

FALKIRK COUNCIL

MINUTE of MEETING of the PLANNING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 15 JUNE 2011 at 9.30 A.M.

PRESENT: Councillors Buchanan, Carleschi, Lemetti, C Martin, McLuckie, McNeill, Nicol and Thomson.

CONVENER: Councillor Buchanan.

APOLOGIES: Councillors A MacDonald, Mahoney and Oliver.

ATTENDING: Director of Development Services; Acting Director of Law and Administration Services; Development Manager; Development Management Co-ordinator (B Whittle); Roads Development Co-ordinator; Transport Planning Co-ordinator; Environmental Health Officer (S Henderson); Legal Services Manager (I Henderson); and Committee Officer (A Sobieraj).

DECLARATIONS OF INTEREST: None.

Prior to consideration of business, the Member below made the following statement:-

- Councillor Nicol informed the Committee that as he had not attended the site visit he would not take part in consideration of planning application P/10/0848/FUL (minute P29).

P46. MINUTES

There was submitted and **APPROVED:-**

- (a) Minute of Meeting of the Planning Committee held on 18 May 2011;
- (b) Minute of Meeting of the Planning Committee held On-Site on 30 May 2011; and
- (c) Minute of Special Meeting of the Planning Committee held on 30 May 2011, subject to apologies being recorded for Councillor Thomson.

P47. USE OF LAND FOR BUS PARKING AND INSTALLATION OF PLANT AND MACHINERY FOR REFUELLING AND WASHING DEPOT AT D J MANNING AUCTIONEERS, BRIDGENESS ROAD, BO'NESS EH51 9SF FOR FIRST SCOTLAND EAST LTD – P/10/0848/FUL (CONTINUATION)

With reference to Minutes of Meetings of the Planning Committee held on 23 March and 20 April 2011 (Paragraphs P213 and P8 refer), Committee gave further consideration to Reports (circulated) dated 15 March and April 2011 by the Director of Development Services and an additional Report (circulated) dated 7 June 2011 by the said Director on an application for full planning permission for the use of an existing industrial yard for bus parking including the erection of plant and machinery for refuelling and washing on a site located on the north side of Bridgeness Road, Bo'ness and within the established D J Manning Auctioneers site behind an existing office block building and car park.

Councillor McLuckie, seconded by Councillor Buchanan, moved that the application be approved as detailed in the Report.

By way of an Amendment, Councillor Thomson, seconded by Councillor Carleschi, moved that the application be refused on the grounds that the proposed development would have an adverse impact on road safety and would generate an unacceptable level of noise.

On a division, 4 Members voted for the Motion and 3 voted for the Amendment.

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

- (1) The development to which the permission relates must be begun within three years of the date of the permission.
- (2) Development shall not begin until a scheme for protecting residential properties from noise from the proposed development and associated plant and machinery has been submitted to and approved in writing by the Planning Authority. The development shall not be brought into use until the measures in the approved noise prevention scheme operate to the satisfaction of the Planning Authority.

Reason(s):-

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01 to 04 inclusive.
- (2) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a

contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

- (3) The applicants should be aware that this site is within the area covered by the SEPA indicative flood maps and is therefore identified as being potentially at risk of flooding. Mitigation in the form of the recently constructed Bo'ness flood prevention scheme should provide some degree of comfort in this regard however the responsibility for operational resilience remains the applicants' responsibility.
- (4) It is advised that the applicant prepares an operational plan for all staff at the site advising that all vehicles leaving the site do not undertake a left turn manoeuvre. The erection of an appropriate sign to reflect this is also strongly advised.

P48. CHANGE OF USE FROM RESIDENTIAL CARE HOME TO DWELLINGHOUSE AT 34 CAMELON ROAD, FALKIRK FK1 5SH FOR NHS FORTH VALLEY - P/11/0216/FUL

There was submitted Report (circulated) dated 7 June 2011 by the Director of Development Services for full planning permission for the change of use of a substantial property from a residential care home (formerly a dwellinghouse) to a dwellinghouse and located within the Arnothill Conservation Area at 34 Camelon Road, Falkirk.

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

- (1) The development to which the permission relates must be begun within three years of the date of the permission.

Reason:-

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.

Informative:-

- (1) The application was submitted online, and the decision notice is issued without plans. For the avoidance of doubt, the plan(s) to which the decision refer(s) bear the online reference number(s) 01.

P49. CONSULTATION ON AN APPLICATION UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 TO CONSTRUCT AND OPERATE A BIOMASS RENEWABLE ENERGY PLANT WITH A NET ELECTRICAL OUTPUT OF 100 MEGAWATTS (MWE) AT SITE TO THE WEST OF FORTH PORTS PLC, CENTRAL DOCK ROAD, GRANGEMOUTH FOR FORTH ENERGY - ENQ/2010/0408

With reference to Minutes of Meetings of the Planning Committee held on 26 January and 23 February 2011 (Paragraphs P166 and P189 refer), Committee gave further consideration to Reports (circulated) dated 19 January and 16 February 2011 by the Director of Development Services and an additional Report (circulated) dated 7 June

2011 by the said Director for consideration as a consultee in terms of Section 36 of the Electricity Act 1989 on an application for the construction and operation of a Biomass Renewable Energy Plant with a net electrical output of 100 Megawatts (MWe) at the site to the west of Forth Ports PLC, Central Dock Road, Grangemouth.

Councillor McNeill, seconded by Councillor Carleschi, moved that:-

‘It is recommended that Scottish Ministers refuse the proposed Biomass Renewable Energy Plant, by reason of the height, scale, massing and location which would have an unacceptable visual impact on the Falkirk Council area and, in particular, the town of Grangemouth. This would be to the detriment of the visual amenity of the area and its residents and is contrary to Falkirk Local Plan Policies EQ1 ‘Sustainable Design Principles’ and EQ3 ‘Townscape Design’ which emphasise the importance of design quality and consideration of visual impact. If, however, the Scottish Ministers are minded to grant permission, the draft conditions in the officers’ report should be imposed’.

Accordingly, **AGREED** to inform Scottish Ministers that Falkirk Council recommends that Scottish Ministers refuse the proposed Biomass Renewable Energy Plant, by reason of the height, scale, massing and location which would have an unacceptable visual impact on the Falkirk Council area and, in particular, the town of Grangemouth. This would be to the detriment of the visual amenity of the area and its residents and is contrary to Falkirk Local Plan Policies EQ1 ‘Sustainable Design Principles’ and EQ3 ‘Townscape Design’ which emphasise the importance of design quality and consideration of visual impact. If, however, the Scottish Ministers are minded to grant permission, such permission should be granted subject to the following conditions requiring the submission and approval of details in respect of, amongst other things, the design and appearance of the development, transport assessment and mitigation of impacts, monitoring of the nature and source of fuel, air quality monitoring and, potential for use of thermal energy off site.

- (1) Development shall commence no later than the date occurring three years after the date of the consent. If development does not commence by such a date, the site and the ground shall be fully reinstated by the Company to the specification and satisfaction of the Council.
- (2) Unless otherwise agreed in writing by the Council, in the event of the Biomass Renewable Energy Plant not generating electricity or heat for a continuous period of twelve months, the development shall be decommissioned and the site restored, in accordance with a decommissioning scheme and detailed restoration and aftercare scheme approved by the Council in terms of Condition 16 of the consent.
- (3) Prior to commencement of development, the detailed design of the Grangemouth Biomass Renewable Energy Plant, shall be submitted to and approved in writing by the Planning Authority. The detailed design shall include:-
 - (a) Details of the siting, design and external appearance of all buildings and structures to be erected and retained following the commissioning of the development hereby approved;
 - (b) Details of the colour, materials and surface finish in respect of those building and structures referred to in (a) above;

- (c) Details of the existing and proposed ground levels, building and structure levels and including cross sections through the site;
- (d) Details of all proposed roads, parking, hardstandings, loading and unloading areas and turning facilities;
- (e) Details of permanent artificial lighting;
- (f) Details of permanent fencing or other means of enclosure;
- (g) Details of all hard and soft landscaping; and
- (h) Phasing of all proposed works.

Development shall not commence on site until written approval is given by the Council, thereafter the development shall proceed in accordance with the approved details.

- (4) The development shall be undertaken in accordance with the Application, EIA, Environmental Statement and Supporting Documents, except in so far as it is amended by the terms of the consent or as agreed in writing by the Council.
- (5) No part of the built development shall commence until M9 junction 6 off slip is signalised or alternatively an operational assessment has been carried out of the junction and a scheme of proposed mitigation measures has been submitted to and agreed in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management Directorate. The scheme thereafter agreed shall be fully implemented in the approved manner.
- (6) All forest derived fuels to be used in operating the Grangemouth Renewable Energy Plant shall be certified by accepted sustainability certification systems.
- (7) The applicant shall continuously, throughout the lifetime of the Grangemouth Renewable Energy Plant, record and hold available for inspection by the Council and the Scottish Environmental Protection Agency a written register recording the quantities, nature and sources of fuel combusted including details of certification and transported to the site.
- (8) Prior to commencement of development on site a Construction Traffic Management Plan and Freight Management Plan shall be submitted to and approved in writing by the Planning Authority. This shall include procedures for the movement of traffic including sized loads and escorting requirements. Thereafter work shall commence in accordance with the approved plans.
- (9) Unless otherwise agreed in writing no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
- (10) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

- (11) Prior to the commencement of development the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (12) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.
- (13) Prior to commencement of development, detailed flood mitigation measures shall be submitted to and approved in writing by the Council. The scheme shall include an assessment of the safety of personnel and include acceptable mitigation including consideration of methods of safe access and egress to and from the development. Thereafter the measures approved shall be implemented and maintained for the duration of operational development.
- (14) Prior to commencement of development on site a drainage impact assessment shall be submitted and approved in writing by the Council. Thereafter the development shall commence in accordance with the approved strategy.
- (15) Prior to commencement of operation of the Grangemouth Renewable Energy Plant the applicant shall submit a Biomass Sustainability Policy in consultation with Falkirk Council, Scottish Government, SEPA and SNH. Thereafter the plant shall operate in accordance with the approved policy.
- (16) Unless otherwise agreed in writing with the Council, within twelve months of the site ceasing to be used for the purposes of electricity and heat generation, a scheme for the demolition and removal of the development from the site shall be submitted to the Council for approval. The scheme shall include:-
- (a) Details of all structures and buildings which are to be demolished;
 - (b) Details of the proposed reuse of any buildings to be retained;
 - (c) Details of the means of removal and materials resulting from the demolition and methods for the control of dust and noise;
 - (d) The phasing of the demolition and removal; and
 - (e) Details of the restoration works and the phasing of the restoration works.

Thereafter the demolition and removal of the development (which shall include all buildings, structures, plant, equipment, areas of hardstanding and access road) and subsequent restoration of the site shall be implemented in accordance with the approved scheme.

- (17) Prior to development commencing on site, a risk assessment shall be submitted to and approved in writing by the Council identifying potential accident or emergency situations affecting the energy plant from either within the plant or an external source, for both construction and operational phases of the proposal.

- (18) Unless agreed in writing by the Council, or unless in an emergency, the movement of biomass fuel feedstock by conveyor and the storage of any recovered biomass fuel feedstock (such as recovered wood, paper and cardboard) and all post-combustion residues shall be undercover at all times during the operation of the development.
- (19) The commissioning of the development shall not commence until a scheme for monitoring air quality, within an area to be prescribed by the Council and SEPA, is submitted to and approved in writing. The scheme shall include measurement location(s) within the relevant areas from which air quality will be monitored, the equipment and methods to be used and frequency of measurements, not less than twelve months prior to the commissioning of the development and for measurements to be undertaken continuously thereafter until plant decommissioning.
- (20) Development shall not commence until evidence has been provided to demonstrate that there will be no exceedences of the National Air Quality Strategy SO₂ objectives. The methodology shall be agreed with the Council and SEPA and shall include air dispersion modelling and ambient monitoring of baseline conditions. Where the assessment predicts an exceedence of any of the LAQM national air quality objectives for SO₂, the applicant shall provide a scheme for mitigating their impacts for approval by the Council and SEPA and thereafter implemented in accordance with said details.
- (21) Prior to commissioning of the development an updated CHP Feasibility Review assessing potential commercial opportunities for the use of heat from the development shall be submitted to and approved in writing by the Council. This shall provide for the ongoing monitoring and full exploration of potential commercial opportunities to use heat from the development and for the provision of subsequent reviews of such commercial opportunities as necessary. Where viable opportunities for the use of heat in such a scheme are identified, a scheme for the provision of the necessary plant and pipework to the boundary of the site shall be submitted to and approved in writing by the Council. Any plant and pipework installed to the boundary of the site to enable the use of heat shall be installed in accordance with the agreed details.
- (22) Commissioning of the development shall not take place until sufficient plant and pipework has been installed to ensure that there are no barriers to the future supply of heat to the boundary of the site under Condition 21 at a later date if opportunities to do so are identified.
- (23) Commencement of the development shall not take place until a scheme for informing the local community about the progress of the development has been submitted to and approved in writing. The scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Council.
- (24) Prior to commencement of operation of the Grangemouth Renewable Energy Plant a Vehicle Management Plan shall be submitted to and approved in writing by this planning authority. This shall include procedures for recording the number of fuel deliveries to the plant by road each calendar month and for making such records available to the planning authority for inspection on request. Should the number of fuel delivery vehicles entering the plant per day exceed 29

then at the request of this planning authority the plant operator shall submit a transport assessment for the approval of this planning authority in writing and any mitigation measures identified in the approved assessment shall be fully implemented in the approved manner.

Reason(s):-

- (1) To ensure work commences within a reasonable time period.
- (2,16) To ensure that the buildings are removed and the site is properly restored in the interests of visual amenity.
- (3) To enable the Council to fully consider these details and to exercise reasonable and proper control over the design and appearance of the development.
- (4) To ensure compliance with commitments made in the extant application.
- (5,8) To ensure the development does not cause unreasonable congestion within the surrounding urban road network and in particular at the M6 off ramp, junction 6, during construction and operation.
- (6-7) To ensure that only certified biomass fuel stocks are used and to ensure that the plant operates according to sound sustainable principles and policies.
- (9-12) To ensure the ground is suitable for the proposed development.
- (13,14) To ensure the site is adequately mitigated against the risk of flooding.
- (15) To ensure that only certified biomass fuel stocks are used and to ensure the plant operates according to sound sustainable principles and policies.
- (17) To ensure that the development is adequately risk assessed.
- (18) In the interest of visual amenity.
- (19) To protect air quality.
- (20) To protect public health in respect of sulphur dioxide.
- (21-22) To ensure that medium and low grade heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.
- (23) To ensure that the local community is informed about the progress of the development.
- (24) To ensure that the operation of the plant does not cause unreasonable congestion within the surrounding road network.

FALKIRK COUNCIL

Subject: **ERECTION OF DWELLINGHOUSE, STABLES AND EQUESTRIAN ARENA AT LAND TO THE EAST OF DENOVAN COTTAGE, DENNY FOR MR A THOMSON - P/10/0646/PPP**

Meeting: **PLANNING COMMITTEE**

Date: **24 August 2011**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Denny and Banknock**
Councillor Jim Blackwood
Councillor John McNally
Councillor Martin David Oliver
Councillor Alexander John Waddell

Community Council: **Denny and District**

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site lies in open countryside to the south of Denovan Road, north of Denny. The site comprises hard surfaces, grazing land and a caravan. There is an agricultural shed adjoining the application site. An existing vehicular access and public right of way follow the western property boundary. An existing residential property lies to the immediate west. To the south lies the River Carron.
- 1.2 The application seeks planning permission in principle to erect a dwellinghouse, stables and equestrian arena in association with an existing horse breeding and stabling operation. The applicant currently resides and partly operates the existing business at Carronside, at the western end of Denovan Road, and the subject land was purchased to enable expansion of the business. The applicant has advised of incidences of vandalism and animal attack at the new site, which have frustrated the expansion plans in the absence of a 24 hour on-site presence. Whilst the original plans did not anticipate a need to move wholly to the new site, this has been re-evaluated in the circumstances. A Business Expansion Plan has been submitted in support of the application.

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

- 3.1 Agricultural Notification Ref: P/08/0975/AGR for the erection of an agricultural building was received in December 2008. It was advised that prior approval is not required. This building has been erected.
- 3.2 Planning Application Ref: P/11/0469/FUL for the change of use of land for the temporary siting of a caravan and storage containers (retrospective) was received on 19 July 2011 and is pending consideration.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have advised that the existing vehicular access off Denovan Road has poor visibility in both directions, being restricted by carriageway alignment. They request that an alternative vehicular access be provided on land to the east within the ownership of the applicant. They advise that adequate parking will be required for the dwellinghouse, stables and riding arena. They are satisfied with the Flood Risk Statement submitted with the application.
- 4.2 The Environmental Protection Unit have requested the undertaking of a Contaminated Land Assessment due to the presence of two chemical manufacturing sites, a sewage treatment works and other potential sources of contaminated land within 250 metres of the site.
- 4.3 Scottish Water have no objection to the application.
- 4.4 The Council's Rural Business Consultant is satisfied, based on the supporting statement, that a sufficient income would be provided for an individual from breeding trotters, the livery and the activities proposed, with full-time employment being achieved in year 3. He advises that brooding mares have to be monitored and that stock for equine businesses requires a lot of attention. He has noted the incidences of vandalism and animal attack advised by the applicant.

5. COMMUNITY COUNCIL

- 5.1 The Denny and District Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 Six objections have been received to the application. The comments raised in these objections can be summarised as follows:-
- Contrary to Structure Plan policy relating to development in the countryside.
 - Extension of the settlement area.
 - Further loss of agricultural land.
 - There does not appear to be a need for the proposed dwellinghouse.

- The current owner's business is trotting. Is this site to hold trotting racecourse meetings?
- The equestrian centre should be defined, i.e. show jumping, horse riding, stables or breeding.
- There is a large equestrian facility nearby and the needs of the community would not be served by another.
- Loss of countryside amenity in combination with previously approved guest house in the area.
- Cumulative impact of equestrian facilities is damaging to the environment.
- Visual intrusion and existing environmental damage as a consequence of hardstanding and excess storage including a static caravan.
- Denovan Road is not suitable to support the venture e.g. poor sightlines, there is a bad bend just east of the site.
- There will be a significant increase in traffic.
- Traffic and road safety issues if the facility is commercial e.g. arising from congestion.
- Ambulances etc travelling to the new hospital may be obstructed or blocked by activity to and from the site.
- A public right of way/longstanding drove road passes through the site towards the River Carron and the original gateway has been removed and not restored.
- Rubble overspill used to construct a level base for the agricultural shed has made passage on the right of way difficult.
- There is a large culvert to the rear of the land which is overshadowed by a large amount of rubble, which if left uncontrolled could contaminate the watercourse.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Approved Falkirk Council Structure Plan

- 7a.1 The proposed development does not have any strategic implications therefore the policies of the Structure Plan are not relevant.

Adopted Falkirk Council Local Plan

7a.2 Policy EQ19 - ‘Countryside’ states:

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

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

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

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

7a.3 This policy requires the scale, siting and design of development to be strictly controlled to ensure there is no adverse impact on the character of the countryside. The visual impact of the proposed development is mitigated by its setting adjoining existing buildings and retention of existing landscape features such as mature trees. The detailed scale, siting and design would be considered at full planning stage. In principle, the application is considered to accord with this policy.

7a.4 Policy EQ29 ‘Outdoor Access’ states:

“(1) The Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the core path network once it is defined.

(2) In promoting new routes particular emphasis will be placed on

- opportunities specified on the Proposals Map*
- other opportunities which support and provide linkages in respect of the Falkirk Greenspace Initiative, the recreational use of the major river corridors, including the Forth Estuary, and sustainable travel within and between settlements;*
- other areas of proven demand as identified through community consultation; and*
- the need to safeguard protected habitats and species in accordance with Policies EQ24 and EQ25.*

(3) When considering planning applications, the Council will

- Safeguard the line of any existing or proposed access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed.*

- *Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development, particularly where they relate to the priority areas identified in sub-section (2) above.*
- *Where an access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development."*

7a.5 This policy states that the Council will safeguard the line of any existing access route affected by development unless a satisfactory alternative route can be agreed. Public right of way CF/S161 follows the western boundary of the site and is to be retained in its current location, unless otherwise agreed with the Planning Authority pending further consideration, in consultation with the Access Officer. Currently this right of way is undefined, overgrown in places and does not appear to be in use. The proposed development provides an opportunity to upgrade the right of way and consider it within the context of the wider access network, including whether a diversion would better serve the purpose. The details regarding path width and verges, gradient, boundary treatment, signage and potential links to other access routes would be considered at detailed planning stage. The application is therefore considered to accord with the policy.

7a.6 Policy SC3 - 'Housing Development In The Countryside' states:

"Housing development in the countryside will only be permitted in the following circumstances:

- (1) *Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
 - *The operational need for the additional house in association with the business*
 - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
 - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
 - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) *Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
 - *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
 - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
 - *The restored or converted building is of comparable scale and character to the original building*
 - *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8."*

7a.7 This policy provides for housing development in the countryside where it is essential for the management of a business requiring a countryside location (subject to certain criteria being satisfied). With regard to these criteria, there is an operational need for the proposed dwellinghouse to meet the welfare needs of the horses and to effectively manage the business and there are no opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse. Whilst the applicant's existing dwellinghouse is nearby (at the west end of Denovan Road), on-site accommodation would better serve the need by enabling rapid response to animal welfare emergencies and effective site security. The supporting information indicates that the existing business currently provides the main source of income to the applicant. This aspect of the policy is therefore satisfied. The supporting information indicates that full-time employment would be achieved in year 3 of the planned expansion. Overall, the application is considered to accord with this policy.

7a.8 Policy EP16 - 'Leisure And Tourism Development In The Countryside' states:

"Leisure and tourism development within the countryside will only be permitted where the use demonstrates a particular need for a countryside location and could not more appropriately be located within the Urban or Village Limits, or where existing buildings are to be utilised. In particular:

- (1) Proposals for small-scale self-catering chalet developments, caravan and camping sites may be acceptable, subject to appropriate siting and compliance with Policy EP15. Proposals for new hotels, B&Bs, guest houses and pubs / restaurants will generally only be permitted where existing buildings are being utilised or where a specific opportunity is identified in the Local Plan;*
- (2) Proposals for outdoor sport and recreation which require a countryside location may be acceptable, subject to appropriate siting. Associated built development will be limited to that which is directly ancillary to the activity (e.g. clubhouses, changing facilities, parking);*
- (3) Proposals for new visitor attractions, heritage and interpretative centres may be acceptable, subject to appropriate siting and compliance with Policy EP15. The nature and theme of the facility must provide a clear rationale for the countryside location chosen; and*
- (4) Proposals for new roadside facilities will not be permitted unless it is demonstrated that there is a clear need for additional services. Proposals for facilities on motorways and the trunk road network should comply with the guidance in NPPG9.*

Proposals will be subject to rigorous assessment of their impact on the rural environment, having particular regard to Local Plan policies protecting natural heritage (EQ19-EQ30), and of the adequacy of access and car parking arrangements must be satisfactory."

7a.9 This policy provides for leisure and tourism development in the countryside where the use demonstrates a particular need for a countryside location and could not be more appropriately located within the settlement limits. The proposal for stable rental and rent of the outdoor arena for horse training and coaching provides a leisure aspect to the overall business. By virtue of the nature of the use, it is evident that there is a need for a countryside location. The application therefore accords with this policy.

7a.10 Accordingly, the proposed development accords with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations in respect of this application are the consultation responses, the representations received, the viability and sustainability of the business use to support a permanent dwellinghouse and the circumstances influencing the proposal to erect a dwellinghouse at this location.

Consultation Responses

- 7b.2 The consultation responses are summarised in section 4 of this report. The matters raised by the Roads Development Unit and the Environmental Protection Unit could be the subject of conditions of any grant of permission. As noted, the Council's Rural Business Consultant is satisfied with the proposal and has highlighted the need for brooding mares to be closely monitored and attended to.

Representations Received

- 7b.3 The public representations are summarised in section 6 of this report. In response to the concerns raised in these representations, the following comments are considered to be relevant:-

- The proposed development does not have any strategic implications and therefore the policies of the Structure Plan are not relevant.
- The proposal has been assessed in this report as complying with the adopted Falkirk Local Plan.
- The proposed development would give rise to a small loss of agricultural land adjoining existing development.
- The need for the proposed dwellinghouse is accepted, for the reasons detailed in this report.
- The business is horse breeding, grazing and stabling. The Business Expansion Plan indicates stabling for up to 8 horses (including stable rental for 2 to 3 horses per annum) and rent of the outdoor arena for training and coaching.
- The applicant has advised that there is no intention to host show jumping or trotting races at the site.
- Horse breeding and stabling are typically located in the countryside.
- Visual impact is mitigated by its setting adjacent to existing development and retention of existing landscape features such as trees.
- The storage containers and caravan would be removed from the site following completion of the construction works and are subject to a separate application (ref: P/11/0469/FUL).
- The scale and nature of the development, as indicated in the supporting information, is unlikely to lead to a significant increase in road traffic.

- A new vehicular access to the site would be required and its specific location would be subject to consideration at detailed planning stage.
- The existing public right of way would be retained at its current location, unless otherwise agreed by the Planning Authority, and upgrades to facilitate its use would be secured at detailed planning stage.

Viability and Sustainability

- 7b.4 With regard to viability and sustainability aspects, it is apparent that the applicant is well placed to deliver the business expansion plans taking into account the supporting information, which indicates that there are no secured borrowings or burdens affecting the existing property, the planned investment is not dependent on the sale of the existing property and its sale would realise a business expansion surplus. As a further safeguard, the applicant would accept a condition requiring completion of the new stables and outdoor arena prior to construction of the new dwellinghouse.

Individual Circumstances

- 7b.5 The circumstances which led to a wholesale re-evaluation of the original objectives are a material consideration. These circumstances, as detailed in this report, support the new site as the residence for the existing business and in order to facilitate the planned expansion.

7c Conclusion

- 7c.1 The proposed development is considered to accord with the Development Plan, for the reasons detailed in this report. The application is therefore recommended for approval subject to a Section 75 Legal Agreement to restrict the occupancy of the new dwellinghouse, and the imposition of appropriate conditions. There are material considerations in support of the application, as detailed in this report, and there are no material considerations to justify a contrary recommendation or outweigh the recommendation to grant the application.

8. RECOMMENDATION

- 8.1 It is recommended that Committee indicate that it is **Minded to Grant Planning Permission in Principle** subject to:-
- The satisfactory completion of an Agreement within the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to restrict the occupancy of the proposed dwellinghouse to the rural business;**
 - And thereafter, on the conclusion of the foregoing matter, remit to the Director of Development Services to grant planning permission in principle subject to the following conditions:-**

- (1) This permission is granted under the provisions of paragraph 10(1) of the Town and Country Planning (Development Management Procedure) (Scotland) Order 2009 on an application for planning permission in principle, and the further approval of the Council or of the Scottish Ministers on appeal shall be required in respect of the undermentioned matters hereby specified before any development is commenced:
 - (a) the siting, size, height, design & external appearance of the proposed development;
 - (b) details of the access arrangements;
 - (c) details of landscaping of the site and future maintenance of landscaping.
- (2) That in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, in the case of the matters specified, application for approval must be made before:
 - (a) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (b) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (c) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,whichever is the latest.

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (a) above.
- (3) That the development to which this permission relates must be begun not later than whichever is the later of the following dates:
 - (a) the expiration of 5 years from the date of the grant of this planning permission in principle; or
 - (b) the expiration of 2 years from the final approval of the specified matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (4) Construction of the proposed dwellinghouse shall not commence until the proposed stables and outdoor riding arena have been fully completed, in accordance with details approved in writing by this Planning Authority.
- (5) Before the development commences, a Contaminated Land Assessment shall be submitted to and approved in writing by this Planning Authority. Before the development is brought into use, any necessary remedial works to make the ground safe shall be carried out in accordance with an approved remediation strategy and any necessary remediation completion report/validation certificate shall be submitted to and approved in writing by this Planning Authority.

- (6) Before the development commences, the existing vehicular access to the site from Denovan Road shall be closed off and relocated to a position and in accordance with details approved in writing by this Planning Authority. For the avoidance of doubt, the indicative location for the formation of a new access, as shown on the Illustrative Block Plan (Dwg. DR 01 C), is not approved.
- (7) The relocated access shall be formed at a minimum width of 6 metres, at a maximum gradient of 10%, and shall be constructed in a manner to ensure that no loose materials or surface water is discharged onto the public road.
- (8) The first 15 metres of the new bellmouth and access road from the existing carriageway edge shall be surfaced with a coated material in accordance with details approved in writing by the Planning Authority.
- (9) In-curtilage parking shall be provided for the proposed dwellinghouse, stables and riding arena, in accordance with the Design Guidance and Construction Standards for Roads in the Falkirk Council Area if relevant or, alternatively, in accordance with details approved in writing by this Planning Authority.
- (10) Before the development commences, there shall be no obstruction to visibility above ground level within a visibility splay measuring 4.5 metres x 210 metres (or as near as is practicable) in either direction along Denovan Road from the relocated access.
- (11) Any access gates shall open inwards only and be positioned a minimum distance of 15 metres back from the edge of the public carriageway.
- (12) Unless otherwise agreed in writing by this Planning Authority, the existing public right of way shall be retained in its current position. As part of the first application for the approval of Matters Specified in Conditions, the necessary details, including path and verges, gradients, boundary treatment, signage, potential links to other access routes and timescales for completion, shall be agreed in writing by this Planning Authority.

Reason(s):-

- (1) To comply with paragraph 4(1) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.
- (2-3) To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.
- (4) To avoid the possibility of a dwellinghouse being established without the planned business investment.
- (5) To ensure the ground is suitable for the proposed development.
- (6,7,8 10 & 11) To safeguard the interests of the users of the highway.
- (9) To ensure that adequate parking is provided.

(12) To safeguard an existing access route in a satisfactory manner.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A.
- (2) A Minor Roadworks Consent (MRC) will be required for the proposed new vehicular access.
- (3) The builder shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

Monday to Friday	08.00 - 18.00 hours
Saturday	09.00 - 17.00 hours
Sunday/Bank Holidays	10.00 - 16.00 hours

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

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

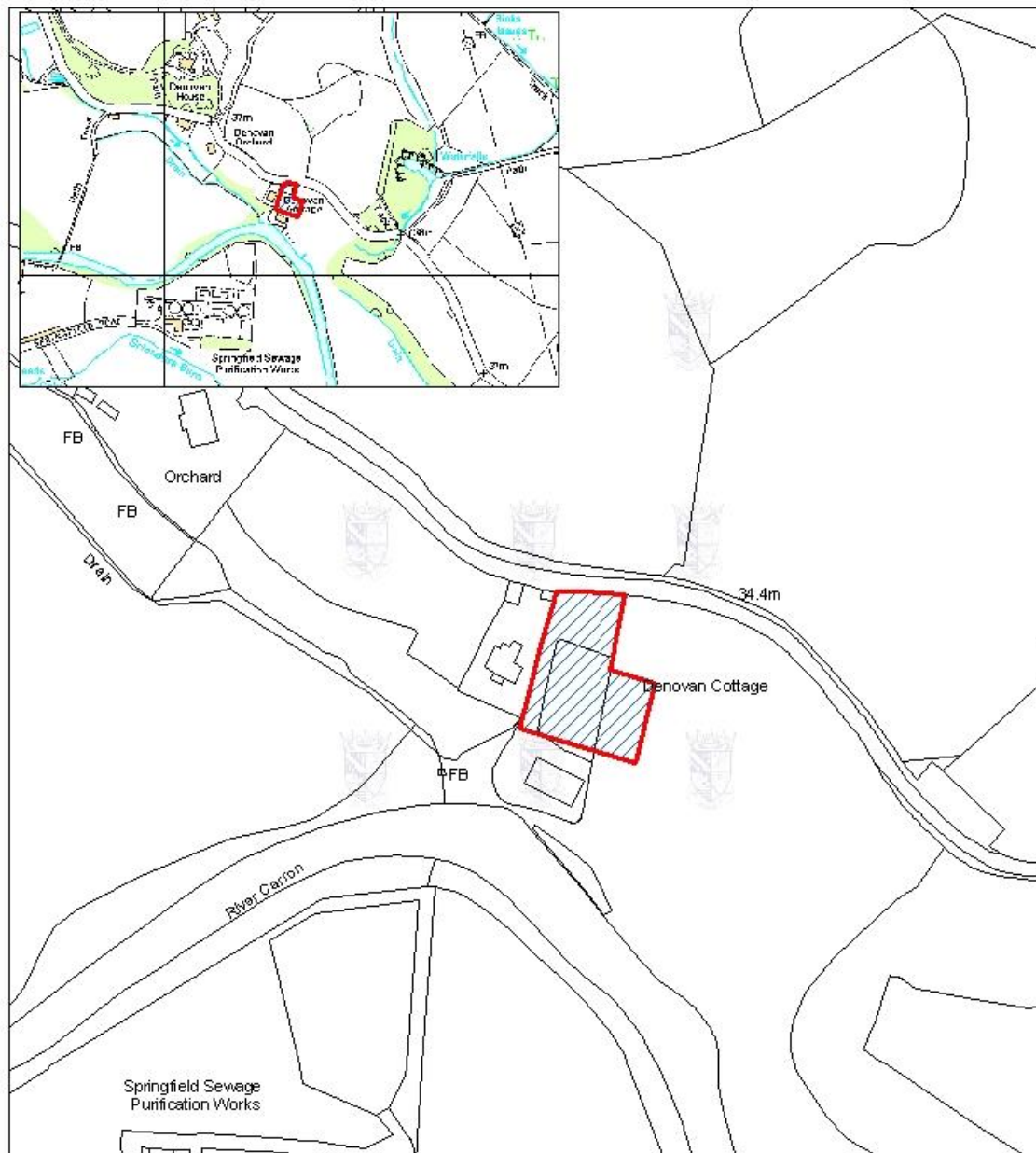
1. Approved Falkirk Council Structure Plan.
2. Adopted Falkirk Council Local Plan.
3. Letter of Objection received from Dr Roderick Macdonald, West Denovan Church, Denovan Road, Denny, FK6 6BJ on 20 October 2010.
4. Letter of Objection received from Mrs Isabel Gillespie, 2 Ferguson Drive, Denny, FK6 5AE on 28 October 2010.
5. Letter of Representation received from Logan Associates, Gladstone Cottage, Station Road, Leven, KY8 4QU on 29 October 2010.
6. Letter of Objection received from Mr William John Buchanan, 29 Godfrey Avenue, Denny, FK6 5BU on 12 October 2010.
7. Letter of Objection received from Mr William John Buchanan, 29 Godfrey Avenue, Denny, FK6 5BU on 10 June 2011.
8. Letter of Objection received from Dr Roderick McDonald, West Denovan Church, Denovan Road, Denny FK6 6BJ on 20 June 2011

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian, Senior Planning Officer.

Planning Committee

Planning Application Location Plan **P/10/0646/PPP**

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



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FALKIRK COUNCIL

Subject: DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES
WITH PROVISION FOR 20% AFFORDABLE HOUSING AT
PARKHALL FARM, VELLORE ROAD, MADDISTON, FALKIRK,
FK2 0BN, FOR CENTRAL SCOTLAND HOUSING -
P/11/0194/PPP

Meeting: PLANNING COMMITTEE

Date: 24 August 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Upper Braes
Councillor Gordon Hughes
Councillor Stephen Fry
Councillor John McLuckie

Community Council: Maddiston

Case Officer: Kevin Brown (Planning Officer), Ext. 4701

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1. This application for planning permission in principle proposes the development of part of an existing field within the countryside to the east of Maddiston for residential purposes. An indicative layout plan has been submitted in support of the application which shows a layout comprising 35 units in total, separated by overhead electricity lines and pylons and accessed via the eastern spur of a new roundabout recently granted planning permission (P/10/0249/MS).
- 1.2 The applicant has also indicated that 20% of the proposed housing development would take the form of Affordable Housing and that the area of open space beneath the electricity pylons, but outwith the application site, would be maintained by way of a community burden placed on the properties within the site.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor McLuckie.

3. SITE HISTORY

- 3.1 Previous planning application P/10/0258/PPP proposed the same development minus the affordable housing provision, however this application was withdrawn on 27 January 2011. Prior to this, the site formed part of a larger housing application in 2004 which was refused planning permission (F/2004/0198).

4. CONSULTATIONS

- 4.1 The Roads Development Unit has no objections but a flood risk assessment and full drainage strategy have been requested. It is considered that these details could be conditioned to be considered on submission of an application for matters specified in conditions.
- 4.2 Scottish Water has no objections.
- 4.3 The Environmental Protection Unit has no objections but a contaminated land survey has been requested.
- 4.4 The Transport Planning Unit has no objections.
- 4.5 Education Services has identified capacity issues at local schools and have objected to the proposal. This objection would be removed if the applicant were to make a financial contribution totaling £3,800 per unit towards upgrading schools infrastructure in the area.
- 4.6 Scottish Environmental Protection Agency (SEPA) has no objections.

5. COMMUNITY COUNCIL

- 5.1 Maddiston Community Council has objected to the proposal on the grounds that the development would put too much pressure on existing schools infrastructure. Concerns have also been raised in reference to road safety and non compliance with Development Plan policies.

6. PUBLIC REPRESENTATION

- 6.1 Seven letters of representation have been received. Issues raised include:-
- Maintenance of existing SUDS pond.
 - Desire for a through road to be created.
 - Traffic volume increases.
 - Pressure on local schooling.
 - Loss of a view.
 - Loss of flora and fauna.
 - Affordable housing element could affect property values.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) *There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) *The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 The site lies outwith the settlement boundaries identified in the Falkirk Council Local Plan, in an area designated countryside. It has not been demonstrated that a countryside location is essential or that the development would represent an appropriate form of agricultural diversification. The proposal is therefore contrary to the terms of Structure Plan Policy ENV.1.

Falkirk Council Local Plan

7a.3 Policy EQ19 - ‘Countryside’ states:

- “(1) *The Urban and Village Limits represent the desirable limit to the expansion of settlements for the period of the Local Plan. Land outwith these boundaries is designated as countryside and will be subject to the detailed policies for specific uses indicated in Table 3.3. Development proposals in the countryside for uses not covered by these policies will only be permitted where:*
- *it can be demonstrated that they require a countryside location;*
 - *they constitute appropriate infill development; or*
 - *they utilise suitable existing buildings.*
- (2) *In circumstances where development meets the relevant countryside policy criteria, the scale, siting and design of development will be strictly controlled to ensure that there is no adverse impact on the character of the countryside. In particular:*
- *the siting should be unobtrusive, making use of natural features to integrate development into the landform and avoiding skylines;*

- *building design should be sympathetic to vernacular building styles and comply with the design principles contained within the Council's 'Design Guide for Buildings in the Rural Areas'; and*
- *boundary and curtilage treatments should be sympathetic to the rural area, with a preference for stone walling and hedging using native species."*

7a.4 Policy SC3 - 'Housing Development In The Countryside' states:

"Housing development in the countryside will only be permitted in the following circumstances:

- (1) *Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
 - *The operational need for the additional house in association with the business*
 - *That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
 - *That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
 - *That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) *Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
 - *The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
 - *The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
 - *The restored or converted building is of comparable scale and character to the original building*
 - *In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) *Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8."*

7a.5 Policy SC6 - 'Housing Density And Amenity' states:

- (1) *Overall density in new residential developments should conform to the indicative capacity shown for allocated sites or, in the case of windfall sites, be dictated by the character of the surrounding area and the design objectives for the site, as established in the Design Concept Statement. Higher densities may be allowed where this helps to achieve design excellence.*
- (2) *On large sites, housing density should be varied to create areas of different character, reflecting the structure of streets and spaces in the development. A mix of housing types will be required.*
- (3) *Adequate properly screened private amenity space should be provided for dwellinghouses. In flatted developments, communal space for clothes drying and private amenity should be provided.*

- (4) *Housing layouts should be designed to ensure adequate privacy and to avoid excessive overshadowing of houses or garden ground. A minimum distance between overlooking windows of 18 metres will generally be required.”*

7a.6 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 be informed by 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) *Open space and facilities for play and outdoor sport should be provided in broad accordance with the guidance in Table 4.2. These requirements may be increased where the extent and quality of facilities in the area are proven by the open space audit to be below a suitable standard. Above ground SUDS features, small incidental amenity areas, structure planting and road verges will not count towards requirements.*
- (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 indicated in Table 4.2, 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’.*
- (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.”*

7a.7 The proposal does not require a countryside location and does not utilise existing buildings. The proposal does not propose housing which is essential for the pursuance of agriculture, horticulture, forestry or the management of a business for which a countryside location is essential and is not considered to represent an appropriate infill development.

7a.8 The application site is not identified for housing and is not a brownfield site. The proposed residential land use is compatible with the existing housing to the west, which is located within the settlement boundary. Whilst access, parking, drainage and other infrastructure can be provided, a satisfactory level of residential amenity would be difficult to achieve given the awkward shape of the site.

7a.9 The awkward shape of the site makes the provision of appropriate open space areas difficult to achieve. The indicative layout plan submitted in support of this application shows a large area of dead space outwith the application site, behind houses in the middle

of the site, and beneath power lines. This area would not form an integral or attractive part of the development and would not create a safe and easily supervised area of open space.

7a.10 The applicant's intention to secure maintenance of this area by way of a community burden is noted, however this maintenance arrangement does not ensure that the open space is secure or well overlooked and does not ensure that the open space would serve as a community facility. It is worth noting that community and title burdens of this nature are outwith the control of the planning process, and the long-term use of this area as valuable open space cannot be guaranteed in this way alone.

7a.11 On balance, the application fails to meet the terms of the Falkirk Council Local Plan.

7a.12 Accordingly, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are as follows.

Falkirk Council Supplementary Guidance

7b.2 Supplementary Planning Guidance Note – Housing Layout and Design, provides advice on expected standards of provision and sets out guidance on housing layouts with a view to achieving high standards of design which complement the existing good character and appearance of our towns and villages. Specific guidance on public open space areas suggests that these areas should take the appearance of a "village green", accessible from an enclosing housing frontage and advice in relation to security advises against public areas being bounded by high screen fences or rear elevations.

7b.3 The applicant has submitted an indicative layout of the proposed development in support of their proposal. Whilst this layout demonstrates that the site can accommodate 35 units with large areas of open space or landscaping, the layout would result in a large area of dead space beneath the electricity pylons where natural passive surveillance levels would be poor. It is considered that this layout would be far from ideal in terms of creating a safe visually attractive place to live and it therefore lends no support to the applicant's proposal in this instance. The indicative layout proposed does not create secure, accessible areas of open space. The proposal does not accord with the terms of this guidance.

Assessment of Public Representations

7b.4 The maintenance of the existing SUDS pond which is unconnected to the proposed development is not a material planning consideration and cannot be assessed or controlled through this application.

7b.5 The desire for a through road is noted however, the application does not propose this at this stage and this cannot therefore be considered.

7b.6 Traffic volumes and pressures on local schooling have been assessed by our standard consultees. A summary of each consultation response is outlined in section 4 of this report.

- 7b.7 Loss of a view and impact on property values are not material planning considerations.
- 7b.8 There is no evidence to suggest that any protected species of flora or fauna is present at the site. The site is not protected by any special biodiversity designations, and this is not therefore considered to be a determining factor in the assessment of this application.

Affordable Housing Provision

- 7b.9 The application site sits outwith the Urban Limit but within an area identified as having a shortfall in affordable housing provision. Guidance for sites within the settlement boundary is set out in Falkirk Council Supplementary Planning Guidance Note - Affordable Housing, where reference is made to unit number thresholds set out in the adopted Falkirk Council Local Plan. Policy SC4 of the Falkirk Council Local Plan requires that developments in this area are required to provide 25% of the total number of units as affordable housing on sites of 60 units or more. As the indicative capacity of this site is shown to be well below 60 units, there is no requirement for the applicant to provide any element of affordable housing on the site. The developer has however indicated that they wish for the site to include 20% of the total unit numbers as affordable housing. This in some respects is a token gesture and does not lend any weight to the proposal and the assessment against Development Plan policies. If however, planning permission were to be granted, it would be appropriate to tie down this affordable housing element by way of a legal agreement.

Open Space Arrangements

- 7b.10 Should members be minded to grant planning permission in principle for this development, it is recommended that this be done subject to the completion of a Section 75 planning obligation securing details of the continued maintenance of the open space beneath the electricity lines. It is also recommended that permission be subject to appropriately worded conditions, ensuring that the development fronts onto this area of open space in order to maximise natural surveillance.

7c Conclusion

- 7c.1 The proposal is an unacceptable form of development and is contrary to the terms of the Development Plan. There are no material planning considerations that warrant an approval of planning permission in this instance.

8. RECOMMENDATION

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

- (1) The site is not identified for residential development in the adopted Falkirk Council Local Plan and there are no reasons to depart therefrom. The proposal is therefore contrary to Policy ENV1 of the approved Falkirk Council Structure Plan and Policies EQ19 and SC3 of the Falkirk Council Local Plan all of which seek to restrict the unplanned and unjustified release of land for housing outwith the settlement boundaries identified in the Development Plan.

- (2) In the interests of residential amenity. The proposed development would be divided by an area of ground beneath the overhead power lines which, as defined by the application site boundaries and shown on the submitted illustrative layout, would result in a low standard of residential layout. The proposed development would therefore be contrary to Policies SC6 and SC13 of the Falkirk Council Local Plan and Falkirk Council Supplementary Planning Guidance Note - Housing Layout and Design.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01.

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Plan.
2. Falkirk Council Structure Plan.
3. Falkirk Council Supplementary Guidance.
4. Letter of representation from Mr Peter O'Donnell Parkhall Nursery, Vellore Road, Maddiston, FK2 0BN received on 26 April 2011.
5. Letter of objection from Mr Shane Homes, 15 Innerdouny Drive Maddiston Falkirk FK2 0LW on 9 July 2011.
6. Letter of objection from Mr Nick Thompson, 4 Innerdouny Drive Maddiston FK2 0LW on 4 July 2011.
7. Letter of objection from Ms Lindsey Taylor, 9 Innerdouny Drive Maddiston FK2 0LW on 16 July 2011.
8. Letter of objection from Ms Kirsteen Ramsay, 62 Mellock Crescent The Meadcows Maddiston FK20RH on 14 August 2011.
9. Letter of objection from Mr Desmond Irwin, 18 Glendevon Drive Maddiston Falkirk FK2 0GT on 25 July 2011.
10. Letter of objection from Mr Craig Horsburgh, 7 Innerdouny Drive Maddiston Falkirk FK20LW on 14 July 2011

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/11/0194/PPP

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



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FALKIRK COUNCIL

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

Meeting: **PLANNING COMMITTEE**

Date: **24 August 2011**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

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

Community Council: **Blackness Area**

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

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

2. REASON FOR COMMITTEE CONSIDERATION

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

3. SITE HISTORY

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

4. CONSULTATIONS

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

5. COMMUNITY COUNCIL

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

6. PUBLIC REPRESENTATION

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

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) *There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) *The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 The site lies outwith the settlement boundaries and is within the countryside. It has not been demonstrated that a countryside location is essential for the proposed development. It is noted that the development is not a form of agricultural diversification.

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

Falkirk Council Local Plan

7a.4 Policy EQ19 - ‘Countryside’ states:

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

7a.5 Policy SC3 - 'Housing Development In The Countryside' states:

"Housing development in the countryside will only be permitted in the following circumstances:

- (1) Housing essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. In these instances, the applicant must demonstrate:*
 - The operational need for the additional house in association with the business*
 - That no existing dwelling which might have served that need has been sold or otherwise alienated from the holding*
 - That there are no reasonable opportunities for reusing or converting redundant buildings rather than building a new dwellinghouse*
 - That the business as a whole is capable of providing the main source of income for the occupant;*
- (2) Proposals involving the rehabilitation of former residential properties, or the conversion of farm and other buildings to residential use, where*
 - The building, by virtue of its existing character, makes a positive contribution to the rural landscape*
 - The building is in a reasonable state of repair, still stands substantially intact and is capable of beneficial restoration, as verified by a report and certificate from a qualified structural engineer*
 - The restored or converted building is of comparable scale and character to the original building*
 - In the case of former non-residential buildings, the building is no longer required for the purpose for which it was built; or*
- (3) Appropriate infill opportunities within the envelope of an existing group of buildings, where the development would not result in ribbon, backland or sporadic development, and the proposal satisfies Policy SC8."*

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

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

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

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

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

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

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

7b Material Considerations

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

National Planning Policies and Guidance

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

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

Falkirk Council Supplementary Guidance

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

Responses to Consultations

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

- 7b.6 It is noted that the Blackness Area Community Council has raised concerns that the proposal does not accord with the Development Plan, the access to the property is not satisfactory and would be a risk to road safety and that the proposal could set a precedent for further similar development in the countryside. It is considered that these concerns are relevant material planning considerations.
- 7b.7 The Roads Development Unit has advised that it is not possible to form satisfactory visibility sightlines at the proposed access. It is considered that taking access to an additional dwellinghouse via the existing access would be detrimental to the safety of road traffic and pedestrians.

Site History

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

7c Conclusion

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

8. RECOMMENDATION

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

- (1) It has not been demonstrated that a countryside location is essential for the proposed development. The proposed development is not essential to the pursuance of agriculture, horticulture or forestry, or the management of a business for which a countryside location is essential. The proposal is not to rehabilitate or convert an existing building. The proposed development does not constitute an appropriate infill opportunity within an existing group of residential buildings where the development would not result in ribbon, backland or sporadic development. The proposed development does not therefore accord with Policy EQ19 'Countryside', Policy SC3 'Housing Development in the Countryside' and Policy EQ23 'Areas of Great Landscape value' of the Falkirk Council Local Plan, and Policy ENV1 'Countryside and Protected Areas' of the Falkirk Council Structure Plan.
- (2) The proposed development constitutes an unacceptable form of backland development, and therefore does not accord with Supplementary Planning Guidance Note 'Housing Layout and Design'.
- (3) It is not possible to provide satisfactory visibility sightlines at the proposed access from the public road and consequently the proposed development would constitute a risk to the safety of road traffic and pedestrians.
- (4) It is considered that the proposed development could create an undesirable precedent for similar development in the countryside.

Informative(s):-

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

.....
Director of Development Services

Date: 17 August 2011

LIST OF BACKGROUND PAPERS

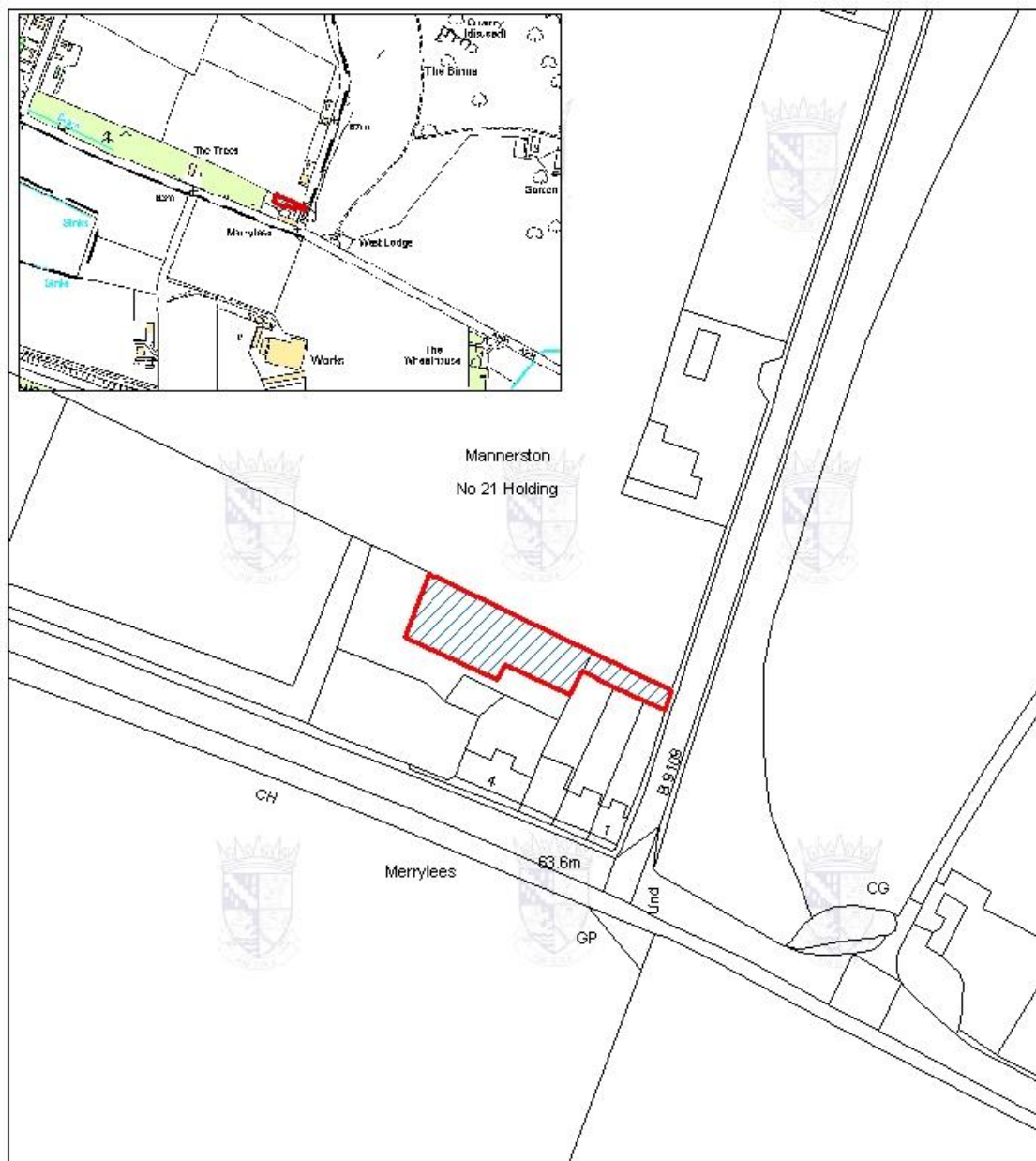
1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Scottish Planning Policy
4. Supplementary Planning Guidance Note 'Housing Layout and Design'.

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

Planning Committee

Planning Application Location Plan P/11/0311/FUL

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FALKIRK COUNCIL

Subject: EXTENSION TO DWELLINGHOUSE (2 STOREY TO REAR) AT
8 MCCAMBRIDGE PLACE, LARBERT FK5 4FY FOR MRS
LESLEY HENDERSON – P/11/0322/FUL

Meeting: PLANNING COMMITTEE

Date: 24 August 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Bonnybridge and Larbert
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

Community Council: Larbert, Stenhousemuir and Torwood

Case Officer: Kirsty Hope (Assistant Planning Officer), Ext. 4705

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application deals with a two storey extension to the rear of the dwelling to accommodate an additional bedroom on the upper floor and a sunroom on the lower ground.
- 1.2 The property is a two storey detached dwelling located at 8 McCambridge Place, Larbert that is within an existing residential area.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to Committee by Councillor Craig Martin.

3. SITE HISTORY

- 3.1 No relevant planning history.

4. CONSULTATIONS

- 4.1 The Environmental Protection Unit has raised no objection to the proposal, however they have requested that an informative with regards to contaminated land be attached to any consent given.

5. COMMUNITY COUNCIL

- 5.1 The Larbert, Stenhousemuir and Torwood Community Council has not commented on the application.

6. PUBLIC REPRESENTATION

- 6.1 During the course of the application, one objection letter was received by the Council. The salient issues are summarised below:

- Loss of amenity, specifically privacy from overlooking.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 There are no relevant policies within the Falkirk Council Structure Plan.

Falkirk Council Local Plan

- 7a.2 Policy SC9 - 'Extensions And Alterations To Residential Properties' states:

"Extensions and alterations to residential properties will be permitted where:

- (1) the scale, design and materials are sympathetic to the existing building;*
- (2) the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*
- (3) it will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, or the unacceptable loss of off-street parking."*

- 7a.3 Policy SC9 advises that the main planning considerations are, that the scale, design and materials are to be sympathetic to the existing dwelling and neighbouring properties. It is considered that the location and scale of the extension would not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties as there is a close boarded timber fence enclosing the rear garden. It is considered that the proposal would not result in an overdevelopment of the plot. The scale, design and materials of the proposal are considered to be sympathetic to the existing dwelling and surrounding area.

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

7b Material Considerations

- 7b.1 The material considerations to be assessed are the Falkirk Council Supplementary Guidance Note, the consultation responses and the public representations.

Falkirk Council Supplementary Guidance

- 7b.2 Falkirk Council's Supplementary Planning Guidance Note (SPGN) on House Extensions and Alterations advises that the main planning concern with rear extensions is scale and massing from original dwelling streetscape, retaining private garden ground, privacy and overshadowing.
- 7b.3 The proposed rear extension is set down from the ridge of the original roof and is considered to respect the original dwelling in terms of scale and design. There would be adequate garden ground retained. There are no privacy issues, given the existing boundary treatments and position of the proposed openings. There are no overshadowing concerns. The proposed dwelling accords with the guidance as set out in the SPGN.

Consultation Responses

- 7b.4 The Environmental Protection Unit has raised no objection to the proposal but has advised that if planning permission is granted an informative be attached with regards to ground conditions and hours of construction work noise.

Assessment of Public Representations

- 7b.5 The proposed extension would not significantly impact the neighbouring properties in terms of privacy, as there is a close boarded fence separating the two properties and it is not considered that the proposal would directly overlook the neighbouring property on the ground floor.

7c Conclusion

- 7c.1 It is considered that the proposal is an acceptable form of development and therefore is assessed as according with the Falkirk Council Local Plan and the Falkirk Council's Supplementary Planning Guidance Note on House Extensions and Alterations, and no major issues have been raised through consultation. There are no material considerations which would merit refusal of this application in these circumstances.

8. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three years of the date of this permission.

Reason(s):

- (2) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02, 03 and 04.
- (2) The applicant shall ensure that noisy work which is audible at the site boundary shall **ONLY** be conducted between the following hours:

Monday to Friday	08:00 - 18:00 Hours
Saturday	09:00 - 17:00 Hours
Sunday / Bank Holidays	10:00 - 16:00 Hours

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

- (3) In the event that unexpected contamination is encountered following the commencement of development, all work on the affected part of the site shall cease. The developer shall notify the Planning Authority immediately, carry out a contaminated land assessment and undertake any necessary remediation works. Development shall not recommence without the prior written approval of the Planning Authority.

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council Supplementary Guidance Note on House Extensions and Alterations.
4. Letter of representation from Mr James Baxter 6 McCambridge Place Larbert FK5 4FY on 31 May 2011.

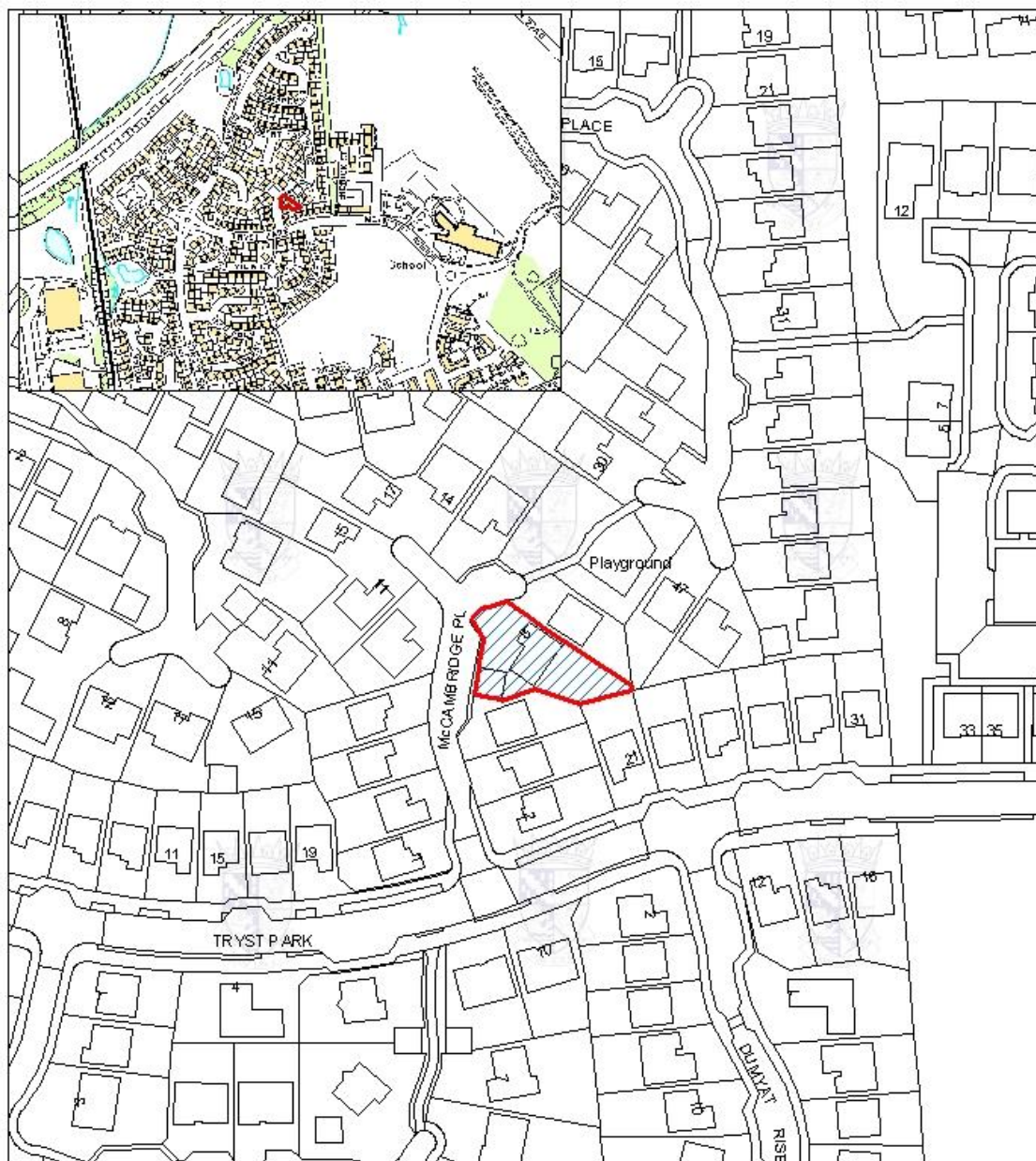
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504705 and ask for Kirsty Hope, Assistant Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0322/FUL

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FALKIRK COUNCIL

Subject: CHANGE OF USE OF PUBLIC OPEN SPACE TO FORM PRIVATE GARDEN GROUND, ERECTION OF DOMESTIC GARAGE AND 1.8M TIMBER FENCING AT LAND TO THE EAST OF 14 BLINKBONNY ROAD, BLINKBONNY ROAD, FALKIRK FOR MR ALEXANDER GRAHAM – P/11/0254/FUL

Meeting: PLANNING COMMITTEE

Date: 24 August 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk South
Councillor Gerry Goldie
Councillor Joe Lemetti
Councillor John Patrick
Councillor Georgie Thomson

Community Council: None

Case Officer: Stephen McClure (Planning Officer), Ext. 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The site consists of an area of land to the rear of two residential properties (semi-detached), which has become surplus to Falkirk Council's requirements due to the construction of the new Falkirk High School. The Council has offered to sell the land to the respective owners of the residential properties. It is being proposed by the owners to change the use of the land to garden ground and integrate it into their existing rear gardens. In addition, the inhabitants of 14 Blinkbonny Road are proposing to erect new boundary fencing and a new garage.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 Falkirk Council has a financial interest in the land and under the Council's approved Scheme of Delegation, such applications require consideration by the Planning Committee.

3. SITE HISTORY

- 3.1 No history which is relevant to the current application.

4. CONSULTATIONS

- 4.1 The Roads Development Unit have no objection to the proposal.

- 4.2 The Environmental Protection Unit have advised that a Contaminated Land Assessment would be required.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council.

6. PUBLIC REPRESENTATION

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

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

- 7a.1 There are no relevant policies within the Falkirk Council Structure Plan.

Falkirk Council Local Plan

- 7a.2 Policy SC9 - 'Extensions And Alterations To Residential Properties' states:

"Extensions and alterations to residential properties will be permitted where:

- (1) the scale, design and materials are sympathetic to the existing building;*
- (2) the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*
- (3) it will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, or the unacceptable loss of off-street parking."*

- 7a.3 The proposed alterations to the rear garden, including the erection of a domestic garage, are considered to be sympathetic to the existing dwelling in terms of the proposed scale, design and materials. The proposed additional area of garden ground and associated structures would also not affect the degree of amenity, daylight or privacy enjoyed by the neighbouring properties. The overall functioning of the garden ground would not be affected, with an increase in the usable area. Parking to both properties will remain unaltered. It is therefore considered that the proposal accords with Policy SC9.

7a.4 Policy SC12 - 'Urban Open Space' states:

"The Council will protect all urban open space, including parks, playing fields and other areas of urban greenspace, which is considered to have landscape, amenity, recreational or ecological value, with particular reference to the areas identified on the Proposals Map. Development involving the loss of urban open space will only be permitted where:

- (1) There is no adverse effect on the character and appearance of the area, particularly through the loss of amenity space planned as an integral part of a development;*
- (2) In the case of recreational open space, it can be clearly demonstrated from a settlement and neighbourhood audit that the area is surplus to recreational requirements, and that its release for development will be compensated for by qualitative improvements to other open space or recreational facilities;*
- (3) The area is not of significant ecological value, having regard to Policies EQ24 and EQ25; and*
- (4) Connectivity within the overall open space network is not threatened and public access routes in or adjacent to the open space will be safeguarded."*

7a.5 The character and appearance of the area would not be affected by the integration of the area of open space into the rear gardens of the dwellings. Although this area was used to form a small section of a garage lock-up, this is no longer the case, due to the construction of the new High School and redrawing of the boundaries. The garage lock-up was removed as part of the construction of the new school and the small area of open space is outwith the new school's boundary, leaving it as an unused area of open space. The integration into the two dwellings' garden ground would see the area reused, and would therefore be beneficial to the overall character and appearance of the area. The area of open space currently has no public access routes passing through it, these having been removed with the construction of the new school. It is therefore considered that the proposal accords with Policy SC12.

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

7b Conclusion

7b.1 It is considered that the proposal is an acceptable development and is in accordance with Policies SC9 and SC12 of the Falkirk Council Local Plan. There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three years of the date of this permission.**

- (2) (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.
- (ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.
- (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.

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.

Informative(s):

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

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan

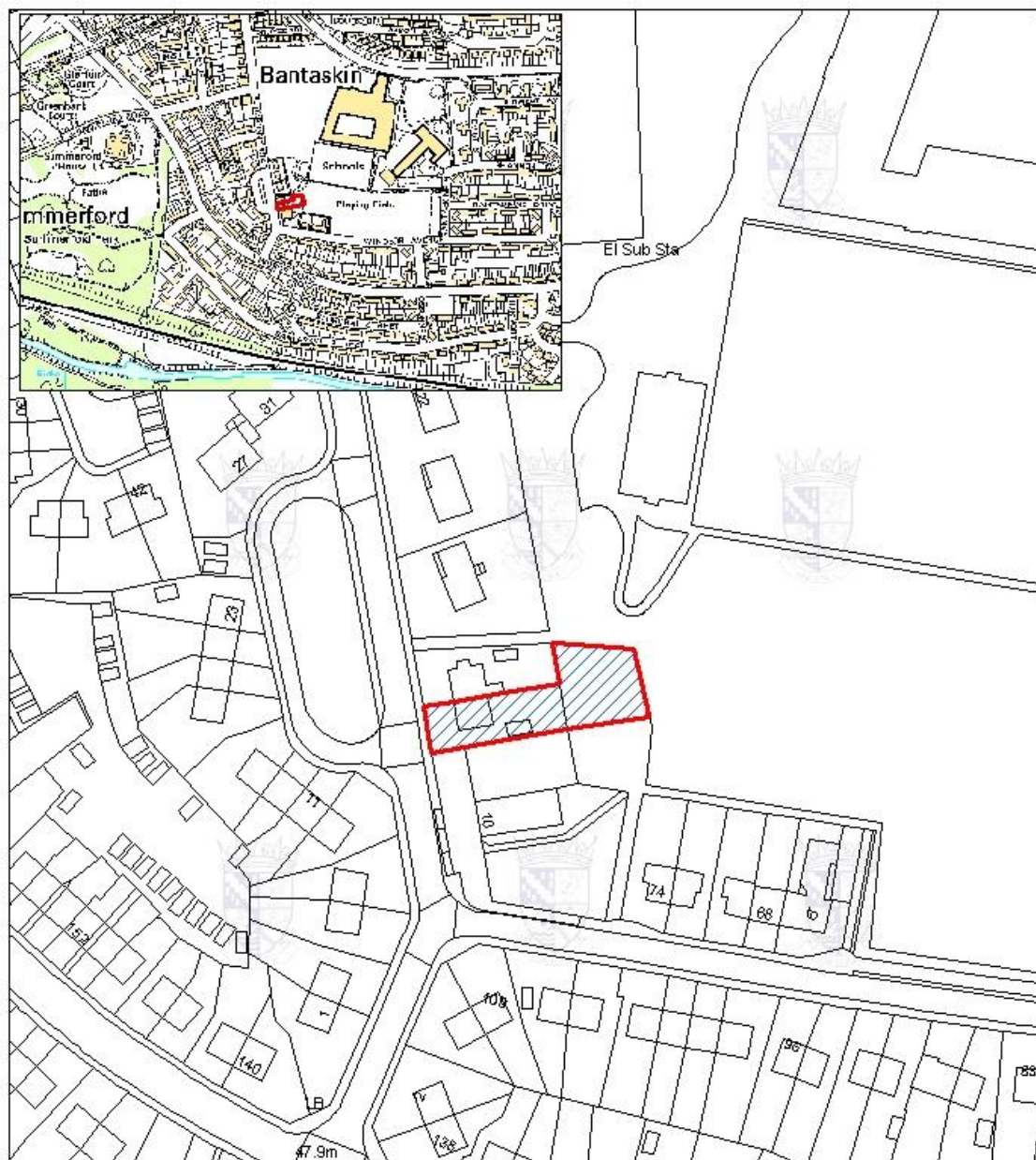
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504702 and ask for Stephen McClure, Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0254/FUL

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FALKIRK COUNCIL

Subject: SUBDIVISION OF GARDEN, ERECTION OF DWELLINGHOUSE AND EXTENSION TO EXISTING DWELLINGHOUSE AT WINDYKNOWE, CROMWELL ROAD WEST, FALKIRK FK1 1SE FOR MR GREIG MAXWELL - P/11/0112/FUL

Meeting: PLANNING COMMITTEE

Date: 24 August 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North
Provost Pat Reid
Councillor David Alexander
Councillor Craig R. Martin
Councillor Cecil Meiklejohn

Community Council: None

Case Officer: Stephen McClure (Planning Officer), Ext. 4702

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 A large dwelling located within a well established residential area of Falkirk, which is adjacent to Bellsmeadow Park. It is proposed to demolish an existing flat roof extension to the side of the dwelling and construct a one and a half storey extension, with a reduced footprint. The dwelling has a large area of garden ground to the side, and it is proposed to sub-divide this area to create a new plot upon which a dwellinghouse is proposed.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Provost Pat Reid.

3. SITE HISTORY

- 3.1 Planning application ref: P/09/0069/FUL for a sub-division of the plot and erection of a dwellinghouse was refused in May 2009 for the following reasons:-
- (1) The proposed dwelling did not respect the townscape character or provide adequate/private garden ground to it and the existing dwelling in terms of the proposed scale, density and disposition.
 - (2) The proposed development would have left the existing dwelling with inadequate parking provision.

- 3.2 Planning application ref: P/10/0268/FUL, for the erection, again, of an additional dwellinghouse was submitted in April 2010 but was subsequently withdrawn. This was following concerns about its position within the plot and relation to the host dwelling.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has no objection to the proposal.
- 4.2 Scottish Water has no objection to the proposal.
- 4.3 The Environmental Protection Unit has advised that a Contaminated Land Assessment is required.

5. COMMUNITY COUNCIL

- 5.1 There is no Community Council.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 4 contributors submitted letters to the Council. The salient issues are summarised below:-

- Close proximity of the proposed dwelling to 2 Cromwell Road.
- The proposed dwelling would affect the value of neighbouring properties.
- Privacy would be affected to 2 Cromwell Road.
- The proposed property would be out of character with other dwellings in the street.
- The burn running under the property may be affected and affect surrounding properties.
- Disruption and mess caused by builders at the site would affect access and could cause a safety issue to children.
- 3 Cromwell Road would be overshadowed by the proposed new dwelling.
- 3 Cromwell Road would be overlooked and the residents have their privacy affected.
- The method of construction could cause structural damage to 3 Cromwell Road.
- There would be an increase in traffic in Cromwell Road due to the proposed dwelling.
- The proposed driveway location could cause a safety issue.
- The area has a history of burst water main at this location, a new dwelling could make this worse.

- The property would lack adequate garden ground.
- The property would sit forward of the building line of the street.
- The height of the property would be too high.
- View of the adjacent park would be lost for neighbouring dwellings.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 There are no relevant policies within the Falkirk Council Structure Plan

Falkirk Council Local Plan

7a.2 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, 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."*

7a.3 The erection of a dwellinghouse at this site is compatible with neighbouring uses, being an established residential area, and it is considered that a satisfactory level of residential amenity could be achieved. The site enjoys good accessibility to public transport, walking routes and cycling routes to shopping, recreational and other community facilities. The existing physical infrastructure such as roads, drainage and water supply is in place and could accommodate a further dwelling at the location. It is therefore considered that the proposal accords with Policy SC2.

7a.4 Policy SC8 ‘Infill Development and Subdivision of Plots’ states:

“Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies.”*

7a.5 The proposed dwelling’s scale, density, disposition and design is considered to respect the architectural and townscape character of the area. Although this corner plot presents a number of design challenges, the proposed property has been carefully considered in terms of the plot size. The design of the new dwelling has been taken from the existing dwelling on the site, with all the main features being replicated within the new design. The new dwelling would have a direct street frontage onto Cromwell Road West, although would protrude into the building line of Cromwell Road. However, this is in keeping with the streetscape, with the dwelling at the opposite end of Cromwell Road fronting Moncks Road (to the east of the site) also protruding into the building line.

7a.6 It is considered that, although limited, there would be adequate garden ground provided to serve the new property, as it is intended to use the site levels and create flat terraced areas. The removal of the area of garden ground for the proposed dwelling would also not have an unacceptable impact upon the size and function of the garden ground of the existing dwelling, with a satisfactory area remaining.

7a.7 Owing to the positioning of the proposed dwelling, it is not considered that there would be an unacceptable loss of privacy to the neighbouring dwelling. The proposed new dwelling’s rear windows could look onto the front garden and gable end of the neighbouring property to the rear, with no windows looking directly into one another. Due to this, privacy would be afforded to both the proposed dwelling and the neighbouring property. No other properties would be affected in regard to privacy. The proposed access to the new property and the existing property would be taken from the private road of Cromwell Road West. The existing access from Cromwell Road would be removed and the footpath reinstated. Both the accesses and parking are considered to be appropriate and to the levels required. It is therefore considered that the proposal accords with Policy SC8.

7a.8 Policy SC9 - ‘Extensions And Alterations To Residential Properties’ states:

“Extensions and alterations to residential properties will be permitted where:

- (1) the scale, design and materials are sympathetic to the existing building;*
- (2) the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and*
- (3) it will not result in overdevelopment of the plot, thereby giving rise to adverse impacts on the functioning of garden ground, or the unacceptable loss of off-street parking.”*

- 7a.9 As part of the proposal, the existing dwelling would have a flat roof extension to the side demolished and replaced with a one and a half storey extension, which would be reduced in length from the existing extension. The proposed scale, design and materials are sympathetic to the existing building with features of the existing dwelling being integrated into the proposal. The proposed location and scale of the extension and alterations would not significantly affect the degree of amenity, daylight or privacy enjoyed by the neighbouring properties. The proposed extension would not result in overdevelopment of the plot, with a smaller footprint than the current side extension, it would not directly affect the functioning of the garden ground or parking. It is therefore considered that the proposal accords with Policy SC9.
- 7a.10 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

- 7b.1 The material considerations to be assessed are the Falkirk Council Supplementary Guidance and assessment of public representations.

Falkirk Council Supplementary Guidance

- 7b.2 The proposed extension to the existing property meets the criteria of the Supplementary Guidance. It is therefore considered that the proposal accords with the House Extensions and Alterations Supplementary Planning Guidance Note.

Assessment of Public representations

- 7b.3 The proposed dwelling would be an acceptable distance from 2 Cromwell Road.
- 7b.4 Any effect on the value of properties is not a material planning consideration.
- 7b.5 Privacy would not be affected to an unacceptable degree at 2 Cromwell Road due to the distance between the properties, with only two small decorative windows in the proposed elevation.
- 7b.6 The area has no distinctive character in relation to house design, with a mix of single, one and a half and two storey dwellings. The proposed dwelling has also taken its features from the existing dwelling to create a smaller version of this property.
- 7b.7 The burn that runs under the property is not a material planning consideration.
- 7b.8 Method of construction is not a material planning consideration.
- 7b.9 It is not considered that there would be an unacceptable level of overshadowing of the neighbouring property at 3 Cromwell Road.
- 7b.10 Due to the location of the proposed dwelling, 3 Cromwell Road would not have an unacceptable loss in privacy. The majority of the proposed dwelling faces the gable end of 3 Cromwell Road, and there are no direct window to window situations.
- 7b.11 One additional dwelling would not cause an unacceptable increase in traffic at this location.

- 7b.12 The proposal has been assessed by the Roads Unit, and the driveways are considered acceptable.
- 7b.13 Scottish Water has stated that there are no issues with the services to this site.
- 7b.14 The levels would be used to create suitable garden ground at the property with terraced areas.
- 7b.15 The property would sit forward of the building line on Cromwell Road, which is to the side gable of the proposed dwelling. This, however, matches the streetscape of the area, with the existing dwelling at the opposite side of Cromwell Road also sitting forward of the build line.
- 7b.16 The proposed dwellinghouse is a two and a half storey dwelling, but, this is due to the levels on site. The dwelling would sit at the same level as the current host dwelling, and would be lower than the neighbouring dwelling to the rear.
- 7b.17 Loss of view is not a material planning consideration.

7c Conclusion

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with Policies SC2, SC8 and SC9 of the Falkirk Council Local Plan. There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

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

- (1) The development to which this permission relates must be begun within three years of the date of this permission.**
- (2) (i) Unless otherwise agreed in writing, no development shall commence on site until a contaminated land assessment in accordance with current guidance has been submitted and approved by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site, including contamination that may have originated from elsewhere, and also identify any potential risks to human health, property, the water environment or designated ecological sites.**
(ii) Where contamination (as defined by Part IIA of the Environmental Protection Act 1990) is encountered, a detailed remediation strategy shall be submitted to and approved in writing by the Planning Authority. The strategy shall demonstrate how the site shall be made suitable for its intended use by the removal of any unacceptable risks caused by the contamination.

- (iii) Prior to the commencement of development, the remediation works shall be carried out in accordance with the terms and conditions of the remediation scheme as approved in writing by the Planning Authority. No part of the development shall be occupied until a remediation completion report/validation certificate has been submitted to and approved in writing by the Planning Authority.
- (3) The existing dropped kerb footway crossing and associated tarred ramp in the carriageway channel on Cromwell Road, shall be removed, with the footpath returned to its original level.
- (4) Development shall not begin until details of the scheme of hard and soft landscaping works for the entire site have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum, preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. a programme for completion and subsequent maintenance.
- (5) A smooth render to be agreed in writing by the Planning Authority shall be applied to both the existing dwelling and the proposed dwelling.
- (6) The new dwellinghouse shall not be occupied until work has been completed to remove the flat roof side extension of the existing dwelling, Windyknowe.

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) To safeguard the interests of the users of the highway.
- (4-5) To safeguard the environmental amenity of the area.
- (6) The development would not be acceptable without the removal of the current extension.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01, 02 and 03.

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. The Falkirk Council Local Plan.
3. The Falkirk Council House Extensions and Alterations Supplementary Planning Guidance Note.
4. Letter of objection from Mr James Wilson, 5 Cromwell Road Falkirk FK1 1SF on 19 April 2011.
5. Letter of objection from Mr Alex Davidson, 13 Moncks Road Falkirk FK1 1SG on 20 April 2011.
6. Letter of objection from Boston J A and Anne A Glegg, 3 Cromwell Road Falkirk FK1 1SF on 15 April 2011.
7. Letter of objection from Mrs Carole Anne McDermott, 2 Cromwell Road Falkirk FK1 1SF on 11 April 2011.

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/11/0112/FUL

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FALKIRK COUNCIL

Subject: **ERECTION OF DWELLINGHOUSE AT GLEN HOUSE, GLEN ROAD, TORWOOD, LARBERT FK5 4SN FOR - MR ALAN MILLIKEN – P/11/0347/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **24 August 2011**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Ward - Bonnybridge and Larbert**
Councillor Billy Buchanan
Councillor Tom Coleman
Councillor Linda Gow

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

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the erection of a dwellinghouse within the rear garden area of an existing detached dwellinghouse. The proposed single storey dwellinghouse would measure some 30 metres long, 10 metres in width and have an off-shoot measuring some 15 metres by 5 metres. A detached garage of 6.6 metres by 6.6 metres is also proposed. The proposed dwelling would have 3 bedrooms, games room, kitchen, principal lounge and family dining area. A covered terrace would also partially extend along the exterior.
- 1.2 The dwelling is proposed within the rear garden area of Glen House, Glen Road, Torwood but is also to the rear of Torwood Tower and Towood Cottage, Torwood.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to Committee by Councillor Buchanan.

3. SITE HISTORY

- 3.1 Planning application 05/1069/OUT – erection of dwellinghouse – refused 18 October 2006. This site included part of the site which is the subject of the current application.
- 3.2 Planning application 05/1068/OUT – erection of dwellinghouse – refused 11 October 2006. This site included part of the site which is the subject of the current application.

- 3.3 F/2004/0015 – development of land for housing purposes (outline) - granted 22 April 2005. This covered part of the site which is the subject of the current application. Subsequent applications for the erection of 2 dwellinghouses (F/2005/0099 and F/2005/0100) received approval of reserved matter on 19 April 2005. These dwellinghouses (Torwood Tower and Torwood Cottage) have been constructed and front onto Glen Road with the site of this application to the rear.

4. CONSULTATIONS

- 4.1 Scottish Water has no objections, but does not guarantee a connection to Scottish Water's infrastructure.
- 4.2 Falkirk Council's Roads Development Unit have no objections, but request that if permission is granted, planning conditions are imposed regarding access width, gate openings and in-curtilage car parking spaces.
- 4.3 Falkirk Council's Environmental Protection Unit have no objections, but request that if the proposal is granted, planning conditions are imposed regarding contaminated land.

5. COMMUNITY COUNCIL

- 5.1 No comments have been received.

6. PUBLIC REPRESENTATION

- 6.1 4 letters of objection have been received, commenting:-
- Additional noise would be created by the construction of the proposed house.
 - Adverse loss of established woodland, which has been part of the rural environment for a great number of years.
 - The loss of wildlife on the site.
 - The view of existing residents would be hindered.
 - Access to the site is extremely restricted, for both construction vehicles and potential residents.
 - The application, if approved, would set a precedent for similar proposals.
 - The site is totally unsuitable for a house to be crammed in, behind 4 existing properties.
 - The proposal is backfill development.
 - Loss of privacy to existing properties.

- Existing trees between the new development and the proposed should be retained.
- Torwood Community Woodland Group Ltd object to the planning application on the grounds that it would necessitate clearance and felling of trees in the village of Torwood. There has been substantial degradation around the edges of the village in recent years with the loss of natural woodland and habitat. As a woodland group it is their goal to protect what remains of the woodland and green space around Torwood for the benefit of residents and wildlife. The group believes there is no justification for further destruction of the countryside as there are many houses in the village currently on the market and further housing development in the pipeline. This building would further push out the boundaries of the village into green space.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

Falkirk Council Structure Plan

7a.1 Policy ENV.1 ‘Countryside and Protected Areas’ states:

- “(1) *There is a general presumption against development in areas defined as countryside, unless it can be demonstrated that a countryside location is essential or is an appropriate form of agricultural diversification. Where it is established that a countryside location is essential, development proposals will also be assessed in relation to Local Plan policies appropriate to specific protected areas as defined generally by Schedules ENV.1 and ENV.3.*
- (2) *The policies applicable to countryside and protected areas within it, together with the detailed boundaries of each area, will be set out in Local Plans.”*

7a.2 The application site lays outwith the urban envelope of Torwood and, as such, could be designated as countryside. Consequently, the applicant has failed to demonstrate that a new dwellinghouse within this countryside location is essentially required or is an appropriate form of agricultural diversification.

Falkirk Council Local Plan

7a.3 Policy EQ19 - ‘Countryside’ states:

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

- *they constitute appropriate infill development; or*
- *they utilise suitable existing buildings.*

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

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

7a.4 The urban and village limits represent the desirable limit to the expansion of settlements and the application site is clearly outwith the Torwood village envelope. Consequently, the site can be classified as countryside and the proposal has no supporting information which would lead to the conclusion that the dwellinghouse requires a countryside location, constitutes appropriate infill development or will utilise suitable existing buildings.

7a.5 Policy EQ26 - 'Trees, Woodland And Hedgerows' states:

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

- (1) *Felling detrimental to landscape, amenity, nature conservation or recreational interests will be discouraged. In particular ancient, long-established and semi-natural woodlands will be protected as a habitat resource of irreplaceable value;*
- (2) *In an area covered by a Tree Preservation Order (TPO) or a Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, stability or appearance of the trees. Where necessary, endangered trees and woodlands will be protected through the designation of further TPOs;*
- (3) *Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting appropriate in terms of number, size, species and position;*
- (4) *The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a woodland area is integral to a development proposal, developers will normally be required to prepare a plan and make provision for its future management; and*
- (5) *There will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to the historic landscape character."*

7a.6 The submitted proposal would involve the removal of at least 17 stems of Sycamore and a mature beach tree, plus the loss of a line of small conifers/broadleaves at the entrance area. Although the Sycamore stems and conifers have a low amenity value compared to other mature native species, their loss would nevertheless contribute to the overall loss of broadleaf tree cover of the locality and would contribute to opening up of views of the proposed dwelling and other dwellings from open country and the A9 to the north east. Any tree removal may be evident from the north east due to the elevated location of the site relative to the land to the north east. The proximity of the north western end of the proposed house to the tree proposed for retention appears very close and may barely leave a sufficient root protection area and allow space for house construction (this is difficult to determine due to the level of detail provided). Trees at this proximity to the house may suffer construction damage and in addition future occupants would be likely to experience perceived problems with shading, leaf and branch fall. The cumulative effect would be that extent of tree loss and removal would, in fact, be greater than shown on the submitted plans. It is therefore considered that the submitted proposal would not be acceptable on landscape and visual grounds.

7a.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."*

7a.8 In this instance, the proposal could not be considered to accord with the terms of the above policy, not least given the lack of essential justification. In addition, the proposal does not represent an appropriate infill opportunity within the envelope of an existing group of residential buildings, as the proposal would result in backland development (development of land behind the rear building line of existing housing or other developments, and is usually land that is formally used as gardens, or is partially enclosed by gardens, and where access to the development adjoins a public highway).

7a.9 Policy SC8 'Infill Development and Subdivision of Plots' states:

"Proposals for the erection of additional dwellinghouses within the curtilage of existing properties or on small gap sites will only be considered favourably where:

- (1) the scale, density, disposition and design of the proposed houses respect the architectural and townscape character of the area;*
- (2) adequate garden ground can be provided to serve the proposed houses without an unacceptable impact upon the size or functioning of existing gardens;*
- (3) adequate privacy will be afforded to both the proposed houses and neighbouring properties;*
- (4) the proposal would not result in the loss of features such as trees, vegetation or walls, such that the character or amenity of the area would be adversely affected;*
- (5) the proposed vehicular access and other infrastructure is of an adequate standard; and*
- (6) the proposal complies with other Local Plan policies."*

7a.10 In this instance, the scale of the proposed house does not respect the architectural character of the area, will result in the loss of vegetation to an extent of adversely affecting the area and does not comply with other local plan policies.

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

7b Material Considerations

7b.1 The issues to be considered are the points raised by objectors and comments received through consultation.

Points Raised by Objectors

7b.2 In consideration of the points raised:-

- It is agreed that the development of the site would constitute an unacceptable form of backland development and is, therefore, unsuitable for further housing development.
- It is agreed that there would be substantial impact on existing woodland.
- It is agreed that vehicular access to the site is restricted, but not incapable of being utilised for construction purposes.
- Noise from construction may be subject to monitoring by the in Environmental Protection Unit.
- Loss of view to existing residents is not a material planning consideration.

- It is agreed that, if approved, the proposal may constitute an undesirable precedent which would make other such proposals difficult to resist.

Points Raised Through Consultation

7b.3 Matters raised through consultation may be adequately addressed through planning conditions, should the proposal be approved.

7c Conclusion

7c.1 It is recognised that part of the applicant's garden ground lies outwith the village envelope as defined in the Falkirk Council Local Plan and, as such, the proposal offends policy with regard to new development in the countryside. However, in addition, the scale of the new development, combined with the positioning of the dwelling behind existing dwellings, offend policy relating to the appropriate setting of new development. These elements, combined with concerns regarding the loss of existing landscaping and the detrimental influence such an unwarranted precedent would have on future applications of this type, would substantiate the recommendation to refuse the application.

8. RECOMMENDATION

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

- (1) The proposal is contrary to Falkirk Council Structure Plan Policy ENV1 – Countryside and Protected areas - and Falkirk Council Local Plan Policy EQ19 – Countryside - in that the applicant has provided no essential justification for a dwellinghouse in a defined countryside location.
- (2) The proposal is contrary to Falkirk Council local Plan policies SC3 – Housing Development in the Countryside – in that the proposal does not represent an appropriate infill opportunity within the envelope of an existing group of residential buildings and would, if approved, result in backland development, all to the detriment of the architectural character of the area.
- (3) The proposal is contrary to Falkirk Council Local Plan Policy SC8 – Infill Development and Sub-division of Plots – in that the proposed house does not respect the architectural character of the area, in terms of scale and would result in backland development, all of which would constitute an undesirable precedent which could not reasonably be resisted in similar circumstances. In addition, the proposal would likely result in the loss of established landscape features, all to the detriment of the setting of the area.

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Letter of objection from Mrs Elaine McGhee, Torwood Tower Glen Road Torwood FK5 4SN on 20 June 2011
4. Letter of objection from Mr Calum Hoggan, Torvale Cottage Glen Road Torwood FK5 4SN on 20 June 2011
5. Letter of objection from Gordon and Isabel Lawton, Hollings Cottage Glen Road Torwood Larbert on 23 June 2011
6. Letter of objection from Mrs Joanna Stevenson, Yew Bank Central Park Avenue Larbert FK5 4GR on 6 July 2011

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/11/0347/FUL

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FALKIRK COUNCIL

Subject: MODIFICATION OF AGREEMENT ON PLANNING PERMISSION F/96/0002 TO ALLOW THE DWELLINGHOUSE TO BE OCCUPIED BY A PERSON "MAINLY OR LASTLY EMPLOYED IN AGRICULTURE, FORESTRY OR LANDSCAPE INDUSTRIES LIKE A TREE NURSERY, IN THE LOCAL AREA, OR TO A DEPENDANT OF SUCH A PERSON RESIDING WITH HIM OR HER, OR A WIDOW OR WIDOWER OF SUCH A PERSON." AT ALMA COTTAGE, 7A MANNERSTON HOLDINGS, LINLITHGOW, EH49 7LY FOR MARTIN AND ALISON WATT – P/11/0439/74M

Meeting: PLANNING COMMITTEE
Date: 24 August 2011
Author: DIRECTOR OF DEVELOPMENT SERVICES

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

Community Council: Blackness Area

Case Officer: Bernard Whittle, (Development Management Co-ordinator) Ext. 4875

1. INTRODUCTION

- 1.1. A request has been made to modify an Agreement made under the terms of Section 50 of the Town and Country Planning (Scotland) Act 1972, (now Section 75 of the Town and Country Planning (Scotland) Act 1997), as amended, relating to restrictions on the occupancy of a dwellinghouse at 7A Mannerston Holdings, Linlithgow.
- 1.2. The site is located within the area of Mannerston Holdings at the end of a private access track leading from the A904 at the Rouken Glen Garden Centre.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1. The decision to grant planning permission subject to a Section 50 Agreement in the terms set out above was a decision of the Regulatory Committee (now Planning Committee). In these circumstances the Scheme of Delegation, as amended, requires that applications for modification and discharge of an Agreement shall be determined by the Planning Committee.

3. BACKGROUND TO SECTION 50 AGREEMENT/ SITE HISTORY

- 3.1 A detailed planning application by Mr Martin Watt (reference F/96/0002) was granted by the Council in September 1997 for the erection of a dwellinghouse associated with a tree nursery business on this site subject to an Agreement under Section 50 of the Town and Country Planning (Scotland) Act 1972. The Agreement restricts occupancy of the dwellinghouse to a person or persons employed for a minimum of 35 hours per week in a tree nursery business at Mannerston Holdings and his, her or their dependants in all time coming.
- 3.2 The site lies outwith settlement boundaries identified in the Development Plan in an area where there is a general presumption against new dwellinghouses other than in exceptional circumstances. Planning permission was granted for the dwellinghouse on the basis that the applicant's tree nursery business was an exceptional circumstance and justified the need for a new dwellinghouse in this location.
- 3.3 Mr Watt has advised that due to an unfortunate combination of unforeseen personal health problems and financial circumstances the tree nursery business has failed and he can not now comply with the restrictive terms of the Agreement. Modification of the Agreement as proposed in the application description is sought to allow Mr Watt and his wife and children to continue to live in the dwellinghouse in the changed circumstances he now finds himself in.

4. REQUEST TO MODIFY THE SECTION 50 AGREEMENT

- 4.1 New legislation introduced in February 2011 by the Planning etc (Scotland) Act 2006 requires that where a person against whom a planning agreement is enforceable wishes to modify or discharge the agreement they have to apply to the planning authority seeking their agreement for the modification or discharge. These provisions are set out in the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 and annex to Circular 1/2010 published in February 2011.
- 4.2 On receipt of an application the planning authority is required to notify the owner of the land and/or any other person against whom the planning agreement is enforceable and to allow a period of at least 21 days for these interested parties to submit representations. The planning authority is not required to notify or consider representations from any other parties.
- 4.3 The planning authority is to issue notice of their decision in respect of the application within two months of the date of validation. The applicant has a right of appeal to Scottish Ministers if the planning authority fails to give notice of their decision within the two month period.

5. CONSIDERATION OF REQUEST

- 5.1 Details of the Section 50 Agreement and the request for its modification are provided earlier in this report. The comments made by the applicant are noted and it is considered that there is no prospect of the terms of the current restriction being met.
- 5.2 No representations have been received from interested parties. The Blackness Area Community Council is not an interested party and has no locus to submit representations but they have written to advise that they have no comments to make on the application.

- 5.3 Since the decision to grant planning permission in 1997 there has been a material change in circumstances outwith the control of the applicant. The proposed modification to the Section 50 Agreement would still limit occupation of the dwellinghouse. It would allow the applicant and his family to continue to live in the dwellinghouse but would maintain an agricultural/rural tie in keeping with the spirit of the original planning decision and current Development Plan Policies set out in Falkirk Council Structure Plan Policy ENV.1 and Falkirk Council Local Plan Policies EQ19 and SC3, restricting residential development in the countryside.

6. RECOMMENDATION

- 6.1 It is recommended that Committee agree to modify the Section 50 Agreement restricting occupation of the dwellinghouse at 7A Mannerston Holdings subject to the Council's legal costs being met by the applicant.

.....
Director of Development Services

Date: 16 August 2011

LIST OF BACKGROUND PAPERS

1. The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010
2. Annex to Circular 1/2010: Planning Agreements, Planning Obligations and Good Neighbour Agreements
3. Falkirk Council Structure Plan
4. Falkirk Council Local Plan
5. Letter of representation from Blackness Area Community Council

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504875 and ask for Bernard Whittle, Development Management Co-ordinator.

Planning Committee

Planning Application Location Plan

P/11/0439/75M

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