

**FALKIRK COUNCIL**

**Subject:** CHANGE OF USE FROM CLASS 1 (SHOP) TO HOT FOOD TAKE-AWAY (SUI-GENERIS) AT 52 HIGH STATION ROAD, FALKIRK FK1 5QX FOR MR & MRS IJAZ SARDAR - P/13/0689/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 29 January 2014

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

**Local Members:** Ward - Falkirk South

Depute Provost John Patrick  
Councillor Colin Chalmers  
Councillor Dennis Goldie  
Councillor Gerry Goldie

**Community Council:** No Community Council

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

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

1.1 The site consists of an existing small store which is operated as a newsagent (Class 1 shop), located adjacent to several other small retail/business units and surrounded by mainly residential properties. The shop fronts onto the B8028 High Station Road, which is a busy commuter route in and out of Falkirk Town Centre, as well as between the Town Centre and Falkirk High railway station. There are several on-street parking bays to the front of the shop, with double yellow line parking restrictions on the remainder of the road on either side of the parking area. It is being proposed within the current application to convert the property from Class 1 shop to use as a Hot Food Takeaway (Sui-Generis).

**2. REASON FOR COMMITTEE CONSIDERATION**

2.1 The application was called in by Councillor Colin Chalmers.

**3. SITE HISTORY**

3.1 P/13/0104/FUL - Application Withdrawn - 29 April 2013 - Change of Use From Class 1 (Shop) to Hot Food Take-Away (Sui-Generis)

## **4. CONSULTATIONS**

- 4.1 The Council's Roads Development Unit does not consider a hot food shop favourably at this location. There is no off-street parking, and the current on-street parking is limited. There are two existing hot food takeaways in the immediate vicinity, and the road is double yellow lined at either side of the limited on-street parking area. The road itself is the B8028, which is a busy commuter route in and out of Falkirk Town Centre. It is the view of the Roads Development Unit that an additional hot food takeaway at the location would add to the road safety concerns for the overall location and would not be favoured.
- 4.2 The Council's Environmental Protection Unit has stated that due to the nature of the business and the close proximity of neighbouring properties, further information is required from the applicant with regard to odour and noise control in order to provide a detailed response to the proposal. The information should include a detailed specification of:
1. The cooking odour extraction system, including its proposed exit point on the external facade of the property;
  2. Measures to control odour emissions; and
  3. Measures employed to control noise emissions from any extraction or ventilation systems and noise output from fan.
- 4.3 The applicant/agent has submitted details of the proposed canopy extract ventilation system, but this is not to the detailed level required by the Environmental Protection Unit to allow full comments. It is likely that a suitable system could be put in-place, but this would have to be demonstrated prior to any works commencing on-site if the application were approved.

## **5. COMMUNITY COUNCIL**

- 5.1 There is no Community Council active in this area

## **6. PUBLIC REPRESENTATION**

- 6.1 In the course of the application 2 contributors submitted objection letters to the Council. The salient issues are summarised below:
- The same type of application was recently submitted and rejected for the premises.
  - Do not want the smell and waste of a hot food takeaway next door to flatted dwelling.
  - The most serious issue currently at this section of the road is parking. The unit is located at a busy point within the roadway, adjacent to a bend and near to a busy junction. There is nowhere for cars to park to use the proposed hot food takeaway, as parking is already very limited.
  - Noise - would soundproofing take place to ensure no issue with the adjacent flat?
  - Smell would be a concern, and no agreement would be given to the venting being installed in the common wall.

- There is no space for bin storage, as this is currently being proposed in a common area, which has not been agreed with the relevant owners.
- No need for another hot food takeaway, as there is already one adjacent and within a mainly residential area.

## 7. DETAILED APPRAISAL

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

Accordingly,

### 7a The Development Plan

#### *Falkirk Council Structure Plan*

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

#### *Falkirk Council Local Plan*

7a.2 Policy EP9 - 'Food And Drink ' states:

*“Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in other locations where they are capable of serving a tourism function. It must also be demonstrated that:*

- (1) There will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours;*
- (2) In the case of proposals within a centre, the proposal is consistent with the specific policies covering the relevant centre, particularly with regard to safeguarding the centre's retail function; and*
- (3) Parking, access and traffic generation requirements are satisfied.”*

- 7a.3 The proposed use is located within a small grouping of commercial properties, with flatted dwellings above and mainly residential properties surrounding the site. As there are adjacent residential properties, the Environmental Protection Unit has requested further detailed information in relation to odour and noise control, as the information currently submitted is insufficient to provide a detailed response. Therefore, it is not possible to fully assess if there would be any adverse impact on the amenity of the adjacent residential properties in relation to noise, odours and general disturbance. It has not been noted by the Environmental Protection Unit that litter would be a concern at this location.
- 7a.4 In relation to parking, access and traffic generation, the Roads Development Unit would not favour the proposal, as the current on-street parking provision is limited. On either side of this, double yellow line parking restrictions apply, and the road is a busy commuter route in and out of Falkirk Town Centre and to Falkirk High station. It has also been noted that there are already two existing hot food takeaways close by. The Roads Development Unit is concerned that the addition of another such business would cause additional on-street parking at an already busy area of the road network and add to overall road safety concerns at this location. There are currently no other options to provide additional on-street or off-street parking for potential customers. It is therefore considered that the proposal does not accord with Policy EP9.

## **7b Material Considerations**

- 7b.1 The material considerations to be assessed are Falkirk Local Development Plan (Proposed Plan) and assessment of public representations.

### ***Falkirk Local Development Plan (Proposed Plan)***

- 7b.2 The Falkirk Local Development Plan (Proposed Plan April 2013) (FLDP) was approved by the Council for consultation in March 2013, with the period for representations running from April to June 2013. It is expected to be adopted in early 2015, at which point it will replace the current Structure Plan and Local Plan. It provides the most up to date indication of Falkirk Council's views in relation to Development Plan policy and constitutes a material consideration in the determination of planning applications.
- 7b.3 Policy TC04 - 'Food and Drink' states:
1. *Proposals for Class 3 uses, hot food takeaways and public houses will be encouraged to locate within centres, in association with other neighbourhood shops or services, or in locations where they are capable of fulfilling a tourism function.*
  2. *Proposals must demonstrate that there will be no adverse impact on the amenity of adjacent residential properties, or the surrounding area generally, by virtue of noise, disturbance, litter or odours, and that parking and access requirements are satisfied.*
  3. *Temporary consent for mobile snack bar vans may be granted where a specific need is demonstrated, and there is no adverse impact on local amenity or the visual quality of the locality*
- 7b.4 The relevant policy contained within the Falkirk Local Development Plan (Proposed Plan April 2013) is considered to highlight the same issues as those within the current adopted plan. There are no material considerations within the policy which would cause the proposal to be assessed in a different manner and/or justify an approval of planning permission. It is therefore considered that the proposal does not accord with Policy TC04.

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

### ***Assessment of Public Representations***

- 7b.6 A previous application for the unit for a change of use to a hot food takeaway was withdrawn and no decision was therefore made by the planning authority.
- 7b.7 The Environmental Protection Unit does not have a concern with predicted waste from the site. However, further details in relation to odour control would be required to allow a detailed assessment of the site and ensure there would be no issue in relation to neighbouring dwellings.
- 7b.8 The Roads Development Unit has highlighted that there is an issue with on-street parking at this location, and that a further hot food takeaway with associated customer parking could potentially add to road safety concerns.
- 7b.9 The Environmental Protection Unit has stated that further information would be required to fully assess the noise issue in relation to cooking equipment. The noise levels would have to be controlled and meet the relevant criteria to be allowed to be installed and operated at the premises. This would ensure no noise nuisance to existing neighbouring dwellings.
- 7b.10 As with the above, the Environmental Protection Unit would require further details in relation to the equipment to be installed, to ensure that odours are adequately controlled and do not affect the amenity of adjacent dwellings. In relation to issues with common walls, this would be a legal matter between owners and not a material planning consideration.
- 7b.11 In relation to the bin storage, it has been shown that there is adequate space and the Environmental Protection Unit has not highlighted waste rubbish as an issue. If there are issues in relation to the ownership of the ground, this would be a legal matter between owners, and not a material planning consideration.
- 7b.12 There are no restrictions as to what applications can be submitted, and within this specific area, no policies which would restrict the use of hot food takeaways. Therefore, such a use will be fully assessed on the current policies and relevant material considerations specific to the proposal.

### **7c Conclusion**

- 7c.1 It is considered that the proposal is not acceptable development, as it is not in accordance with Policy EP9 of the Falkirk Council Local Plan and Policy TC04 of the Falkirk Local Development Plan (Proposed Plan April 2013).

**8. RECOMMENDATION**

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

- 1. The proposed development does not accord with the terms of Policy EP9 (Food and Drink) of the Falkirk Council Local Plan and Policy TC04 (Food and Drink) of the Falkirk Local Development Plan (Proposed Plan April 2013). It is considered that the hot food takeaway would have an adverse impact on adjacent residential properties and the surrounding area generally, as parking, access and traffic generation requirements have not been satisfied, and the proposed use would therefore not be in the interests of road safety.**

**Pp**

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**Director of Development Services**

**Date: 17 January 2014**

**LIST OF BACKGROUND PAPERS**

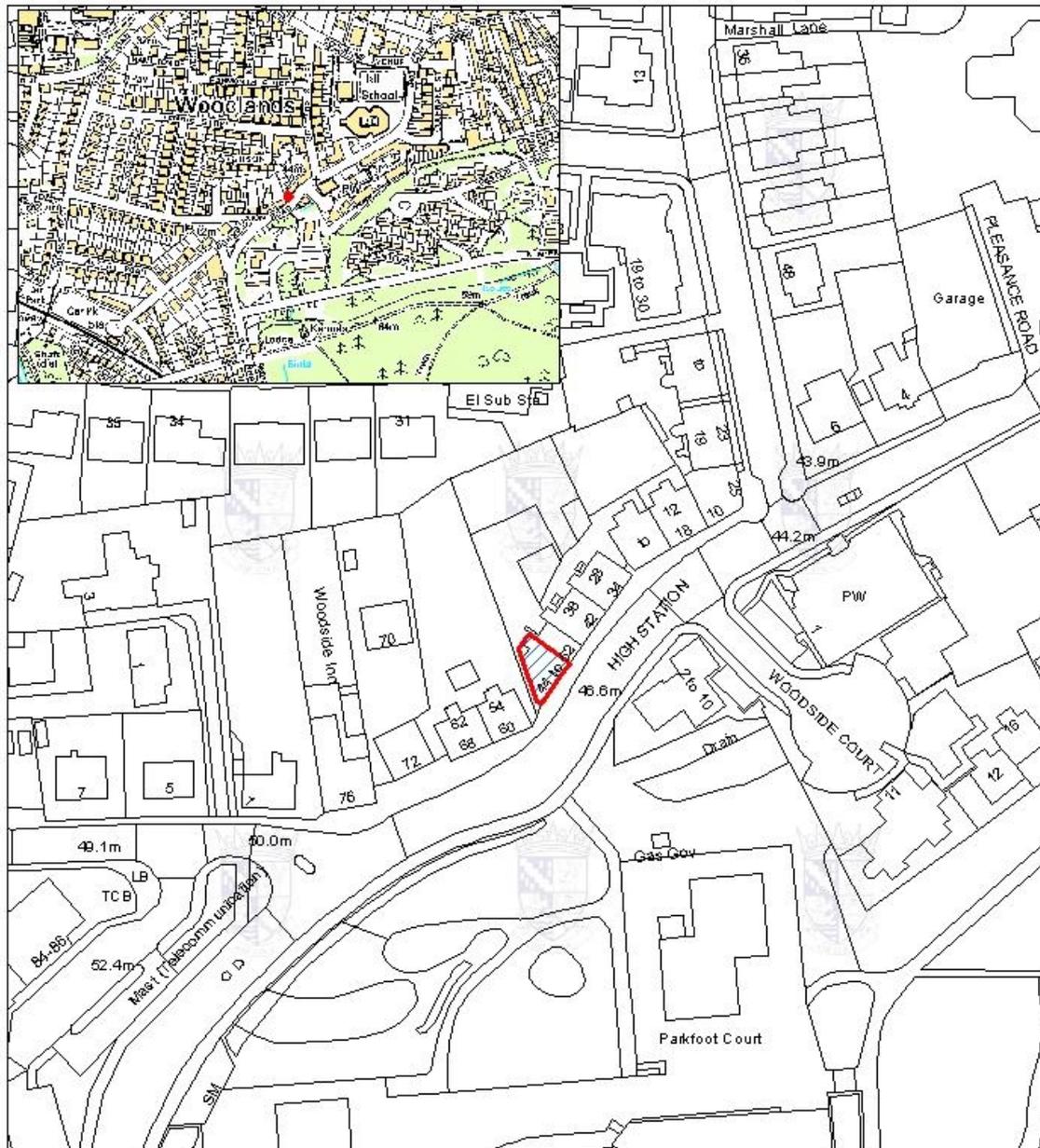
1. Falkirk Council Local Plan
2. Falkirk Local Development Plan (Proposed Plan April 2013)
3. Letter of objection received from Miss Louise Bell, 44 High Station Road, Falkirk, FK1 5QX on 7 November 2013.
4. Letter of objection received from Mr Gary Grugen, 6 Cauldhame Street, Falkirk FK2 7GP on 19 November 2013.

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/13/0689/FUL**

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



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