

Stirling Council

Agenda Item No. 4

Planning & Regulation Panel

Date of Meeting: 2 March 2021

Not Exempt

Revocation: Extension And Alterations To Create New Dwelling House At Upper Auchinlay, Auchinlay Road, Dunblane, FK15 9LZ - R & M Paterson Ltd - 19/00351/FUL

Purpose & Summary

Full planning permission was granted for the above on 17 June 2019, and now needs to be revoked in order to allow a different development proposal to be approved on the site. The newer application (ref. 19/00977/FUL) has been determined under delegated authority, with a 'minded to grant' decision subject to revocation of the extant permission.

Under the Council's scheme of delegation, the decision to revoke planning permission must be made by the Planning & Regulation Panel, and the matter has therefore been referred to Panel by the Council's Planning and Building Standards Manager.

Recommendations

Planning & Regulation Panel is asked to:

1. exercise the power conferred by Section 65 of the Town and Country Planning (Scotland) Act 1997 to make an order revoking the planning permission granted 17 June 2019 under reference 19/00351/FUL.

Resource Implications

Where planning permission is revoked, Section 76 of the Town and Country Planning (Scotland) Act 1997 provides that the applicant or other persons with an interest in the land affected may claim compensation if they suffer loss as a result. A claim could be made, for example, if building work has already started or expenditure has been incurred in the preparation of plans. In the current case, the risk of the applicants seeking compensation is considered to be very low. The applicants have indicated they do not intend to proceed with the development authorised by the permission and have agreed to revocation so that a new proposal can be taken forward.

Legal & Risk Implications

Legal implications of revocation in the current case are set out within the assessment section of the report.

In order to revoke planning permission that has previously been granted, the planning authority must adhere to the procedures set out in Sections 65, 66 and 67 of the Town and Country Planning (Scotland) Act 1997. If the specified procedures are not followed, the decision to revoke would be open to legal challenge. In this case, it is considered unlikely that a Revocation Order would be opposed.

The legal process is as follows:

If the Planning and Regulation Panel makes an Order revoking planning permission, one of two procedures must be used to confirm the Order, depending on whether or not the Order is opposed.

Where a S65 Order is opposed, it shall not take effect unless it is confirmed by the Secretary of State.

Where a Planning Authority submit such an Order to the Secretary of State for confirmation, notice is served on the:

- a) The owner of the land affected,
- b) The lessee and the occupier of the land affected, and
- c) Any other person who in their opinion will be affected by the order.

The notice specifies the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

If within the period such a person so requires, the Secretary of State shall, before confirming the Order, give such an opportunity both to that person and to the Planning Authority.

This period must not be less than 28 days from the service of the notice.

Where a S65 Order is unopposed, and any owner, lessee or occupier of the land and all persons who in the Authority's opinion will be affected by the order have notified the Authority in writing that they do not object to it, instead of submitting the Order to the Secretary of State for confirmation the Authority shall advertise in the prescribed manner the fact that the Order has been made.

This advertisement must specify that persons affected by the Order have at least 28 days to give notice to the Secretary of State that they wish the opportunity of appearing before, and being heard by, a person appointed by the Secretary of State. If no one does so, the Order will take effect without confirmation by the Secretary of State no less than 14 days after the expiry of the notice period.

The Planning Authority must also serve notice to the same effect on the persons set out above.

Any advertisement published must be sent to the Secretary of State not more than 3 days after publication.

1. Background

- 1.1. Not applicable.

2. Considerations

The Site

- 2.1 The application site is within the countryside to the north of Dunblane, at Upper Auchinlay, Auchinlay Road, Dunblane.

The Proposal

- 2.2 To revoke planning approval 19/00351/FUL for the reasons set out in this report.

Previous History

- 2.3 Planning Permission was granted at this site (Ref 19/00351/FUL) to add an extension to the existing farm house, large enough to then subdivide the properties and form two separate dwellings on the site. The additional dwelling was considered necessary to house an additional farm worker on site and ensure the operation of the farm, in particular, to ensure the welfare of the livestock on the farm. The development approved has not been built, and the applicants have decided that this additional dwelling is now to take the form of a detached house. They have submitted a new application (Ref 19/00977/FUL) for this proposal. The determination of that application is delegated to Officers, and it is only the revocation of approval 19/00351/FUL that is being considered by this report.

Consultations

- 2.4 None.

Representations

- 2.5 None.

Local Development Plan

- 2.6 Section 25 of the Town and Country Planning (Scotland) Act 1997 specifies that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise.
- 2.7 The Adopted Local Development Plan is the adopted Stirling Local Development October 2018 (henceforth the "Development Plan").
- 2.8 The key policy of relevance to the original grant of planning permission, and to the decision on revocation, is Policy 2.10: Housing in the Countryside. Policy 2.10 supports the development of housing in the countryside in certain circumstances, including (at part (iii)) where there is a genuine need for someone to be housed for a specific purpose. This can be a genuine need to be housed in connection with agriculture, horticulture or forestry, or where there is a clear operational need for an established rural business.

Other Planning Policy

- 2.9 Supplementary Guidance: Housing in the Countryside, approved May 2020. This guidance relates directly to Development Plan Policy 2.10, and for housing with a specific need, it sets out at part (iii)(b) that housing will be supported where the applicant demonstrates a clear operational need for a manager or staff to be housed in the vicinity. This part of the Supplementary Guidance (SG) was also applied in the approval of application 19/00351/FUL. However, it was under a previous version, SG10: Housing in the Countryside. The guidance relating to this criteria has not significantly changes.

Assessment

Legal Context

- 2.10 In terms of Section 65 of the Town and Country Planning (Scotland) Act 1997, the criteria for making an Order revoking planning permission of this type are that the building works authorised have not been completed and that it appears to the Planning Authority that revocation is “expedient”. In exercising the power to revoke, the Authority must have regard to the Development Plan and to any other material considerations.

Planning/Policy Context

- 2.11 The revocation of approval 19/00351/FUL is directly related to the requirements of Development Plan Policy 2.10, part (iii), and part (iii) of the associated Supplementary Guidance, as set out above, for the reasons which follow.
- 2.12 The extant planning permission was approved on the basis that an additional dwelling was needed to allow the applicants’ son, who works on the farm, to be present on the site and to ensure the welfare of the livestock. The farmer is due to retire and the son is to be more involved in the day-to-day running of the farm. This justification was accepted as demonstrating compliance with Development Plan Policy 2.10 and the associated Supplementary Guidance, and permission was granted subject to an occupancy condition.
- 2.13 The applicants no longer wish to extend the existing farm house, and instead wish to build a detached dwelling nearby (19/00977/FUL). This newer application is justified on the same basis as the development already approved.
- 2.14 The extant permission is valid for three years from the date granted, that is, until June 2022. If the newer application were to be approved, therefore, two additional houses could be built at this farm. However, the need evidenced – for an additional farm worker, specifically the son to be accommodated – only supports one additional dwelling on the land and not two. The newer application can only be considered to accord with the Development Plan if planning approval 19/00351/FUL is revoked.
- 2.15 Therefore, the need to revoke this approval has a clear link to the Adopted Development Plan.
- 2.16 For the above reasons, an order revoking planning approval 19/00351/FUL is sought, to allow planning application 19/00977/FUL to be processed through delegated powers.

3. Implications

Equalities Impact

- 3.1 This application was assessed in terms of equality and human rights. Any impact has been identified within the Consideration section of this report.

Fairer Scotland Duty

- 3.2 This section is not applicable.

Climate Change, Sustainability and Environmental Impact

- 3.3 An Environmental Impact Assessment is not required.

Other Policy Implications

3.4 All relevant policies have been set out within the Consideration section of this report

Consultations

3.5 As set out within the Consideration section of this report.

4. Background Papers

4.1 Planning Application file 19/00351/FUL. File can be viewed online at: [View Application](#)

5. Appendices

5.1 Appendix 1 – Location of development.

Author(s)

Name	Designation	Telephone Number/E-mail
Peter McKechnie	Senior Planning Officer (Acting)	01786 233679 mckechniep@stirling.gov.uk @stirling.gov.uk

Report of Handing approved by Chief Planning Officer

Name	Designation	Date
Christina Cox	Planning & Building Standards Manager	3 February 2021

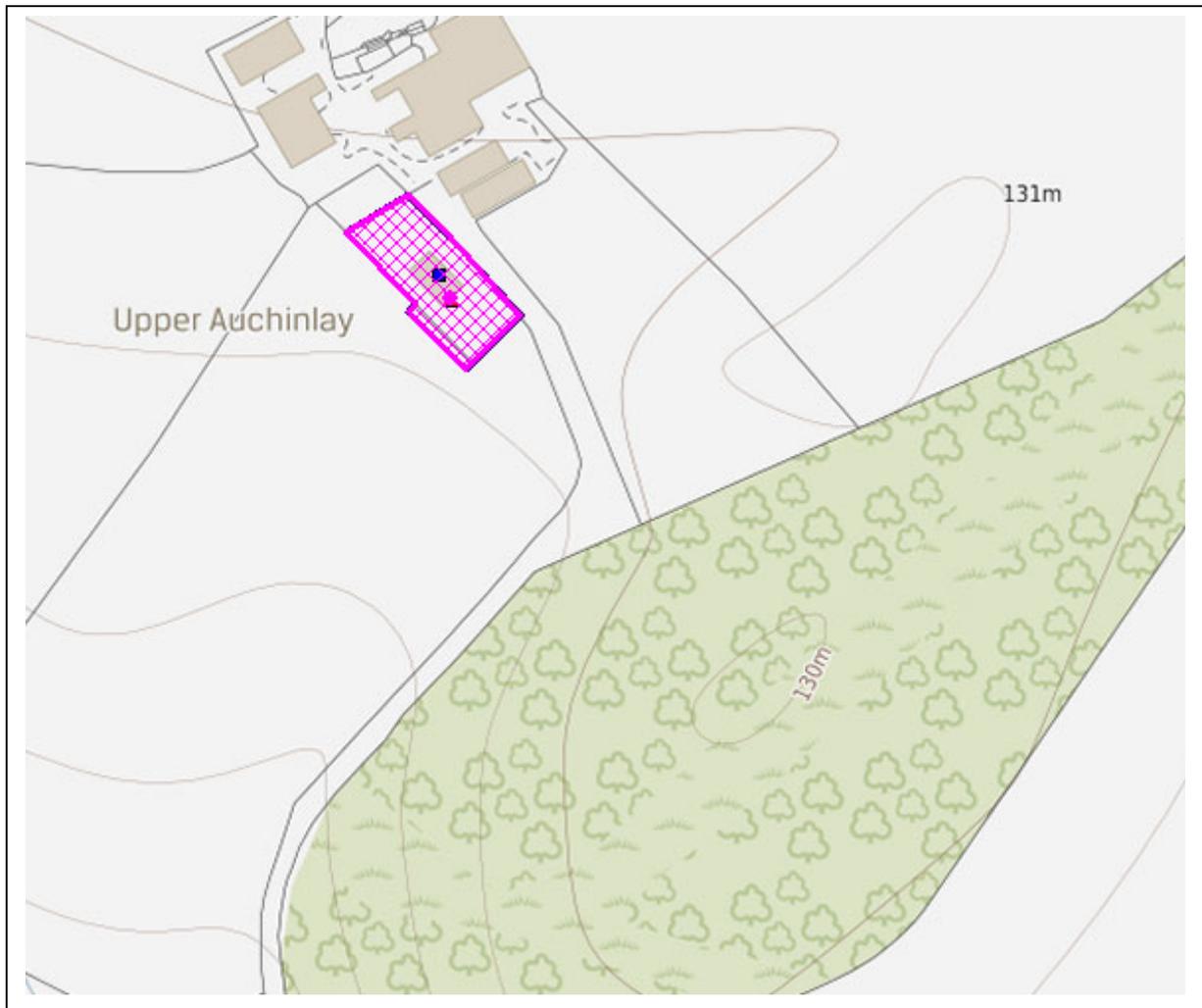
Approved by

Name	Designation	Date
Drew Leslie	Senior Manager – Infrastructure	17 February 2021

Details of Convener(s), Vice Convener(s), Portfolio Holder and Depute Portfolio Holders (as appropriate) consulted on this report:	Councillor Alasdair MacPherson Councillor Danny Gibson
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Wards affected:	Ward 3 Dunblane & Bridge Of Allan
Key Priorities:	N/A
Key Priority Considerations:	N/A
Stirling Plan Priority Outcomes: (Local Outcomes Improvement Plan)	N/A

Location of Development



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