordance with the terms of Policy POL 3.1.

7a.10 Policy POL 3.4 'Affordable Housing' states:

"The Council will support proposals for the provision of low cost and affordable housing for rent or purchase. Particular emphasis will be placed on meeting the needs of:

- (i) *young single people; and*
- (ii) *newly formed households and first time buyers.*

The Council will consult with Scottish Homes and developers of major housing developments on the means of providing affordable housing, taking account of evidence of need, site and market conditions at that time."

7a.11 The applicant has advised that the proposed development would be 100% affordable housing units for general needs social rent.

7a.12 The proposal is therefore in accordance with the terms of Policy 3.4.

7a.13 Policy POL 3.5 'Open Space Provision' states:

"The Council will require the provision of public open space and play areas in new residential developments and that adequate arrangements are made for their future maintenance. The extent of provision should relate to the size, form and location of the development, and generally accord with the Council's approved standards. In appropriate circumstances, the Council may seek contributions to the upgrading of existing facilities in the area in lieu of on-site provision. The location, design and landscaping of open space should be such that:

- (i) *it forms an attractive and integral part of the development, contributing to its character and identity;*
- (ii) *existing natural features in, or adjacent to, the site are incorporated; and*
- (iii) *play areas are convenient, safe and easily supervised."*

7a.14 Community Services has requested a commuted sum payment of £15,000 to go towards off-site play and open space provision. The applicant has confirmed they are happy to enter into an appropriate legal agreement to secure these funds. The proposal is therefore in accordance with POL 3.5.

7a.15 Policy POL 7.1 'Design and the Local Context' states:

"Development should accord with good principles of urban design and contribute to the enhancement of the built environment. Proposals should respect and complement the character of the local townscape and landscape setting in terms of the following:

- (i) the siting, layout and density of new development should create an attractive and coherent structure of public spaces with built forms which integrates well with the surrounding townscape, natural features and landforms;*
- (ii) the design of new buildings should respond to that of the surrounding urban fabric in terms of scale, height, massing, building line, architectural style and detailing;*
- (iii) building materials and finishes should be chosen to complement those prevailing in the local area;*
- (iv) opportunities should be taken within the development to incorporate new public spaces and other focal points, and to enhance existing ones; and*
- (v) the contribution to the townscape of existing buildings, natural features, important landmarks, skylines and views should be respected."*

7a.16 It is considered that the proposed design solution accords with good principles of urban design and would contribute positively to the built environment whilst respecting the townscape character of the area.

7a.17 The proposed development in terms of its built form has taken cognizance of the topography of the site. In particular, the careful design of the roof and elevational treatments helps the building to sit well with the surrounding properties. The proposal is considered to accord with the terms of Policy POL 7.1.

7a.18 The proposal is considered to accord with the terms of the Polmont and District Local Plan and therefore accords with the Development Plan.

7b Material Considerations

7b.1 The material planning considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the representations received in so far as they relate to material planning considerations and Supplementary Planning Guidance Note – Affordable Housing and Education and New Housing Development.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 Policy EQ3 'Townscape Design' states:

"New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:

- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site's environs and creates a sense of identity within the development;*
- (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
- (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) *The contribution to the townscape of important landmarks, skylines and views should be respected."*

7b.3 Policy EQ3 confirms the position of the Polmont and District Local Plan. The proposal is therefore in accordance with the terms of Policy EQ3.

7b.4 Policy SC2 - 'Windfall Housing Development Within The Urban / Village Limit' states:

"Housing development within the Urban and Village Limits, in addition to proposals identified within the Local Plan, will be supported where the following criteria are met:

- (1) *The site is a brownfield one, or comprises urban open space whose loss can be justified in terms of Policy SC12;*
- (2) *The proposed housing use is compatible with neighbouring uses and a satisfactory level of residential amenity can be achieved;*
- (3) *The site enjoys good accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- (4) *Existing physical infrastructure, such as roads and drainage, water supply, sewage capacity and community facilities, such as education and healthcare, have the capacity to accommodate the increase in use associated with the proposed development, or can be upgraded through appropriate developer contributions as required by Policy SC11;*
- (5) *In the case of small gap sites and sub-divided plots, Policy SC8 is satisfied; and*
- (6) *There is no conflict with any other Local Plan policy or proposal."*

7b.5 The application site is currently occupied by a vacant social club building which has fallen into disrepair. The loss of this building is justified and the application site is within the urban limits. The proposed housing use is compatible with the surrounding residential land use and the site is well served by existing recreational and community facilities. The proposed development is in accordance with the terms of Policy SC2.

7b.6 Policy SC4 'Special Needs and Affordable Housing' states:

"For large new housing developments, the Council will require a diversity of house types and tenures in order to create mixed communities. In particular there will be a requirement across the Council area for new housing sites of 100 units and over to provide 15% of the total number of units as affordable or special needs housing. In the settlement areas of Larbert/Stenhousemuir, Polmont and District and Rural North, where there is an identified shortfall in affordable housing provision, there will be a requirement for sites of 60 units and over to provide 25% of the total number of units as affordable or special needs housing. Acceptable approaches could include:

- (1) *Provision of general needs social rented houses;*
- (2) *Provision of social housing for people with particular needs (specifically the elderly and physically disabled); or*
- (3) *Provision of shared equity or shared ownership housing*

Developers will be expected to work in partnership with the Council, Communities Scotland and Registered Social Landlords to comply with this policy."

7b.7 The applicant has indicated that 100% of the proposed units would be general needs affordable housing and, whilst the size of this site does not trigger a requirement for this provision, the application would serve to contribute towards Falkirk Council's wider affordable housing aspirations. The proposal is therefore in accordance with the general terms of Policy SC4.

7b.8 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) *Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) *In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) *In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) *Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

7b.9 Policy SC11 affirms the position of the Polmont and District Local Plan. The proposal is therefore in accordance with Policy SC11.

7b.10 Policy SC13 'Open Space and Play Provision in New Development' states:

"New development will be required to contribute to open space and play provision. Provision should accord with the Council's open space audit and strategy and the SPG Note on 'Open Space and New Development', once available, or a site-specific local audit of provision in the interim, and should accord with the following principles:

- (1) *The baseline standard for open space development in new residential development is 60 m² per dwelling, any alternative standard that may be set by the open space strategy, or any site-specific standard that may be set in a development brief;*
- (2) *Financial contributions to off-site provision, upgrading, and maintenance, as a full or partial alternative to direct on-site provision, will be sought where:*
 - *existing open space or play facilities are located nearby and are able to serve the development through suitable upgrading;*
 - *in residential developments, the size of the development falls below the threshold of 10 houses, or where it is otherwise not practical, reasonable or desirable to provide facilities on site; or*
 - *as part of a co-ordinated approach, a centralised facility is the optimum solution to serving a number of different developments in an area;*

- *The required financial contribution per house will be set out in the SPG Note on 'Open Space and New Development'.*
 - *The open space strategy indicates that there is a sufficient amount of open space in the area, and that priority should be given to qualitative improvements to existing open space;*
- (3) *The location and design of open space should be such that it:*
- *forms an integral part of the development layout, contributing to its character and identity;*
 - *is accessible and otherwise fit for its designated purpose;*
 - *links into the wider network of open space and pedestrian/cycle routes in the area;*
 - *sensitively incorporates existing biodiversity and natural features within the site;"*
 - *promotes biodiversity through appropriate landscape design and maintenance regimes;*
and
 - *enjoys good natural surveillance;*
- (4) *Developers must demonstrate to the Council that arrangements are in place for the management and maintenance of open space, including any trees, paths, walls, structures, and play areas which form part of it."*

7b.11 Policy SC13 affirms the position of the Polmont and District Local Plan. The proposal is therefore in accordance with Policy SC13.

7b.12 The proposal is in accordance with the terms of the Falkirk Council Local Plan Finalised Draft (Deposit Version).

Representations Received

7b.13 Traffic congestion, parking and road safety issues have been assessed by the Roads Development Unit and they are satisfied that the proposals accord with current standards. The applicant has amended the proposals to remove the footpath which was initially proposed to access the western part of the site from the private Crossgatehead Road. The removal of this footpath link removes the possible conflict between pedestrian flow and vehicular traffic on an unmarked road with no pavement.

7b.14 Privacy issues have been addressed by a number of design amendments to remove possible direct window to window overlooking and, where possible, to minimise the overlooking of existing garden ground. It is considered that the finalised proposal has succeeded in addressing any privacy issues.

7b.15 The design of the proposed development has been the subject of a number of amendments during the course of the application and at pre application stage to minimise the contrast between the proposed development and its surroundings. The topography of the site and surrounding area coupled with a low mono pitch roof have helped to reduce the height of the building in line with the ridge heights in the surrounding area and the main elevations have been broken up by blocks of render in varying shades projecting from the main elevation to add detailing. The proposed design and materials palette is considered appropriate for this location.

- 7b.16 The design of the proposed development is intended to minimise any possible overshadowing of neighbouring properties. The amendments to the roof to minimise the height of the building and its placement close to the southern boundary of the site has resulted in there being no significant overshadowing issues. The applicant has provided section drawings demonstrating the shadows that would be cast by the proposed development and these plans show that the overshadowing would be the same if not slightly less than that caused by the existing social club building which is closer to the northern boundary of the site.
- 7b.17 Antisocial behaviour is not a material planning consideration. However, it is considered that the development of this site and the subsequent increase in natural surveillance would help reduce anti-social behaviour in the area.
- 7b.18 Impact upon property value is not a material planning consideration.
- 7b.19 Damage to private roads and noise nuisance during construction is not a material planning consideration.
- 7b.20 Scottish Water have assessed the proposals in relation to drainage capacity and have confirmed that they have no objection in this regard. The applicant has provided details to show that the surface water run-off from the proposed development will in fact be less than that of the current building. This is primarily due to the reduction in building footprint and introduction of landscaped areas.
- 7b.21 Refuse collection facilities and bin store details are considered appropriate for this size of development.
- 7b.22 Education Services have raised no objection to this proposal.
- 7b.23 The loss of a view is not a material planning consideration.

Supplementary Planning Guidance Note – Affordable Housing

- 7b.24 This guidance note outlines the general need for affordable housing in the Falkirk Council Area and supports the proposal for social rented affordable housing in this location.

Supplementary Guidance Note – Education and New Housing Development

- 7b.25 The SPG emphasises that financial contributions from developers will be sought when new housing is proposed in the catchment areas of schools which will have inadequate or no capacity for additional pupils likely to be generated by such housing.
- 7b.26 In this particular case Education Services has confirmed that they have no objection to this particular proposal as it stands.

7c Conclusion

- 7c.1 The proposed development is considered to be in accordance with the terms of the Development Plan and there are no material considerations that would warrant a refusal of planning permission in this instance.

- 7c.2 In line with guidance set out in Planning Circular 3 2009: Notification of Planning Applications, there is no requirements to notify Scottish Ministers of any intention to grant planning permission in these circumstances.

8. RECOMMENDATION

- 8.1 It is recommended that Members indicate they are minded to grant detailed planning permission subject to the conclusion of an appropriate legal agreement outlining the tenure of the proposed affordable housing and securing the payment of £15,000 towards open space and play provision in the area.

- 8.2 On completion of the Legal Agreement referred to in paragraph 8.1 above, Members remit to the Director of Development Services to grant planning permission subject to the following conditions.

- (1) The development to which this permission relates must be begun within five years from the date of this permission.
- (2) Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
 - i. the nature, extent and types(s) of contamination on the site.
 - ii. measures to treat/remove contamination to ensure the site is fit for the use proposed.
 - iii. measures to deal with contamination during construction works.
 - iv. condition of the site on completion of decontamination measures.

Before any unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

- (3) A schedule of all external finishing materials shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.
- (4) All road and footway construction shall be carried out in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000".
- (5) A schedule outlining the proposed landscaping, planting and maintenance provisions shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.
- (6) All proposed access, parking and footpath construction shall be completed to the satisfaction of the Planning Authority prior to the occupation of the first flatted dwellinghouse.

Reason(s):

- (1) The development to which this permission relates must be begun within five years from the date of this permission.**
- (2) To ensure the ground is suitable for the proposed development.**
- (3,5) To maintain the visual amenity of the area.**
- (4,6) To safeguard the interests of the users of the highway.**

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

- 1. Falkirk Council Structure Plan (2007).
- 2. Polmont and District Local Plan.
- 3. Falkirk Council Local Plan Finalised Draft (Deposit Version).
- 4. Supplementary Planning Guidance Note – Affordable Housing.
- 5. Supplementary Planning Guidance Note – Education and New Housing Development.
- 6. Planning Circular 3 2009: Notification of Planning Applications.
- 7. Letter of objection from Ms Michele Thorpe, Lyndale Cottage, Charlotte Street Brightons, Falkirk on 12 January 2009.
- 8. Letter of objection from Mr & Mrs Dalrymple, Easdale Cottage, Crossgatehead Road Brightons, Falkirk on 12 January 2009.
- 9. Letter of objection from Carl Bianco & Elaine Gillies, Calmar, Charlotte Street, Brightons, Falkirk on 12 January 2009.
- 10. Letter of objection from Mr Craig Fenwick, Eagle Cottage, Crossgatehead Road, Brightons, Falkirk on 19 January 2009.
- 11. Letter of objection from Mr & Mrs Hunter, Kintore, 21 Park Terrace, Brightons, Falkirk on 06 January 2009.
- 12. Letter of objection from Mr & Mrs MacInnes, Luela, 15 Park Terrace, Brightons, Falkirk on 06 January 2009.
- 13. Letter of objection from Lynn & Alistair Morrison, Strath Fiag, 25 Park Terrace, Brightons, Falkirk on 06 January 2009.
- 14. Letter of objection from Kathryn & James Higgins, Rosslyn, 19 Park Terrace, Brightons, Falkirk on 12 January 2009.
- 15. Letter of objection from Miss Vicky Cameron & Mr Mark Furby, Roselea, Charlotte Street, Brightons, Falkirk on 15 January 2009.
- 16. Letter of objection from Miss Margaret Hunter, Jonelma, 1 Charlotte Street, Brightons, Falkirk on 22 January 2009.

17. Letter of objection from Mr & Mrs Bell, Ranoch, 11 Park Terrace, Brightons, Falkirk on 31 December 2008.
18. Letter of objection from Richard and Kathleen Frew, Douglas Bank, 27 Park Terrace, Brightons, Falkirk on 08 January 2009.
19. Letter of objection from Owner/Occupier, Gardenfoot Cottage, 22 Park Terrace, Brightons, Falkirk on 13 January 2009.
20. Letter of objection from Peter B Tait, Elmar, 13 Park Terrace, Brightons, Falkirk on 05 January 2009.
21. Letter of objection from Owner/Occupier, Kenwell, 23 Park Terrace, Brightons, Falkirk on 23 January 2009.

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

Planning Committee

Planning Application Location Plan

P/08/1007/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: **ERECTION OF 29 HOUSES AND ASSOCIATED INFRASTRUCTURE (DETAILED) AT LAND TO THE WEST OF 23 CHURCH ROAD, CHURCH ROAD, CALIFORNIA FOR DUNDAS ESTATES - P/07/0809/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **20 May 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

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

Community Council: Shieldhill and California

Case Officer: Allan Finlayson (Senior Planning Officer), Ext 4706

1. UPDATE REPORT

- 1.1 Members will recall that the Regulatory Committee were minded to grant planning permission at a previous meeting on 18 June 2008. The minded to grant decision was made subject to the payment, by the applicants, of a contribution of £116,000 towards education capacity increases at California Primary School, St. Andrews RC Primary School, Braes High School and St. Mungo's RC High School which would directly result from the proposed development.
- 1.2 A copy of the previous Committee report is appended to this report.
- 1.3 At the time of presenting the application to Committee on 18 June 2008 the applicants had agreed to the provision of this contribution to be secured by means of a legal agreement. Subsequently, the applicants asked that the proposed agreement should be under Section 75 of the Town & Country Planning (Scotland) Act 1997 to allow phased payments instead of a lump sum under the Section 69 of the Local Government (Scotland) Act 1973. The then Regulatory Committee agreed to this proposal on 28 January 2009. The applicants have now indicated that they are no longer willing to provide this contribution in relation to education capacity improvements.
- 1.4 The applicants have claimed that the education contribution requested is unreasonable given the lower price of housing in California, which the applicants claim is not a prime housing location.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Regulatory Committee were minded to grant planning permission for the development, subject to a contribution towards education capacity improvements, on 18 June 2008. The applicants are no longer willing to make the payment.

3. MATERIAL CONSIDERATIONS

- 3.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version) Supplementary Planning Note - Education and New Housing Development considerations.

Falkirk Council Local Plan Finalised Draft

- 3.2 The application site lies within the settlement area of California and is identified as a committed Housing Land Audit site HCAL3 with a capacity of 12 units. This application proposes 29 dwellinghouses, this being the number identified in the Housing Land Audit. The narrative in the California Village Statement states that the village contains a primary school, the role of which has been rising in recent years and capacity may need to be increased. Developer contributions are therefore be required in accordance with Policy SC14.

- 3.3 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

- 3.4 The failure to agree the provision of a financial contribution towards education capacity increases required as a direct result of the development does not satisfy the terms of this policy.

- 3.5 Policy SC14 'Education and New Housing Development' states:

"Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one, the basis of which will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."

- 3.6 The required financial contribution has been calculated by the Director of Education in accordance with the above policy. The calculation is based on proposed housing unit numbers and number of bedrooms rather than the value of house proposed. This is considered to be the most effective method of calculating the likely number of children resulting from any proposed development. The failure to provide a contribution does not satisfy the terms of this policy.
- 3.7 Therefore the proposed development does not accord with the terms of the Falkirk Council Local Plan Finalised Draft for the reason of the failure to provide financial contributions to education capacity improvements required as a direct result of the proposed development.

Supplementary Planning Guidance Note "Education and New Housing Development"

- 3.8 The SPG emphasises that financial contributions from developers will be sought when new housing is proposed in the catchment areas of schools which will have inadequate or no capacity for additional pupils likely to be generated by such housing.
- 3.9 The failure to agree the provision of a financial contribution towards education capacity increases required as a direct result of the development does not satisfy the terms of this SPG.
- 3.10 Accordingly the proposed development does not accord with the SPG.

4. CONCLUSION

- 4.1 The proposed development would result in school capacity increases at California Primary School, St. Andrews RC Primary School, Braes High School and St. Mungo's RC High School. Education Services has confirmed that these schools are experiencing capacity pressures now and that this will continue to be an issue over the next 5 years. The Committee has already agreed to the phasing of payments to assist the applicants in offsetting contributions against profits taken following the occupation of dwellinghouses.
- 4.2 The failure to provide a contribution to capacity improvements directly resulting from the proposed development is a significant material consideration. In this regard the proposal fails to satisfy policies SC11 - Developer Contributions to Infrastructure and SC14 - Education and New Housing Development.
- 4.3 The planning application under consideration was submitted on 21 August 2007. Following detailed assessment and negotiation, which centred on the applicants' acceptance of the principle of education contributions, a report recommending the grant of planning permission subject to education contribution was presented to the then Regulatory Committee on 18 June 2008. Since that date the applicants have sought to phase payments to assist with the profitability of the development, and this principle was accepted by the then Regulatory Committee on 28 January 2009.
- 4.4 The application has been considered in the context of the Economic Downturn Action Plan approved by Falkirk Council on 10 December 2008. In this document Falkirk Council confirms commitment to a number of actions to assist in prospects for business, investment and jobs. Private housing is not explicitly addressed, although the commitment to supporting, wherever possible, construction projects is made.

- 4.5 It is considered that assistance, through the agreement to phase education contributions over a period of time, has been provided in the context of the current economic climate and Falkirk Council's Economic Downturn Action Plan. The impacts on education capacity on schools under pressure cannot, however, be ignored. The applicants are no longer willing to meet the level of contribution required as a result of the development. It is therefore recommended that the application is refused for the reasons of contradiction to established Development Plan policies relating to education capacity contributions and the potential adverse impact on education provision should planning permission be granted without the required level of contribution.

5 RECOMMENDATION

5.1 It is recommended that planning permission be refused for the following reasons:-

- (1) The proposed development is contrary to policy COM 5 'Developer Contributions' of the Falkirk Council Structure Plan for the reason that the applicants have declined to provide financial contribution towards school capacity increases which would directly result from the erection of additional dwellinghouses within the catchment area of schools either at capacity or expected to reach capacity within the next five years.**
- (2) The proposed development is contrary to policies SC11 'Developer Contributions to Community Infrastructure' and SC14 'Education and New Housing Development' of the Falkirk Council Local Plan Finalised Draft (Deposit Version), and Supplementary Planning Guidance Note "Education and New Housing Development" for the reason that the applicants have declined to provide financial contribution towards school capacity increases which would directly result from the erection of additional dwellinghouses within the catchment area of schools either at capacity or expected to reach capacity within the next five years.**

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan (2007).
2. Rural Area Local Plan.
3. Falkirk Council Local Plan & Finalised Draft (Deposit Version)
4. Supplementary Planning Guidance Note – Education and New Housing Development.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Allan Finlayson (Senior Planning Officer).

FALKIRK COUNCIL

Subject: ERECTION OF 29 HOUSES AND ASSOCIATED INFRASTRUCTURE
(DETAILED) AT LAND TO THE WEST OF 23 CHURCH ROAD, CHURCH
ROAD, CALIFORNIA, FALKIRK FOR ELMINGTON HOMES -
P/07/0809/FUL
Meeting: REGULATORY COMMITTEE
Date: 18 June 2008
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Member: Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Shieldhill and California

Case Officer: Allan Finlayson (Planning Officer), ext 4706

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed application proposes the erection of 29 detached and semi-detached one and a half and two storey dwellinghouses with access taken from Rosewood Terrace (B8028). The proposed housing is arranged around a central amenity space.
- 1.2 The site is cleared of vegetation in a predominantly residential area to the rear of Church Road. The site is bounded by one and two storey detached and semi-detached residential properties to the south, east and west and agricultural grazing land to the north.

2. SITE HISTORY

- 2.1 Previous application ref: F/2002/0537 for outline permission for housing land was granted on 20 August 2003. This permission has established the principle of residential development on the site.
- 2.2 Application ref: 06/0779/OUT renewed the above outline permission and was granted on 29 November 2006.
- 2.3 Application ref: P/07/0127/REM for the erection of 24 dwellinghouses was withdrawn on 14 February 2007.
- 2.4 Application ref: P/07/0514/FUL for the erection of 29 dwellinghouses was withdrawn on 06 August 2007.

3. CONSULTATIONS

- 3.1 The Environmental Protection Unit requested that a contamination land survey be carried out to establish if there is any contamination within the site. A report submitted by the applicant is considered to be acceptable by the Environmental Protection Unit.
- 3.2 The Roads and Development Unit has no objections to the proposed development subject to the provision of acceptable detailed surface water attenuation calculations.
- 3.3 The Transport Planning Unit has no objections subject to the widening of the footway on the east side of Rosemead Terrace and the relocation of an existing bus stop also on Rosemead Terrace. These matters can be covered by condition.
- 3.4 Scottish Water has no objections to the proposed development.
- 3.5 SEPA has no objections to the proposed development.
- 3.6 Education Services requires the payment of £4000 per house (total £116,000.00) to fund educational improvements required as a consequence of the development at schools within the site's catchment area. The applicant has agreed to make this payment which would be secured by means of a Section 69 Legal Agreement.
- 3.7 Central Scotland Police has provided advice on 'Secured by Design' requirements.

4. COMMUNITY COUNCIL

- 4.1 The Shieldhill and California Community Council has not made representation.

5. PUBLIC REPRESENTATION

- 5.1 Three letters of representation have been received following the neighbour notification process. These express concerns in relation to failure to receive neighbour notification, vehicular access arrangements, loss of existing trees and the loss of view to Grangemouth docks, and disruption during construction works.
- 5.2 One representation requests that the development does not encroach on a nearby graveyard.

6. DETAILED APPRAISAL

When determining planning applications, the status of the development plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

6a The Development Plan

Falkirk Council Structure Plan

6a.1 Policy COM.1 'Housing Land Allocations' states:

"The Council will:

- 1 support the phased provision of land for new housing as detailed in Schedule COM.1a to which a flexibility allowance of 10% will be added under Policy COM.2;*
- 2 maintain an effective 5 year supply of the housing land set out in Schedule 1a;*
- 3 review the housing calculations and allocations at intervals of no more than 5 years; and*
- 4 In delivering the requirement in Schedule Com.1a the Council will support special initiatives for residential led regeneration at the location listed in Schedule Com.1b, provided that action plans and masterplans/ development frameworks are prepared in accordance with the local plan. In particular these must address phasing, social and physical infrastructure provision, the avoidance of adverse impacts on European sites, the removal of significant restraints and land acquisition as appropriate."*

6a.2 As detailed later in this report this site is identified for housing purposes in the Falkirk Council Local Plan Finalised Draft (Deposit Version) and is included as an effective site in the Housing Land Audit 2007/2008 with a capacity of 29 units. The proposal accords with this policy.

6a.3 Policy COM.2 'Implementation of Housing Land Requirement' states:

"In implementing the housing land requirement set out in Schedule COM.1a, Local Plans will:

- 1 take into account completions since 30th June 2001 and the current effective and established housing land supply;*
- 2 make an assessment of the likely output from windfall and small sites in arriving at the amount of land to be allocated and add to that amount a 10% flexibility allowance;*
- 3 adopt an approach to site selection whereby priority is given to brownfield sites and to sites which enjoy a high level of accessibility by public transport, walking and cycling to shopping, recreational and other community facilities;*
- 4 ensure the housing land allocation is based on the phasing guidelines set out in Schedule COM.1a;*
- 5 ensure that there are adequate community facilities and physical infrastructure to accommodate the allocation;*
- 6 ensure that the location, scale, and design of allocated sites is sympathetic to the character of settlements and that significant land releases are accompanied by the preparation of masterplans; and*
- 7 take into account the location and firm development proposals of business and industrial premises including chemical and petrochemical facilities.*
- 8 Local Plans will also identify the site or area of search of the general locations listed in Schedule Com.1b taking into account the avoidance of adverse impact on European sites and specific requirements for new social and physical infrastructure."*

6a.4 This policy sets out the criteria to be used in allocating land through the Local Plan process to meet the housing land requirements. The inclusion of the site in the Falkirk Council Local Plan Finalised Draft (Deposit Version) satisfies the terms of this policy

6a.5 Policy COM.5 ‘Developer Contributions’ states:

“The Council will ensure that proper provision is made to meet the physical and social infrastructure needs of new development and to mitigate the impact of such development on the locality. Where it is required to make a proposal acceptable in land use planning terms, serve a planning purpose and is directly related to the proposed development, developer funding for on- or off-site works will be sought in respect of:

- (1) environmental enhancement required to mitigate, or compensate for landscape, townscape or ecological impacts;*
- (2) physical infrastructure required to make the development acceptable, particularly transport provision required to ensure that the development meets sustainability criteria;*
- (3) community and recreational facilities required to meet demand generated by the development.*

The required provision will be reasonable and related to the scale and nature of the proposed development, taking into account the relevant Council standards and will be specified within Local Plans and development briefs as appropriate. Examples of the range of matters which developers may be asked to address are provided in Schedule COM.5.”

6a.6 The applicant has agreed to a financial contribution towards educational provision (identified in Schedule Com.5) which is required as a result of the proposed development. The proposal accords with the terms of this policy.

Rural Local Plan

6a.7 The village limit policy of the California Statement in the Rural Local Plan states:-

"The boundary of the village area as defined on the California village map, is regarded as the desirable limit to growths at least for the period of the Local Plan. Accordingly, there will be a presumption against proposals for development which would extend the village area beyond this limit or which would constitute sporadic development in the countryside".

6a.8 The application site is outwith the village limits as defined in the Rural Local Plan and accordingly, the proposal does not accord with the Development Plan. However, it is considered that the proposed development is compatible with neighbouring uses and the character of the village and would not constitute sporadic development in the countryside. It is further considered that, on the basis of the two previous grants of outline planning permission, no sustainable policy objections exist that could resist residential development on the site.

6b Material Considerations

6b.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version) and the representations received in so far as they relate to material planning considerations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 6b.2 The application site lies within the settlement area of California and is identified as a committed Housing Land Audit site HCAL3 with a capacity of 12 units. This application proposes 29 dwellinghouses, this being the number identified in the Housing Land Audit. The narrative in the California Village Statement states that the village contains a primary school, the role of which has been rising in recent years and capacity may need to be increased. Developer contributions may therefore be required in accordance with Policy SC14.
- 6b.3 The difference in numbers indicated in the Local Plan and those proposed is noted, however, the proposed housing development is compatible with neighbouring uses and the proposals would create an adequate level of residential amenity for both the new dwellinghouses and the surrounding properties. The proposed dwellinghouses would benefit from an acceptable level of private garden ground and would not result in an unacceptable level of overshadowing or overlooking of neighbouring residential properties.
- 6b.4 Policy EQ3 ‘Townscape Design’ states:
- “New development will be required to contribute positively to the quality of the built environment. Proposals should accord with the following criteria:*
- (1) The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
 - (2) Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*
 - (3) The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
 - (4) Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
 - (5) Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
 - (6) The contribution to the townscape of important landmarks, skylines and views should be respected.”*
- 6b.5 The proposed development is compatible with the surrounding areas architectural and townscape character. The site is located adjacent to single and two storey properties. The proposed one and a half and two storey designs and therefore considered to be compatible with the scale and massing of neighbouring properties.
- 6b.6 The predominant finishing material in the area is roughcast with a mixture of different roofing finishes visible from the site. Therefore the proposed materials are acceptable in this location.

6b.7 Policy SC11 - 'Developer Contributions To Community Infrastructure' states:

"Developers will be required to contribute towards the provision, upgrading and maintenance of community and recreational facilities required to meet demand generated from new development. The nature and scale of developer contributions will be determined by the following factors:

- (1) Specific requirements identified against proposals in the Local Plan or in development briefs;*
- (2) In respect of open space, recreational, and education provision, the general requirements set out in Policies SC13 and SC14;*
- (3) In respect of other community facilities, any relevant standards operated by the Council or other public agency; and*
- (4) Where a planning agreement is the intended mechanism for securing contributions, the principles contained in Circular 12/1996."*

6b.8 The provision of a financial contribution towards education provision satisfies the terms of this policy.

6b.9 Policy SC14 'Education and New Housing Development' states:

"Where there is insufficient capacity within the catchment school to accommodate children from new housing development, developer contributions will be sought in cases where improvements to the school are capable of being carried out and do not prejudice the Council's education policies. The contribution will be a proportionate one, the basis of which will be set out in the SPG Note on 'Developer Contributions; Education and New Housing Development'. In cases where the school cannot be improved in a manner consistent with the Council's education policies, the development will not be permitted."

6b.10 The proposed financial contribution has been calculated by the Director of Education in accordance with the above and satisfies the terms of this policy.

6b.11 Therefore the proposals accord with the terms of the Falkirk Council Local Plan Finalised Draft.

Representations Received

6b.12 The concerns over neighbour notification have now been resolved and the objector made aware of the proposed development. Vehicular access arrangements are to the satisfaction of the Roads Development Unit. The trees on the site were not protected by a preservation order. The applicant proposes replacement planting along site boundaries and at the central amenity space. The loss of a view and disruption during the construction period are not material planning considerations.

6b.13 The proposed development is not in proximity to the graveyard in question.

6c Conclusion

- 6c.1 The proposal is an acceptable form of development and, although the site lies outwith the settlement area defined by Policy Rural 3 of the Rural Local Plan, the existence of two previous outline permissions have established the acceptability of residential development on the site. The allocation of the site as a committed Housing Land Audit site in the Falkirk Council Local Plan Finalised Draft (Deposit Version) establishes that the site lies within the settlement area now proposed. In addition the design of development is acceptable in the context of the surrounding area. There are no material planning considerations which would justify the refusal of planning permission.

7. RECOMMENDATION

- 7.1 It is recommended that planning permission be granted subject to the conclusion of a Legal Agreement under Section 69 of the Local Government (Scotland) Act 1973 to secure the provision of £116,000 towards education improvements required as a result of the proposed development and, subject to the following conditions:-

- (1) The development to which this permission relates must be begun within five years from the date of this permission.
- (2) Within 3 months of the date of this permission, details of a carriageway narrowing 30mph marker 'gateway' feature at the position indicated in pink on the approved site layout plan (PL 01.06) shall be submitted for the approval of the Planning Authority. The details shall be designed and constructed in accordance with the Design Guidelines and Construction Standards for Roads in the Falkirk Area, and installed prior to the occupation of any dwellinghouse onsite.
- (3) Development shall not begin until details of the materials to be used on the external surfaces of the buildings, and in the construction of any hard standings/walls/fences, have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
- (4) Development shall not begin until details of the scheme of soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
 - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density programme for completion and subsequent maintenance.

- (5) Prior to the occupation of any dwellinghouse on the site the footway on the east side of the B8028 Rosemead Terrace shall be widened to 2 metres in width, as highlighted in pink on the approved site layout (drawing number (PL)01.06). The works shall be carried out to adoptable standard as defined by the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area".
- (6) Development shall not begin until a replacement position for the existing bus stances on the B8028, required as a result of Condition 4 above, has been agreed in writing with the Planning Authority.
- (7) The development shall be implemented in accordance with the approved phasing scheme and the approved landscape scheme for each phase shall be fully implemented by the end of the first planting and seeding season following the occupation of the last house within that phase of the development.
- (8) Access to the proposed parking spaces shall be by means of a standard footway crossing constructed in accordance with Falkirk Council's Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, October 1997, as amended January 2000.
- (9) There shall be no obstruction to visibility over 1 metre in height above carriageway level within 2.5 metres of the carriageway edge along the full frontage of the site with Rosewood Terrace (B8028).
- (10) Development shall not begin until detailed surface water and flood risk calculations including 1 in 100 and 1 in 200 year storm events have been submitted to and approved by the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (3,4,7) To safeguard the visual amenity of the area.
- (2,5,6,8,9) To safeguard the interests of the users of the highway.
- (10) To ensure that adequate drainage is provided.



.....
pp Director of Development Services

Date: 12 June 2008

LIST OF BACKGROUND PAPERS

1. Letter of representation from Hugh, Cecelia & Catriona Brown, Hill Cottage, Main Street, California, Falkirk on 31 August 2007
2. Letter of representation from T. Martin, 7 Rosemead Terrace, California, Falkirk FK1 2BB on 21 April 2008
3. Letter of representation from Mr John Cooper, 'Johmarkan', 21 Church Road, California, FK1 2BD on 18 March 2008

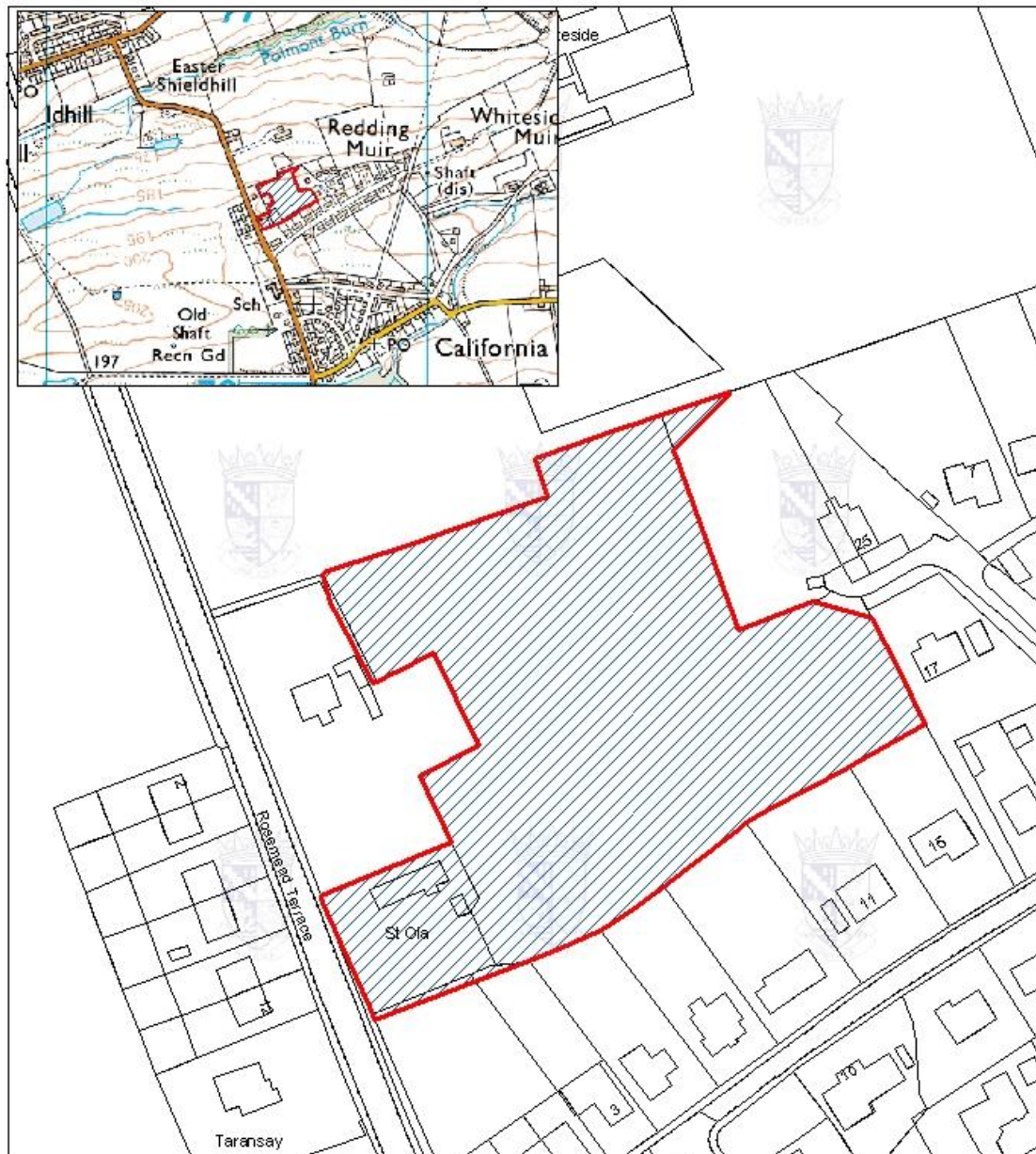
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson (Planning Officer).

Planning Committee

Planning Application Location Plan

P/07/0809/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: DEVELOPMENT OF LAND FOR RESIDENTIAL [1,700 UNITS], BUSINESS / EMPLOYMENT PURPOSES, LOCAL SERVICES, COMMUNITY PRIMARY SCHOOL, PUBLIC PARK, OFF-ROAD / FOOTPATHS, LANDSCAPING AND OPEN SPACE, SUSTAINABLE URBAN DRAINAGE SYSTEMS AND CONSTRUCTION OF DISTRIBUTOR ROAD AND TWO ROUNDABOUTS AT BELLSDYKE HOSPITAL AND HILL OF KINNAIRD, LARBERT, FOR CALA MANAGEMENT LTD AND PERSIMMON LTD (F/2002/0611)

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Donald Campbell (Development Management Co-ordinator), ext 4705

1. REASON FOR COMMITTEE CONSIDERATION

- 1.1 The purpose of this report is to update Members in relation to financial contributions to be paid to the Council in respect of outline planning permission reference F/2002/0611 detailed above.

2. BACKGROUND

- 2.1 Outline planning permission was granted by Falkirk Council on 18 May 2006 subject to conditions and following the conclusion of a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. This agreement required that the developer pay the Council a total principal sum of £6,550,000 for the following purposes to mitigate the impact of the development.
- 2.2 Education - provision of a serviced site and financial contribution (£5,600,000) towards the construction of a primary school. This school is now operational.
- 2.3 Affordable housing - a sum of £500,000 in respect of affordable housing.

2.4 Transport improvements - a sum of £400,000 to be used towards bus enhancement and / or improved parking provision at Larbert Station; a sum of £30,000 to be used on improvements to walking and cycling routes in Larbert and Stenhousemuir and a sum of £20,000 to be used on traffic lights and other road improvements at Larbert Cross.

2.5 These payments were to be made in various instalments and, as of July 2009, the elements of the principal due are as follows:

School contributions £1,120,000 – This sum fell due in December 2008 on the first anniversary of practical completion of the school.

Affordable housing £250,000 – This sum fell due in May 20089 following completion of the 50th dwelling.

Cycling £30,000 – This sum fell due in December 2007.

Traffic lights £20,000 – This sum fell due in December 2008.

Bus services/parking £100,000 - (Note: if more than 200 dwellings have been completed this would rise to £200,000).

These sums are index linked from April 2006 and interest for late payment also applies.

2.6 Discussions have been ongoing with the developer for some time in relation to the required payments. He has requested that, given the current economic climate and the state of the housing market, the sum of £900,000 be paid on 31 July 2009 with a further £900,000 falling to be paid in January 2010. Thereafter, the remaining payments be deferred by a year. It is considered that, given the current situation, the developer's request for some payment rescheduling is reasonable and that a revised payment schedule would be acceptable. Indexation and interest on late payment will continue to apply but adjustments to the terms of these may be necessary to reflect the new arrangements.

3. RECOMMENDATION

3.1 It is recommended that Committee agree:

(a) to vary the section 75 agreement to allow the financial contributions of the principal to be paid as follows:

- (1) £900,000 on 31 July 2009;**
- (2) £900,000 on 31 January 2010;**
- (3) £1,500,000 on 31 January 2011;**
- (4) £1,500,000 on 31 January 2012;**
- (5) £1,750,000 on 31 January 2013;**

indexation and interest to apply as appropriate; and

- (b) the Director of Development Services be authorised to adjust the terms of the original section 75 agreement to achieve all of the above..

.....
Director of Development Services

Date: 13 May 2009

LIST OF BACKGROUND PAPERS

1. The agreement under section 75 of the Town and Country Planning (Scotland) Act 1997 related to planning permission reference F/2002/0611.
2. Planning permission reference F/2002/0611

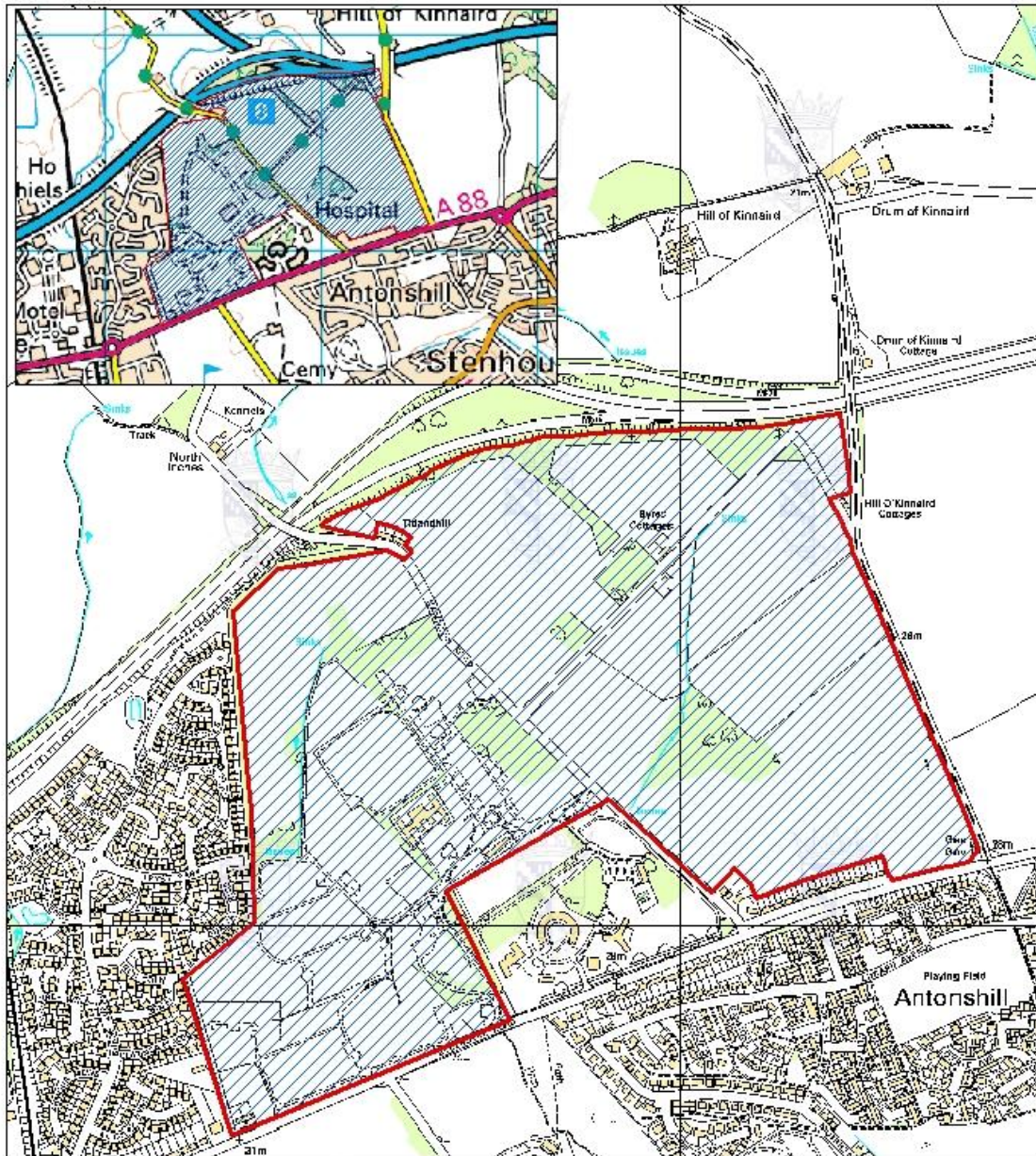
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504757 and ask for Donald Campbell (Development Co-ordinator).

Planning Committee

Planning Application Location Plan

F/2002/0611

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Falkirk Council

Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)

FALKIRK COUNCIL

Subject: MODIFICATION OF CONDITION 1 OF PLANNING PERMISSION F/2003/0744 TO ALLOW THE CONTINUATION OF WORKS IN THE UPFILLING AND RESTORATION OF LAND TO AGRICULTURAL USE AT LAND TO THE NORTH EAST OF DARNBOGUE FARM, MOSS ROAD, FALKIRK FOR INLAND ENGINEERING LIMITED - P/07/0383/FUL (DETAILED)

Meeting: PLANNING COMMITTEE

Date: 20 May 2009

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

Case Officer: Donald Campbell (Development Management Co-ordinator), Ext 4707

1. UPDATE REPORT

- 1.1 Members will be aware that this application was previously considered by the then Regulatory Committee on 19 June 2007 (copy of report appended), when it was agreed that it be continued to allow a site inspection by Committee to be made. This took place on 28 June 2007 and the application was also considered at a special meeting of the Committee held on that day. It was agreed to continue the application to allow further consideration in relation to a financial bond to ensure satisfactory restoration of the site, improvements to wheel wash facilities, road cleaning arrangements and a later start to working hours.
- 1.2 The application was again considered by Committee on 29 August 2007 (copy of report appended), when it was agreed to continue the matter to allow further discussions to take place with the applicant in relation to the payment of a financial bond to ensure appropriate restoration of the site. It should be noted that matters relating to wheel wash facilities, road cleaning arrangements and working hours had been satisfactorily addressed.

- 1.3 On 26 September 2007 the application was again considered by Committee (copy of report appended), when it was reported that, following further discussion with the applicant and its insurers, and the Council having taken independent specialist advice, it had not been possible to resolve the issue of a financial bond to secure adequate restoration of the site. At that meeting it was agreed that Committee were minded to grant planning permission subject to conditions and a financial bond being secured by means of a Legal Agreement to ensure adequate restoration of the site in the event of unforeseen circumstances. Since that time there has been lengthy correspondence with the applicant who has advised that it is not possible to secure the required bond and that he still has an interest in the site and wishes the application to be determined. Whilst a bond cannot be secured, the restoration of the site could be covered by condition requiring the restoration of the existing areas of upfill prior to the importation of any further materials (condition 3).
- 1.4 In view of the lack of progress in relation to the financial bond, the application is again before Committee for consideration, with the previous recommendation to grant permission reiterated. It is considered that, whilst a bond would ensure the restoration of the site if any unforeseen difficulties were to arise, given the advanced stage of operations on site, and the relatively small amount of upfilling required to complete work, it would be unreasonable to refuse planning permission on the grounds that a bond was not in place.

2 RECOMMENDATION

- 2.1 It is therefore recommended that planning permission be granted subject to the conditions outlined below:-
- (1) This permission shall be valid for a limited period of six months from the date on which importation of material into the site is recommenced in accordance with this permission. The applicant shall notify this Planning Authority in writing of the commencement date. In the event that works do not commence within 6 months of the date of permission being granted then this planning permission shall cease to have effect.
 - (2) Prior to any further material being imported into the site, the applicant shall provide a method statement to the Planning Authority for its written approval of the operation of the site, to include a road cleaning regime and vehicle routing. Operations shall not recommence until such time as the statement has been approved by this Planning Authority and the scheme approved shall remain in operation during the infilling and restoration works.
 - (3) Prior to any further material being imported into the site, the vehicular access on to Moss Road shall be constructed in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000" (6 metres wide access road with 11 metre radii to form a bellmouth).
 - (4) Prior to any further material being imported into the site, the site access will be formed in such a condition such that no surface water, mud or loose material will be discharged or carried out from it onto the public road.

- (5) Prior to any further material being imported into the site, the applicant shall confirm to this Planning Authority in writing that the gates 11 metres back from the public road are operational.
- (6) No further material shall be imported into the site until 6 metre x 215 metre clear (carriageway level) visibility splays are provided in both directions from the site access to Moss Road. The visibility splays shall be maintained for the duration of the upfilling and restoration works.
- (7) No further material shall be imported into the site until clear (carriageway level) visibility splays are provided on the inside of the bend (east side) on Moss Road to allow a right turning vehicle at the site entrance to be seen from a point 215 metres north of the access by southbound vehicles and to provide 215 metres forward visibility for a right turning vehicle into the site to see northbound vehicles.
- (8) No further material shall be imported into the site until signage is erected on Moss Road warning drivers of heavy plant crossing / vehicle turning and slippery road surface. Details of the type and location of the signage shall be submitted to the Planning Authority for its prior written approval and shall be completely removed, and the ground reinstated, within 1 month of completion of works on site.
- (9) The vehicle wheel washing facilities installed on site shall be maintained in a working condition at all times. All vehicles exiting the site shall pass through the wheel washing facilities so that no dirt, mud or debris is discharged or carried onto the public road.
- (10) When the wheel washing facilities are not operational, no vehicles shall exit the site.
- (11) The material to be used in the upfilling of the site shall consist of inert or inactive material only.
- (12) Within two months of the completion of the upfilling and restoration works the site access shall be removed and the road verge reinstated.
- (13) Prior to any further material being imported into the site, the existing areas of upfill shall be restored in accordance with a detailed topographical and landscaping plan for the site which shall be submitted for the written approval of the Planning Authority. No restoration works shall be carried out until such time as the landscaping and topographical plan has been approved by the Planning Authority. All works shall be carried out in accordance with the approved plan.
- (14) Prior to any further material being imported into the site, details for the progressive grading and restoration during upfilling operations and a detailed landscaping plan for subsequent restoration shall be submitted for the approval of the Planning Authority. All works shall be carried out in accordance with the approved details and plan.

- (15) No operation shall take place within the site, and no vehicles shall enter or leave the site outwith the following times:

0800 hours to 1800 hours Monday to Friday
0900 hours to 1300 hours Saturdays

No restoration works shall be carried out until such times as the landscaping plan has been approved by the Planning Authority.

Reason(s):

- (1) To ensure that the development is completed in a satisfactory and timeous manner.
- (2-10) To safeguard the interests of the users of the highway.
- (11) To ensure the Planning Authority can control the type of material which shall be used to infill the site.
- (12-14) To safeguard the environmental amenity of the area.
- (15) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

.....
Director of Development Services

Date: 13th May 2009

FALKIRK COUNCIL

Subject: MODIFICATION OF CONDITION NO. 1 OF PLANNING PERMISSION F/2003/0744 TO ALLOW THE CONTINUATION OF WORKS FOR THE UPFILLING AND RESTORATION OF LAND TO AGRICULTURAL USE AT LAND TO THE NORTH EAST OF DARNBOGUE FARM, MOSS ROAD, FALKIRK FOR INLAND ENGINEERING LTD - (P/07/0383/FUL)

Meeting: REGULATORY COMMITTEE

Date: 26 September, 2007

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

Case Officer: Donald Campbell (Development Management Co-ordinator), ext 4707

1. BACKGROUND

- 1.1 As Members will be aware, this application has been previously considered at the meeting of the Regulatory Committee on 19 June 2007, when it was agreed that the matter be continued to allow an inspection of the site by Committee. This site inspection took place on 28 June 2007 and the application was considered by Committee at a special meeting also held on 28 June 2007. A copy of this Report is attached for Members' information (Appendix 1). It was agreed at this meeting that the application be continued to allow discussion to take place with the applicant in relation to a financial bond to ensure the satisfactory restoration of the site, improvements to wheel wash facilities, road cleaning arrangements and a later start to working hours.
- 1.2 The application was again considered by Committee at its meeting on 29 August 2007, and a copy of this Report is also attached for Members' information (Appendix 2). Following consideration of the matters raised, it was agreed that consideration of the matter be continued to allow officers to explore further with the applicant the payment of a financial bond to ensure appropriate restoration of the site.
- 1.3 Subsequent to this decision, discussions have taken place with the applicant, and a further letter from its insurers has been submitted. In addition, independent specialist advice has been commissioned by the Council from Environmental, Mineral and Planning Consultants (Dalglish Associates Ltd), and a copy of their response is attached to this Report for Members' consideration (Appendix 3).

2. RESPONSE FROM APPLICANT

- 2.1 In relation to the bond, the applicant, following discussion with officers which detailed the concerns expressed by Committee, has submitted a further letter from its insurers. The insurers confirm that they are unable to obtain a bond, and state that potential risk should be calculated at the outset rather than the closing stages of operations. If a bond had been requested at the outset of operations, (which date back to the 1970s), and all information taken into account at that time, a bond would have been offered.

3. RESPONSE FROM CONSULTANTS

- 3.1 The letter from Dalglish Associates Ltd is attached for Members' consideration. This letter includes assessment of the potential to secure a restoration bond for the whole site, restoration liability over the remaining upfill area, options to minimise restoration liability, and timescales for any planning permission which may be granted.
- 3.2 The consultants consider that it would be unreasonable to require the applicant to secure a restoration bond over the whole site. However, they do suggest that to improve the condition of the site and reduce potential liability at the end of operations, details for the restoration of the existing upfilled areas be required by condition and that those restoration works be undertaken prior to the deposition of any further inert material within the site. This would require the importation of soils, and it is pointed out that the time period to upfill the remainder of the site would in turn require to be extended. The consultants advise that any disbenefit from a time extension would be outweighed by the reduction in the potential liability at the end of upfilling operations.
- 3.3 It is also advised that if Committee are minded to grant planning permission subject to a financial bond, a topographical survey would be required to enable a detailed assessment of the works necessary to achieve restoration and associated costs thereof.
- 3.4 The possibility of setting up an escrow or joint account is also raised, however it is pointed out that any requirement to enter into a legal agreement would likely cause further delay.
- 3.5 The consultants conclude that the application before Committee represents an opportunity for the potential restoration of the site. If planning permission were not forthcoming the site would remain in a degraded condition.

4. CONSIDERATION

- 4.1 The view of the applicant's insurers and the Council's consultants in relation to the bond are noted, and it is accepted that given the site history and advanced stage of upfilling operations, it would be problematic to require a bond, escrow or joint account (all of which would require to be secured by way of a legal agreement) to be in place prior to the grant of planning permission. However, if Members were minded to require this, it should be noted that a topographical survey and subsequent detailed quantification of restoration works and costs would be required. Without prejudice, given the views of the applicant's insurers and the Council's consultants, it may not be possible to secure any agreement in this regard. Refusal of the application would result in the site remaining in its present condition.

- 4.2 It is considered that a condition requiring the restoration of the existing upfilled areas within the site prior to the importation of any further inert waste material would be an effective means of ensuring the restoration of the site. In addition, a condition requiring progressive grading and restoration during further upfilling operations is considered to be appropriate. This matter has been discussed with the applicant and, at the time of writing this report, a response in relation to the possible need for an additional period to allow this work to be undertaken is awaited.

5. CONCLUSION

- 5.1 This application has been the subject of detailed consideration by Committee over recent months. Concerns in relation to wheel wash facilities, road cleaning arrangements, traffic turning into and out of the site and operating times have been resolved following discussions with the applicant, and are covered by conditions. In relation to a financial bond to secure adequate restoration of the site in the event of unforeseen circumstances, it has not been possible to achieve complete resolution.

6. RECOMMENDATION

- 6.1 It is therefore recommended that planning permission be granted subject to the conditions outlined below:-
- (1) This permission shall be valid for a limited period of six months from the date on which importation of material into the site is recommenced in accordance with this permission. The applicant shall notify this Planning Authority in writing of the commencement date. In the event that works do not commence within 6 months from the date of permission being granted when this planning permission shall cease to have effect.
 - (2) Prior to any further material being imported into the site, the applicant shall provide a method statement to the Planning Authority for its written approval of the operation of the site, to include a road cleaning regime and vehicle routing. Operations shall not recommence until such time as the statement has been approved by this Planning Authority and the scheme approved shall remain in operation during the infilling and restoration works.
 - (3) Prior to any further material being imported into the site, the vehicular access on to Moss Road shall be constructed in accordance with the “Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000” (6 metres wide access road with an 11 metre radii to form a bellmouth).
 - (4) Prior to any further material being imported into the site, the site access will be formed in such a condition such that no surface water, mud or loose material will be discharged or carried out from it onto the public road.

- (5) Prior to any further material being imported into the site, the applicant shall confirm to this Planning Authority in writing that the gates that are 11 metres back from the public road are operational.
- (6) No further material shall be imported into the site until 6 metre x 215 metre clear (carriageway level) visibility splays are provided in both directions from the site access to Moss Road. The visibility splays shall be maintained for the duration of the upfilling and restoration works.
- (7) No further material shall be imported into the site until clear (carriageway level) visibility splays are provided on the inside of the bend (east side) on Moss Road to allow a right turning vehicle at the site entrance to be seen from a point 215 metres north of the access by southbound vehicles and to provide 215 metres forward visibility for a right turning vehicle into the site to see northbound vehicles.
- (8) No further material shall be imported into the site until signage is erected on Moss Road warning drivers of heavy plant crossing / vehicle turning and slippery road surface. Details of the type and location of the signage shall be submitted to the Planning Authority for its prior written approval and shall be completely removed, including ground reinstatement, within 1 month of completion of works on site.
- (9) The vehicle wheel washing facilities installed on site shall be maintained in a working condition at all times. All vehicles exiting the site shall pass through the wheel washing facilities so that no dirt, mud or debris is discharged or carried onto the public road.
- (10) When the wheel washing facilities are not operational, no vehicles shall exit the site.
- (11) A joint applicant/Falkirk Council survey of the condition of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense prior to any further material being imported into the site.
- (12) On completion of the upfilling and restoration works at the site a second joint applicant/Falkirk Council survey of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense within two months of completion of the restoration works on the site.
- (13) No further works on site shall occur until such time as an order under the Road Traffic Regulation Act 1984 has been successfully promoted in order to restrict turning movements to / from the site to left out / right in only. Suitable signage to this effect should also be posted at agreed locations.
- (14) The material to be used in the upfilling of the site shall consist of inert or inactive material only.

- (15) Within two months of the completion of the upfilling and restoration works the site access shall be removed and the road verge reinstated.
- (16) Prior to any further material being imported into the site, the existing areas of upfill shall be restored in accordance with a detailed topographical and landscaping plan for the site which shall be submitted for the written approval of the Planning Authority. No restoration works shall be carried out until such time as the landscaping and topographical plan has been approved by the Planning Authority. All works shall be carried out in accordance with the approved details.
- (17) Prior to any further material being imported into the site, details for the progressive grading and restoration during upfilling operations and a detailed landscaping plan for subsequent restoration shall be submitted for the approval of the Planning Authority. All works shall be carried out in accordance with the approved details.
- (18) No operation shall take place within the site, and no vehicles shall enter or leave the site outwith the following times:

0800 hours to 1800 hours Monday to Friday
0900 hours to 1300 hours Saturdays

No restoration works shall be carried out until such times as the landscaping plan has been approved by the Planning Authority.

Reason(s):

- (1) To ensure that the development is completed in a satisfactory and timeous manner.
- (2-13) To safeguard the interests of the users of the highway.
- (14) To ensure the Planning Authority can control the type of material which shall be used to infill the site.
- (15-17) To safeguard the environmental amenity of the area.
- (18) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

R Geisler

.....
Director of Development Services

Date: 19 September 2007

FALKIRK COUNCIL

Subject: MODIFICATION OF CONDITION NO. 1 OF PLANNING PERMISSION F/2003/0744 TO ALLOW THE CONTINUATION OF WORKS FOR THE UPFILLING AND RESTORATION OF LAND TO AGRICULTURAL USE AT LAND TO THE NORTH EAST OF DARNBOGUE FARM, MOSS ROAD, FALKIRK FOR INLAND ENGINEERING LTD - P/07/0383/FUL

Meeting: REGULATORY COMMITTEE

Date: 29 August 2007

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles Macdonald
Councillor Craig Martin

Community Council: Airth Parish

Case Officer: Donald Campbell (Development Management Co-ordinator), ext 4707

1. INTRODUCTION

- 1.1 Members will recall that this application was considered at the meeting of the Regulatory Committee on 19 June 2007 when it was agreed consideration of the matter be continued to allow an inspection of the site by Committee. A copy of this earlier report is attached for Members information.

2. CONSIDERATION BY COMMITTEE

- 2.1 The site inspection took place on 28 June 2007 when objectors were heard and the applicant spoke in support of the proposals. Following the site inspection, the application was considered by Committee at a special meeting also held on 28 June 2007 and it was agreed that the application be continued to allow discussion to take place with the applicant in relation to a financial bond to ensure the satisfactory restoration of the site, also to allow discussion with the applicant in relation to improvements to wheel wash facilities and road cleaning arrangements and to allow the applicant to consider a later start to working hours.

3. RESPONSE FROM APPLICANT

- 3.1 The applicant has advised that, in relation to the bond, its insurers have advised that they would be unable to provide a bond for the site as approximately 75% of the upfilling works have been completed. The insurers express concern that a bond has been requested at this stage. Finally, in view of the passage of time since Committee first considered this matter, the applicant has requested that condition 1 of the attached report be amended to allow final restoration by 28 February 2008 rather than 31 December 2007. Inland Engineering have however indicated that it is anticipated that works would be completed prior to this.
- 3.2 In relation to wheel wash facilities, the applicant has proposed that the existing electric wheel-wash be removed and replaced with a grid bath-wash. This, the applicant advises, would require vehicles driving through the bath with the full under carriage being cleaned rather than the wheels only.
- 3.3 The applicant has also confirmed that in relation to road cleaning a road brush would be available at all times at the site. In addition, a "no right turn" system would be put in place for vehicles leaving the site, thus avoiding vehicles from the site passing nearby housing on Moss Road.
- 3.4 Operating start times are now proposed by the applicant to be from 08.00 hours Monday to Friday also 09.00 on a Saturday rather than site start of 07.30 as stated in the report previously considered by Committee. Termination times would remain unaltered. No working would be permitted on Sundays.
- 3.5 In addition to the above the applicant has advised that since the Committee site meeting all trees and bushes affecting the visibility at the access on Moss Road have been cut back.

4. CONSIDERATION

- 4.1 The views of the applicant in relation to a restoration bond are noted. It is considered that, whilst a bond would ensure the restoration of the site if any unforeseen difficulties were to arise, given the advanced stage of operations on site, and the relatively small amount of upfilling required to complete work, it would be unreasonable to refuse planning permission on the grounds that a bond was not in place.
- 4.2 The applicant's proposals in relation to revised site start times, wheel wash facilities and road cleaning arrangements are considered to be acceptable. It should be noted that these matters are covered by proposed conditions.
- 4.3 Condition 13 of the original recommendation to Committee sought to control access / egress movements to / from site. Unfortunately it is not considered that this would be a valid planning condition. However, it is understood that such matters can be addressed through an order under the Road Traffic Regulation Act 1984. Accordingly it is considered that a suspensive planning condition requiring the traffic order to be in place prior to further works occurring on site could be included. Condition 13 is therefore amended accordingly.

5. CONCLUSION

- 5.1 Following the decision by Committee to continue consideration of the application, discussions have taken place with the applicant in relation to a restoration bond, wheel wash facilities, road cleaning arrangements and site operating times. The applicant has advised that it would not be possible to secure a bond for the site, and given the circumstances relating to the site, this is considered reasonable. The applicant's proposals related to the other matters are considered to be acceptable.

6. RECOMMENDATION

- 6.1 It is therefore recommended that planning permission be granted subject to the conditions in the report dated 13 June 2007 amended to take into account the revised site start times and the date for the completion of restoration works. These are outlined below:-

- (1) This permission shall be valid for a limited period of six months from the date on which importation of material into the site is recommenced. The applicant shall notify this Planning Authority in writing of the commencement date. In any event, the final restoration shall be complete by 28 February 2008.
- (2) Prior to any further material being imported into the site, the applicant shall provide a method statement to the Planning Authority for its written approval, of the operation of the site to include a road cleaning regime and vehicle routing.
- (3) Prior to any further material being imported into the site, the vehicular access on to Moss Road shall be constructed in accordance with the "Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000" (6 metres wide access road with an 11 metre radii to form a bellmouth).
- (4) Prior to any further material being imported into the site, the site access will be formed and in a condition such that no surface water, mud or loose material will be discharged or carried out from it onto the public road.
- (5) Prior to any further material being imported into the site, the applicant shall confirm to this Planning Authority in writing that the gates that are 11 metres back from the public road are operational.
- (6) No further material shall be imported into the site until 6 metre x 215 metre clear (carriageway level) visibility splays are provided in both directions from the site access to Moss Road. The visibility splays shall be maintained for the duration of the upfilling and restoration works.
- (7) No further material shall be imported into the site until clear (carriageway level) visibility splays are provided on the inside of the bend (east side) on Moss Road to allow a right turning vehicle at the site entrance to be seen from a point 215 metres north of the access by south bound vehicles and to provide 215 metres forward visibility for a right turning vehicle into the site to see north bound vehicles.

- (8) No further material shall be imported into the site until signage is erected on Moss Road warning drivers of heavy plant crossing / vehicle turning and slippery road surface. Details of the type and location of the signage shall be submitted to the Planning Authority for its prior written approval and shall be completely removed, including ground reinstatement, within 1 month of completion of works on site.
- (9) The vehicle wheel washing facilities installed on site shall be maintained in a working condition at all times. All vehicles exiting the site shall pass through the wheel washing facilities so that no dirt, mud or debris is discharged or carried onto the public road.
- (10) When the wheel washing facilities are not operational, no vehicles shall exit the site.
- (11) A joint applicant / Falkirk Council survey of the condition of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense prior to any further material being imported into the site.
- (12) On completion of the upfilling and restoration works at the site a second joint applicant/Falkirk Council survey of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense within two months of completion of the restoration works on the site.
- (13) No further works on site shall occur until such time as an order under the Road Traffic Regulation Act 1984 has been successfully promoted in order to restrict turning movements to / from the site to left out / right in only. Suitable signage to this effect should also be posted at agreed locations.
- (14) The material to be used in the upfilling of the site shall consist of inert or inactive material only.
- (15) Within two months of the completion of the upfilling and restoration works the site access shall be grubbed up and the road verge reinstated.
- (16) Prior to any further material being imported into the site, a detailed landscaping plan of the restored site shall be submitted to the Planning Authority for its written approval. Thereafter, the restoration of the site shall be implemented in accordance with the approved landscaping plan during the first available planting season after upfilling works have been completed and unless otherwise agreed in writing by this Planning Authority in accordance with the timescales required by Condition 1.
- (17) No operation shall take place within the site, and no vehicles shall enter or leave the site outwith the following times:

0730 hours to 1800 hours Monday to Friday
0730 hours to 1300 hours Saturdays

Reason(s):

- (1) To ensure that the development is completed in a satisfactory and timeous manner.
- (2-13) To safeguard the interests of the users of the highway.
- (14) To ensure the Planning Authority can control the type of material which shall be used to infill the site.
- (15-16) To safeguard the environmental amenity of the area.
- (17) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

.....
Director of Development Services

Date: August 2007

LIST OF BACKGROUND PAPERS

- 1. Letter of representation from Mr Trevor Taylor, 5 Fairfields, Dunmore, Falkirk FK2 8RY
- 2. Letter of representation from Susan James, 3 Fairfields, Falkirk FK2 8RY
- 3. Letter of representation from Owner/Occupier, 4 Fairfields, Moss Road, Dunmore, Falkirk
- 4. Letter of representation from Mr Robert Fogie, 77 Alloa Road, Carron, Falkirk FK2 8EJ

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504707 and ask for Donald Campbell (Planning Co-ordinator).

FALKIRK COUNCIL

Subject: MODIFICATION OF CONDITION 1 OF PLANNING PERMISSION F/2003/0744 TO ALLOW THE CONTINUATION OF WORKS IN THE UPFILLING AND RESTORATION OF LAND TO AGRICULTURAL USE AT LAND TO THE NORTH EAST OF DARNBOGUE FARM, MOSS ROAD, FALKIRK FOR INLAND ENGINEERING LIMITED - P/07/0383/FUL (DETAILED)

Meeting: REGULATORY COMMITTEE

Date: 19 June 2007

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Steven Carleschi
Councillor Lynda Kenna
Councillor Charles MacDonald
Councillor Craig Martin

Community Council: Airth Parish

Case Officer: Donald Campbell

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 Planning permission is sought to modify Condition 1 of detailed planning permission F/2003/0744 to allow for a continuation of upfilling of land, and its associated restoration to agricultural use, at Moss Road, Falkirk. Detailed planning permission (Ref. No. F/2003/0744) was granted on 14 May 2004 to allow upfilling and restoration of land for agricultural use. The planning permission was for a limited 3 year period and expired on 13 May 2007. To date the site has not been entirely upfilled and only partial land contouring in readiness for restoration has been undertaken. The current applicant is seeking a further six month period to complete the upfilling and restoration works consented in 2004.
- 1.2 The application site is located immediately to the west of Moss Road and to the east of Dunmore Moss. The surrounding area is a mix of agricultural land and woodland, with some individual houses located along Moss Road. A timber mill facility is located to the north of the site. High voltage overhead pylons run north to south through the site. The overall site area measures some 4 hectares, with the majority of the outstanding infilling to take place within the southern and northern parts of the site. The applicant has indicated that a further 10,000 to 20,000 cubic metres of infill is still required to upfill the site to the previously consented levels. The importation of this required amount of material, as well as the overall restoration of the site for agricultural purposes will take no longer than 6 months to complete.

- 1.3 The site was originally operated by Central Scotland Waste Management Limited (CSWM). This company went into liquidation in February 2005 and the site lay dormant for approximately 18 months. The current applicant recommenced operations at the site in June 2006. However, due to the 18 month period when the site lay dormant, upfilling materials that were anticipated to be imported into the site were not, therefore the original 3 year timescale granted was not sufficient to upfill the whole site. Therefore the current applicant is seeking a 6 month extension to the planning permission to complete the works.
- 1.4 The application is located within the Dunmore Moss and Wood Wildlife site.

2. SITE HISTORY

- 2.1 F/76/0673 - Infilling of Ground and Restoration to Agricultural Use (Detailed) - granted 31 January 1977 (limited 2 year consent).
- 2.2 F/89/0572 - Use of Land for Tipping Purposes (Renewal of Temporary Planning Permission) - granted 18 August 1989.
- 2.3 F/2003/0744 - Upfilling and Restoration of Land to Agricultural Use (Detailed) - granted 14 May 2004 for a limited 3 year period.

3. CONSULTATIONS

- 3.1 Scottish Water has no comment to make regarding this application.
- 3.2 SEPA has no objection to the application but comments that waste material can only be imported into the site if a waste management license is in effect or if an activity exempt from licensing has been registered with SEPA. SEPA therefore wish to make the applicant / agent aware that such works will require an exemption under the Waste Management Regulations.
- 3.3 Central Scotland Police has commented that since the opening of the site, it has received a number of complaints with regard to the state of the roadway and the volume and type of vehicles using the same. Observations made on 26 April 2006 consisted of severe damage and subsidence on the east side of Moss Road which appeared to be caused by vehicles entering and leaving the site; rutting and displacement to the verges on both sides of the site entrance; passing tipper lorries having to use the road verge; considerable quantities of soil mud and stone being noted on the roadway, particularly near the site entrance.
- 3.4 The Environmental Protection Unit has commented that the use of inert materials as infill, and thereafter covering with topsoil is satisfactory. In the event of complaints of nuisance arising as a result of these works, appropriate action will be taken in terms of the Environmental Protection Act 1990. As part of the restoration works, the applicant shall undertake a site investigation to establish if contamination is present on the site.

- 3.5 The Roads and Development Unit has commented that since the site opened, there has been a catalogue of complaints and serious concerns regarding road safety from a number of sources. These road safety concerns have arisen as a result of the failure by the operators to comply with the conditions of their planning consent, namely the requirement of vehicles to pass through a wheel washing facility prior to exiting the site. This has led to Moss Road being coated with thick mud / detritus on a regular basis. For road safety reasons and to ensure the safety of the traveling public, the Corporate and Commercial (Roads) Service has recommended that it is strongly opposed to this application to extend the operation of the site. Should operations of the site be extended for six months then 11 specific conditions are recommended for inclusion in any planning permission. These conditions primarily relate to ensuring that no mud or detritus is carried onto the public road as well as physical improvements to the road itself in terms of its condition and overall road safety.
- 3.6 Scottish Natural Heritage has no comments to make on the proposal.
- 3.7 Scottish Power has not responded to consultation.

4. COMMUNITY COUNCIL

- 4.1 Airth Parish Community Council has objected to the planning application on the grounds that the operator of the site has failed to install adequate wheel washing facilities, has failed to keep Moss Road free from mud and soil; has failed to adhere to requests from the Council to keep to planning agreements; have failed to ensure lorries are properly covered; has failed to ensure that lorries using the site were properly managed.
- 4.2 Complaints received by the Community Council include lorries queuing to gain access to the site and causing an obstruction and debris on road causing damage to cars. The Community Council has less confidence in the new company than the original company to fulfill its obligations. The company should be instructed to complete their obligations and have the site restored and be instructed to ensure a two year aftercare of the site.

5. PUBLIC REPRESENTATIONS

- 5.1 Four letters of objection have been received with respect to this application. The principal issues raised are as follows:-
- the condition of the soft verges having a detrimental impact on road safety. Large ruts will be dangerous if drivers have to drive too close to them, when passing a lorry.
 - dirty condition of the road.
 - repairs to the road will have to come out of public funds.
 - the application is contrary to the Rural Local Plan.
 - both SEPA and Falkirk Council have served enforcement notices.
 - the application is contrary to the proposed Airth and Dunmore Local Plan in that the site is not mentioned for infill.
 - the site has a huge dramatic visual impact on the near residents and the estate as a whole.
 - the application has severely increased road traffic movements on Moss Road.
 - the current application does not take into account sufficient road clearance and damage already inflicted on road verges.

- debris on the road and insufficient road cleaning has resulted in Falkirk Council calling the police on several occasions.
- the level of the site is higher than adjoining land, therefore, there is no reason to carry on infilling.
- erosion of the road verges as a result of lorries being too heavy and wide for the road.
- dirt, mud and rocks are continually deposited onto the road by lorries. Actions instructed by Falkirk Council to rectify this have not worked.
- damage has been caused to vehicles of residents on Moss Road.

5.2 The applicant (operator of the site) has also submitted a statement in support of the application. The principal issues raised are as follows:

- When the site was taken over in June 2006 it was in a very poor state and the applicant inherited the previous operators problems.
- As the site lay dormant for 18 months the locals thought the site would never reopen.
- As the site lost 18 months of its original planning permission, a further 6 months is required to comfortably finish the operations (this being 1 year ahead of schedule overall).
- The entrance was hardcored and cleared in October 2006, a road sweeper was utilized and a new warm water wheelwash facility was installed.
- The very wet 2006 autumn and winter meant that the public road was difficult to keep clean.
- The new wheel wash was vandalised in March 2007.
- It is intended to evenly grade the land and soil the areas that are not soiled already. The land will be seeded and brought back to agricultural land, which was always the plan by the farmer.

6. DETAILED APPRAISAL

When determining planning applications, the status of the development plan is emphasised in Section 25 of the Town and Country Planning (Scotland) Act 1997. This requires that:

“the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

Accordingly,

6a The Development Plan 2007

Falkirk Council Structure Plan

6a.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.”*

6a.2 This policy generally presumes against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or the development is an appropriate form of agricultural diversification. The principle of upfilling this area was established through the planning permission granted in 2004. The current planning application seeks to extend the life of the site by six months to complete the upfilling and restoration. It is not considered that the proposal offends the term of this policy. Once restored, the site will contribute to land that is available for agricultural use.

6a.3 Policy ENV.3 'Nature Conservation' states:

"The protection and promotion of nature conservation interests will be an important consideration in assessing all development proposals. Accordingly:

- (1) Any development likely to have a significant effect on a designated or potential European Site under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or on a Ramsar or Site of Special Scientific Interest (see Schedule Env.3), must be subject to an appropriate assessment of the implications for the sites conservation objectives. The development will only be permitted where the appropriate assessment demonstrates that:
 - (a) it will not adversely affect the integrity of the site, or;*
 - (b) there are no alternative solutions and there are imperative reasons of overriding national public interest.**
- (2) Sites of local or regional importance, including Wildlife Sites and Sites of Importance for Nature Conservation, will be defined in Local Plans. The designation of Sites will be based on Scottish Wildlife Trust criteria. Development likely to have an adverse impact on any such site or feature will not be granted planning permission unless it can be clearly demonstrated that there are reasons which outweigh the need to safeguard the site or feature. Until such areas are defined in Local Plans, identified or potential sites will be afforded the same protection.*
- (3) Local Plans will identify opportunities for enhancing the natural heritage including new habitat creation, the identification of 'wildlife corridors' and measures to ensure the protection of priority local habitats and species as identified in the forthcoming Falkirk Local Biodiversity Action Plan.*
- (4) The aims and objectives of the forthcoming Falkirk Local Biodiversity Action Plan and any associated Species Action Plans and Habitat Action Plans will be a material consideration in assessing any development proposal likely to impact on local priority species and habitats."*

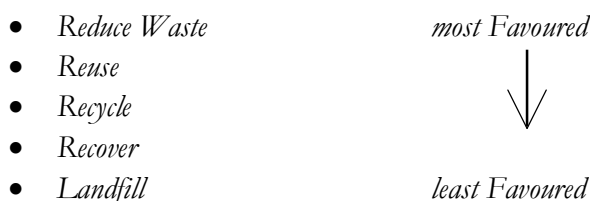
6a.4 This policy presumes against development in Wildlife Sites if it is likely to have an adverse impact on them. The site in its current condition could be considered as detrimental to the overall integrity of the Wildlife Site. It is considered that its restoration will enhance the value of the Wildlife Site as a whole.

6a.5 Policy ENV.11 ‘General Approach to Waste Management’ states:

“Provision will be made for a range of waste management facilities which will adequately treat the waste generated in the area and assist in meeting any specific regional waste management needs identified by the National Waste Strategy and any subsequent Regional Waste Strategy, subject to the following general principles:

- (1) *A general presumption in favour of new facilities which support the aims of the ‘Waste Hierarchy’ (see Figure 2) in shifting the emphasis away from landfilling of waste towards other options including: waste minimisation, re-use of materials, re-cycling and recovery of waste materials.*

Fig. 2: The Waste Hierarchy



- (2) *The treatment of waste as close as possible to the area in which it is generated.*
- (3) *The minimisation of the impact on the local environment and the amenity of communities through the selection of appropriate sites and adoption of best operational practices.*

The preferred location for new waste management facilities will be within or adjacent to existing waste management sites or alternatively within general industrial areas.”

6a.6 Policy ENV.11 seeks to ensure that waste disposal and management does not damage the environment or affect the amenity of communities and new facilities are expected to achieve much higher standards than was the case in the past. It is clear that the application site has not operated well. The primary concern of Falkirk Council, the police, the Community Council and local residents has been mud and debris being carried onto the public road, the detrimental impact on Moss Road caused by large vehicles using it and overall road safety concerns. Any approval of the planning application to extend the life of the site by six months would have to ensure that these issues are addressed.

Rural Local Plan

6a.7 Policy RURAL 1 ‘New Development in the Countryside’ states:

“That within the countryside (as defined in paragraph 3.19), there will be a general presumption against new development except in the following circumstances :-

1. *Housing development absolutely essential to the pursuance of agriculture, forestry or other economic activity appropriate to a rural location. The occupation of new houses shall be limited to persons employed in agriculture as defined in Section 275(1) of the Town and Country Planning (Scotland) Act 1972, or to persons employed in forestry or other appropriate rural activities and the dependants of such persons.*

2. *Small scale housing developments within the wooded policies of former country estates, where servicing costs will be met by the developer, where the development can be satisfactorily integrated into the landscape, where detailed development briefs have been drawn up by the District Council and provided that the proposed development does not lie within a site included in the "Inventory of Gardens and Designed Landscapes in Scotland".*
3. *On the Slamannan Plateau as indicated on the Policies and Proposals Map, single dwellinghouses developed in conjunction with significant tree planting schemes. Such proposals will be considered on merit with due regard to the provisions of the District Council's "Guide to Tree Planting/Housing Proposals on Slamannan Plateau".*
4. *Appropriate infill development where a clear gap site exists which would not contribute to ribbon, backland or sporadic development forms.*
5. *Industrial/business development where there is an overriding national or local need and a rural site is the only suitable location.*
6. *Development for tourism and countryside recreation purposes where the District Council is satisfied that the proposal requires a rural setting, is appropriate in terms of its type, scale and location and that it would enhance the image of the District. Proposals which accord with the District Council's Tourism Strategy are particularly welcomed.*
7. *Telecommunications development and development relating to the temporary use of land particularly for the working of minerals. Such proposals will be considered on merit, with due regard to the relevant specialised policies of the District Council.*

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

6a.8 This policy generally presumes against new development in the countryside except in specified circumstances. Clause 7 states that development relating to the temporary use of land will be considered on its merits, with due regard to the relevant specialised policies of the District Council. Consequently, Policy Rural 30 is relevant and states:

6a.9 Policy RURAL 30 'Tipping and Waste Disposal' states:

"That applications for tipping and waste disposal will be considered on their merits, in accordance with all relevant District Council policies and standards of provision. There will be a general presumption against proposals which, in the opinion of the District Council, would have a significant adverse impact on the visual and residential amenity of the surrounding area or result in unacceptable levels of pollution. Conditions will be imposed to strictly control the timescale of operations and to ensure satisfactory restoration of the land."

6a.10 As stated in para. 6.6 of this report, the site has not operated well and there has been an adverse impact on the area with respect to mud and debris being carried onto the public road to the detriment of road users and residents of the area. Any approval of the current application to extend the life of the site would have to ensure that these issues are addressed.

- 6a.11 Accordingly, it is considered that as long as sufficient safeguards are put in place, with the site operator required to undertake a number of road safety measures, measures to ensure mud and debris is not carried onto the public road and measures to ensure the public road is maintained in a satisfactory condition, the proposal is considered to accord with the terms of the development plan.

6b Material Considerations

- 6b.1 The material considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), Scottish Executive guidance, the planning history of the site, consultation responses and representations received and the applicant's statement in support of the application.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

- 6b.2 The application site is located within a countryside area as defined by the emerging Local Plan as well as being specifically included within the Dunmore Moss and Wood Wildlife Site.

- 6b.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."*

- 6b.4 Policy EQ24 only permits certain specified uses in the countryside as indicated by other relevant emerging Local Plan policies. These policies will be considered later in this section of the report.

6b.5 Policy EQ24 - 'Ecological Sites And Features' states:

- “(1) Development affecting nature conservation sites of national or international importance (including Special Protection Areas, Special Areas of Conservation, Ramsar Sites) will not be permitted unless it can be demonstrated that the integrity of the site will not be adversely affected, or where there are imperative reasons of overriding public interest, including those of a social or economic nature, and there are no alternative solutions.*
- (2) Development affecting Sites of Special Scientific interest will not be permitted unless it can be demonstrated that the overall objectives of the designation and the overall integrity of the designated area would not be compromised, or any adverse effects are clearly outweighed by social or economic benefits or national importance.*
- (3) Development affecting Wildlife Sites, Sites of Importance for Nature Conservation, Local Nature Reserves, wildlife corridors and other nature conservation sites of regional or local importance will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (4) Development likely to have an adverse effect on species which are protected under the Wildlife and Countryside Act 1981, as amended, the Habitats and Birds Directives, or the Protection of Badgers Act 1992, will not be permitted. Development which is likely to have a significant adverse effect on the Bean Geese on the Slamannan Plateau will also not be permitted, except where any adverse effects are clearly outweighed by social or economic benefits of substantial local importance.*
- (5) Where development is to be approved which could adversely affect any site of significant nature conservation value, the Council will require mitigating measures to conserve and secure future management of the site's natural heritage interest. Where habitat loss is unavoidable, the creation of replacement habitat to compensate for any losses will be required.*
- (6) The Council, in partnership with landowners and other relevant interests, will seek the preparation and implementation of management plans for sites of nature conservation interest.”*

6b.6 Policy EQ24 states development affecting wildlife sites will not be permitted unless it can be demonstrated that the overall integrity of the site will not be compromised, or any adverse effects are clearly outweighed by social or economic benefits of substantial local importance. The site in its current condition could be considered as detrimental to the overall integrity of the wildlife site. It is considered that its restoration will enhance the value of the wildlife site as a whole.

6b.7 Policy ST18 - 'Waste Management Facilities' states:

“Proposals for large scale waste management facilities will be directed to locations within or adjacent to existing waste management facilities and general industrial areas as indicated by Policy EP2. Any proposal must demonstrate that the impact on the environment and local communities is acceptable and comply with the other policies of the Local Plan.”

6b.8 It is not considered that a six month extension to current upfiling of the site constitutes a large scale waste management operation. However, Policy ST18 states that any proposal must demonstrate that the impact on the environment and local communities is acceptable and complies with other policies of the Local Plan. Any approval of the planning application to extend the life of the site by six months would have to ensure that its impact is satisfactorily controlled.

- 6b.9 Accordingly, it is considered that as long as sufficient safeguards are put in place, with the site operator required to undertake a number of road safety measures to ensure mud and debris is not carried onto the public road, and measures to ensure the public road is maintained in a satisfactory condition, the proposal is considered to accord with the terms of the emerging Local Plan.

Scottish Executive Guidance

- 6b.10 National Planning Policy Guideline 10 (NPPG10) - Planning and Waste Management, states that land raising is most suited to derelict or otherwise degraded sites where it can be a means to rehabilitation and the creation of a new landscape. However, NPPG10 goes on to state there will seldom be cases where the need for improvements to agricultural land justifies land raising.
- 6b.11 With respect to the current application, the proposal is to extend the life of the site for a further six months to ensure that this degraded area of land is brought back into a productive agricultural use. It is not considered that the proposal offends the guidance contained within NPPG10.
- 6b.12 Scottish Planning Policy 15 (SPP15) - Planning for Rural Development, states that Planning Authorities should support a wide range of economic activity in rural areas and seek environmental enhancement through development at every opportunity. However, a more positive approach to development must be accompanied by effective regulation. A consistent approach to decision making will be required to ensure that stakeholders are clear about what will be allowed and the standards that will be sought.
- 6b.13 As stated in para.6b.9 above, it is considered that only with effective safeguards in place, will the proposal be considered acceptable.

Planning History of the Site

- 6b.14 As detailed earlier in this report, planning permission was granted for a 3 year period for the upfilling of the site and its restoration to agricultural use. The planning permission expired on 13 May 2007 and the operator has verbally confirmed that no lorries are currently bringing materials into the site. However, the upfilling of the site was not complete by 13 May 2007 and the operator estimates that a further 10,000 to 20,000 cubic metres of material is needed to attain the levels previously consented, in order to allow the land to be graded and restored for an agricultural after use.
- 6b.15 It transpires that the original operator (Central Scotland Waste Management Limited) went into liquidation in February 2005, and the site lay dormant for about 18 months. The current operator (Inland Engineering Limited) attained control over the site and continued upfilling operations. It is evident that had the site not lain dormant for about 18 months, the site would have been upfilled within the original 3 year period, with it now having been restored back to agricultural land. The current operator is seeking a further 6 month period to complete the upfilling and restoration works.

- 6b.16 When planning permission was previously granted, it was not anticipated that the upfilling and restoration works would not have been completed within the three year period and consequently, there were no safeguards put in place in the event this was the case. The current planning application is for a limited period and the operator is confident that all upfilling and restoration works will be completed within that timescale.

Consultation Responses

- 6b.17 SEPA and Scottish Water have raised no objections to the application. Central Scotland Police has raised significant concerns about the current condition of Moss Road, and in particular debris having been carried onto the public road from the site and general road safety issues. These concerns have been reflected in comments made by Airth Parish Community Council, the Council's Corporate and Commercial (Roads) Service and the four objectors.
- 6b.18 Should the operator be permitted to continue operations for a further six months, it will be a prerequisite of any further material being brought into the site that satisfactory working conditions are put in place and Moss Road is firstly repaired and then maintained in a safe and satisfactory manner.

Representations Received

- 6b.19 Four letters of objection have been received and the issues raised have been detailed earlier in this report.
- Issues raised about road safety, the current condition of the road and mud and debris being carried onto the public road is acknowledged and concurred with. However, it should be noted that other large vehicles use the road and its current condition therefore cannot entirely be attributable to this upfill site. The operator is also aware of the concerns raised and has had installed a high specification wheel cleaning facility, employed a road cleaner and cleared mud from the concrete site access road, all to prevent debris being carried onto the public road.
 - Subject to appropriate mitigation measures being in place, it is not considered that the proposal is contrary to the Falkirk Council Structure Plan, the Rural Local Plan, nor the Falkirk Council Local Plan Finalised Draft (Deposit Version).
 - It is considered that allowing the site to remain incomplete and unrestored will have a greater negative impact on the visual amenity of the area, than to allow a further six months to complete and restore the site.
 - The original planning permission allowed for up to 2 metres land raising of the site.

Applicant's Statement in Support of the Application

- 6b.20 The current operator of the site has submitted a letter in support of the application, the details of which have been outlined earlier in this report.
- It is agreed that there were significant problems with the previous site operator.
 - As the site lay dormant for 18 months, the upfilling has not been completed within the 3 year consented timescale. To allow a further six months, with appropriate safeguards, would appear reasonable given the circumstances of this planning application.

- It is agreed that the current operator has made improvements to the operation of the site. In particular, the condition of the site entrance has been improved, the ineffective wheel wash has been replaced with a mechanical warm water wheel wash and a road sweeper has been employed on Moss Road. It appears that the wheel wash was vandalised and was inoperable for a short period of time.
- Weather conditions during the autumn and winter of 2006 were very wet and this contributed to mud and debris being carried onto the public road.

6c Conclusion

- 6c.1 This planning application seeks consent to continue to import material into the site for a further six months to allow the final form and agricultural after use to be implemented as per the original planning permission granted in 2004.
- 6c.2 It is acknowledged that the previous operators of the site did not adhere to the conditions attached to the original planning permission, and that the most recent operations have caused road safety issues. However, in the interests of finishing the site to a standard that was originally intended, it would seem appropriate to allow a further six month extension to operations, subject to appropriate and very stringent safeguards being put in place.
- 6c.3 The consequence of this would be that the site could be returned to productive agricultural use to the benefit of the local and wider environment. It could be reasonably assumed that the vast majority of material imported into the site would be over the drier summer months. Appropriately worded and enforced conditions would mean that no mud or debris would be carried onto the public road and Moss Road itself would be repaired immediately and after operations had finished on site.
- 6c.4 Whilst it is acknowledged that past and more recent operations of the site have not been without their problems, it is concluded that a further specifically conditioned six month consent would be appropriate in the circumstances.

7. RECOMMENDATION

- 7.1 It is therefore recommended that permission be granted subject to the following condition(s):
- (1) This permission shall be valid for a limited period of six months from the date on which importation of material into the site is recommenced. The applicant shall notify this Planning Authority in writing of the commencement date. In any event, the final restoration shall be complete by 31 December 2007.
 - (2) Prior to any further material being imported into the site, the applicant shall provide a method statement to the Planning Authority for its written approval, of the operation of the site to include a road cleaning regime and vehicle routing.
 - (3) Prior to any further material being imported into the site, the vehicular access on to Moss Road shall be constructed in accordance with the “Design Guidelines and Construction Standards for Roads in the Falkirk Council Area, as amended January 2000” (6 metres wide access road with an 11 metre radii to form a bellmouth).

- (4) Prior to any further material being imported into the site, the site access will be formed and in a condition such that no surface water, mud or loose material will be discharged or carried out from it onto the public road.
- (5) Prior to any further material being imported into the site, the applicant shall confirm to this Planning Authority in writing that the gates that are 11 metres back from the public road are operational.
- (6) No further material will be imported into the site until 6 metre x 215 metre clear (carriageway level) visibility splays are provided in both directions from the site access to Moss Road. The visibility splays shall be maintained for the duration of the upfilling and restoration works.
- (7) No further material shall be imported into the site until clear (carriageway level) visibility splays are provided on the inside of the bend (east side) on Moss Road to allow a right turning vehicle at the site entrance to be seen from a point 215 metres north of the access by south bound vehicles and to provide 215 metres forward visibility for a right turning vehicle into the site to see north bound vehicles.
- (8) No further material shall be imported into the site until signage is erected on Moss Road warning drivers of heavy plant crossing / vehicle turning and slippery road surface. Details of the type and location of the signage shall be submitted to the Planning Authority for its prior written approval and shall be completely removed, including ground reinstatement, within 1 month of completion of works on site.
- (9) The vehicle wheel washing facilities installed on site shall be maintained in a working condition at all times. All vehicles exiting the site shall pass through the wheel washing facilities so that no dirt, mud or debris is discharged or carried onto the public road.
- (10) When the wheel washing facilities are not operational, no vehicles shall exit the site.
- (11) A joint applicant / Falkirk Council survey of the condition of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense prior to any further material being imported into the site.
- (12) On completion of the upfilling and restoration works at the site a second joint applicant / Falkirk Council survey of Moss Road and its verges shall be undertaken. The survey shall produce an agreed list of remedial works to be undertaken by the applicant at his expense within two months of completion of the restoration works on the site.
- (13) All vehicles leaving the site shall exit left only and all vehicles entering the site shall enter right only. Prior to any further material being imported into the site, a sign, to be agreed in writing with this planning authority, shall be erected at the site entrance stating this arrangement.

- (14) The material to be used in the upfilling of the site shall consist of inert or inactive material only.
- (15) Within two months of the completion of the upfilling and restoration works the site access shall be grubbed up and the road verge reinstated.
- (16) Prior to any further material being imported into the site, a detailed landscaping plan of the restored site shall be submitted to the Planning Authority for its written approval. Thereafter, the restoration of the site shall be implemented in accordance with the approved landscaping plan during the first available planting season after upfilling works have been completed.
- (17) No operation shall take place within the site, and no vehicles shall enter or leave the site outwith the following times:

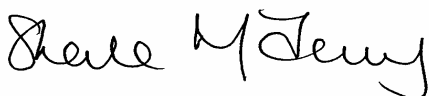
0730 hours to 1800 hours Monday to Friday

0730 hours to 1300 hours Saturdays

All Day Sundays

Reason(s):

- (1) To ensure that the development is completed in a satisfactory and timeous manner.
- (2-12) To safeguard the interests of the users of the highway.
- (14) To ensure the Planning Authority can control the type of material which shall be used to infill the site.
- (13,15-16) To safeguard the environmental amenity of the area.
- (17) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.



.....
For Director of Development Services

Date: 13 June 2007

LIST OF BACKGROUND PAPERS

1. Letter of representation received from Robert Fergie, 77 Alloa road, Carron, Falkirk FK2 8EJ.
2. Letter of representation received from C Donnelly, 4 Fairfields, Moss Road, Dunmore, Falkirk.
3. Letter of representation received from Susan James, 3 Fairfields, Moss Road, Dunmore, Falkirk.
4. Letter of representation received from Trevor Taylor, 5 Fairfields, Moss Road, Dunmore, Falkirk.
5. Approved Falkirk Council Structure Plan 2007.
6. Adopted Rural Local Plan.
7. Falkirk Council Local Plan (Finalised Draft Deposit Version).
8. Planning Applications Ref No F/2003/0744 and P/07/0383/FUL.
9. NPPG10 and SPP15.

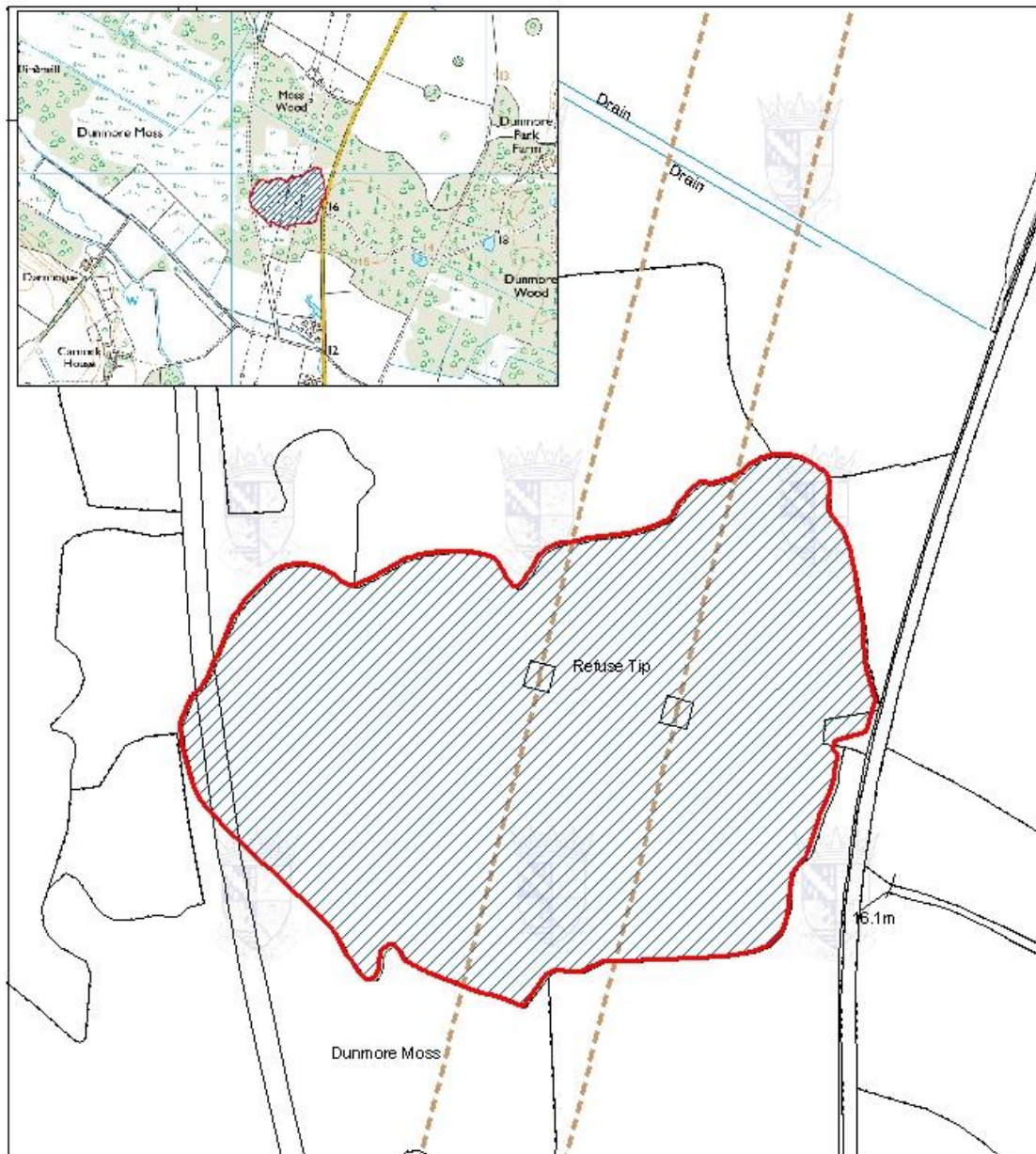
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504707 and ask for Donald Campbell (Development Control Co-ordinator).

Planning Committee

Planning Application Location Plan

P/07/0383/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



Based upon Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationary Office (HMSO) (c) Crown Copyright. Unauthorised reproduction infringes Crown copyright Falkirk Council 100023384 (2009)



Mr Donald Campbell
Development Management Co-Ordinator
Planning and Transportation
Development Services
Falkirk Council
Abbotsford House
David's Loan
Falkirk
FK2 7YZ

12 September 2007

Our ref: WB/Darnbogue/01
Your Ref: P/07/0383/FUL/DC/SS

Dear Mr Campbell

Subject Modification of Condition No.1 of Planning Permission F/2003/0744 to Allow the Continuation of Works for the Upfilling and Restoration of Land to Agricultural Use.
Location Land to the North East of Darnbogue Farm, Moss Road, Falkirk
Reference No P/07/0383/FUL

I refer to your letter of 6th September 2007, our subsequent meeting and your request for professional advice with respect to the potential for securing the adequate restoration of the above site.

Background

The site had planning permission which permitted the upfilling and restoration of land to agricultural use at Darnbogue Farm. This permission lapsed on 13th May 2007. The application area extends to some 4 ha and it is understood that some 10,000 to 20,000 cubic metres of material are required to complete upfilling operations. Some 75% of the site was previously upfilled by Central Scotland Waste Management Limited who went into liquidation in February 2005 leaving the site dormant and in an unrestored state. As the site lay dormant for 18 months the anticipated importation of materials was not realised within the 3 year timescale of the permission and the application by Inland Engineering Ltd relates to an extension in time to allow the completion of works.

Site Inspection

A brief inspection of the site was undertaken on 6th September 2007. The inspection found that whilst much of the area has been upfilled, restoration works have not been progressive and there are outstanding works in these areas relating to the requirement for minor grading works followed by soil spreading, harrowing and seeding. Whilst the submitted plans identify the upfilling operations over the full application area they do not delineate which parts of the site have been upfilled to date and which areas require to be upfilled and, as such the actual extent of current liability is unclear.

Consideration of the Potential to Secure a Restoration Bond over the Whole Site

With respect to the potential for the provision of a financial guarantee to cover the whole site, it has been identified that some 75% of the area has been upfilled by the previous operator, although final restoration was not effected and, as this land has no significant potential to generate financial profit, it is effectively a liability and it is understandable that insurers would be unwilling to offer a financial guarantee over this area and it is therefore considered unreasonable to expect the current applicants to provide surety against the previous actions of other parties.

Consideration of Restoration Liability over the Remaining Uppill Area

The inert materials and soils utilised to infill the site are likely to be sourced from demolition and/or construction works undertaken in the surrounding district and the successful infilling of the site within the stated 6 month timescale is dependant on the operator successfully sourcing such works and securing the contract to remove the relevant materials. On this matter the applicant is in somewhat of a 'catch 22' situation in that without signed contracts the operator cannot guarantee to complete the upfilling operations within the proposed time period and, at the same time, from a commercial view point, the operators cannot tender for contracts until they have secured planning permission for the deposition of the materials.

When considered against the alternative of depositing materials in a licenced landfill site, the utilisation of construction materials for restoration is more sustainable from both an economic and environmental viewpoint. As the operator will expect to have a clear profit margin from the proposed upfilling operations there is a clear incentive for the operator to ensure that the maximum volume of materials are imported to the site. However, as previously stated, the sourcing of adequate materials within the proposed 6 month period cannot be guaranteed and if a bond was required to secure the completion of the site to the proposed restoration levels this would require the purchase of materials to effect restoration, the cost of which would be significant and would clearly not be economically viable.

As the operator cannot guarantee to source the required materials within stated timescale, the matter is to an extent outwith their control and it is considered unreasonable to require that they be required to provide a financial guarantee to cover full reinstatement. Furthermore, as the matter is outwith their control it is considered unlikely that a financial institution would be prepared to offer a financial guarantee.

On this matter, it is considered that the area being upfilled to create agricultural land has regenerated since the original peat stripping was undertaken and that the existing landform, in itself, does provide a habitat which is beneficial with respect to nature conservation. Accordingly, in the event that operations were to cease prior to the final upfilling of the land, as it would be unfeasible to purchase materials for upfilling, it is recommended that restoration works be restricted to the grading of upfilled materials to create a smooth transition between the existing and created landform.

With respect to final landuse it is noted that the surrounding area in the vicinity of the site has been designated as a Listed Wildlife Site and, in the event that the final strip of upfilling was not fully reinstated, it is considered that that this area would, over time, regenerate naturally and that this would be likely to produce a more ecologically diverse habit which may be preferable to that created by agricultural grazing.

Timescale of Permission

I note that the proposed completion date has been set at 6 months from the commencement of the extended permission and it is understood that any start date would run from the conclusion of a roads agreement and the completion of satisfactory works on the site access.

As a definitive date cannot be given for the conclusion of these works, the start and completion date for the consent is uncertain. On this matter I would point out that the final restoration works require to be undertaken in appropriate weather conditions which are conducive to soil handling. Accordingly, in the event that operations are scheduled to cease in mid-winter, I would suggest that any permission may wish to make provision for an extended time period for restoration works only.

Consideration of Options to Minimise Restoration Liability

Whilst it has been established that the operators would be unlikely to be able to secure a financial guarantee with respect to full site restoration there are nevertheless various aspects which could be considered to reduce and potential liability.

It is considered that it would not be unreasonable to expect progressive restoration to have been undertaken and it is evident that no significant restoration works have been undertaken by the original operator, nor by the applicants since they recommenced operations in June 2006. Accordingly, to improve the current condition of the site, and to reduce the potential liability at the end of operations it is recommended that the Council review Condition 16 and require that the detailed landscaping plan incorporate details for the reinstatement of those areas currently upfilled, this to be undertaken to the written satisfaction of the Council, prior to the commencement of the deposition of further inert materials. On this matter it is acknowledged that soils importation would be required during this period. The implementation of such a requirement would obviously extend the required consent period to upfill the site; however in light of the expressed concerns over restoration it is considered that any disbenefit from a time extension would be outweighed by the reduction in the potential liability at the end of upfilling operations.

It is also recommended that any consent includes a condition which requires continuing grading and soiling of the remaining operational area. If this was implemented then, in the event that operations cease, restoration requirements to bring the site to an acceptable condition would be minimal.

Conclusion

For the reasons identified above it is considered unreasonable to require the operators to exhibit a restoration bond for previously upfilled areas and it is unlikely that the operator would be able to secure such a guarantee from a financial institution.

The Regulatory Committee can require the early restoration of the existing upfilled areas and the progressive restoration of areas where upfilling is ongoing thereby minimising any potential restoration liability.

In the event that the Regulatory Committee decide that a financial bond is required for the existing site this would require to be the subject of a topographical survey to accurately delineate works to date and to allow the detailed quantification of the works required to adequately reinstate the site.

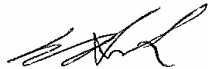
The Regulatory Committee could consider the possibility of setting up an escrow or joint account between the Council and the operator whereby the operator would be required to deposit monies on a pro rata basis in relation to imported materials over the 6 month period thereby ensuring that a nominal sum is available at the cessation of upfill operations to effect limited restoration, should this be required, the monies being returned to the operator immediately following the satisfactory restoration of the site.

It has been identified that one of the on-going concerns expressed by Councillors has been the extended duration of upfilling operations. On this matter it should be noted that any requirement to enter into a legal agreement is likely to further delay any works by several months.

The Regulatory Committee must also give due consideration to the fact that the current application represents an opportunity for the potential restoration of the site. In the event that planning permission is not forthcoming then the site will undoubtedly remain in its current degraded condition.

I trust these comments are of assistance. Should you require clarification on any point please do not hesitate to contact me.

Yours sincerely



William Booth BSc MRICS MIQ
Dalglish Associates Ltd