

FALKIRK COUNCIL

Subject: DEMOLITION OF GARAGE PREMISES AND ERECTION OF CLASS 1 SHOP UNIT WITH ANCILLARY DELICATESSEN (CLASS 1) AND FORMATION OF CAR PARK AT 50 DALDERSE AVENUE, FALKIRK FK2 7EG FOR DAVID'S KITCHEN LTD - P/13/0760/FUL

Meeting: PLANNING COMMITTEE

Date: 26 March 2014

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Falkirk North

Provost Pat Reid
Councillor David Alexander
Councillor Dr C R Martin
Councillor Cecil Meiklejohn

Community Council: Grahamston, Middlefield and Westfield

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

UPDATE REPORT FOLLOWING SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 26 February 2014 (copy of previous report appended) when it was agreed to continue the application for a site visit. This took place on 10 March 2014.
2. The case officer summarised the proposed development to the Planning Committee and referred to the salient points of assessment as set out in the Committee report.
3. The applicant's architect spoke in support of the proposal stating that the proposed use was considered to be an opportunity to redevelop a contaminated site and provide a valuable use to serve surrounding residential areas. Opportunities to amend the proposed development to address concerns of residents were identified in relation to boundary treatment, car parking and landscaping.
4. Comments of concern were heard from a number of residents of the surrounding area and a representative of the Community Council. These included concerns relating to road safety, parking provision, access position, opening hours, vibration from cars, path position and demolition works.

5. A representative of the Roads Development Unit spoke to provide confirmation that the proposed development was considered acceptable in respect of all road considerations. The proposed access position was as far from the busy Dalderse Road/Thornhill Road as possible, junction visibility was acceptable and an over provision of car parking spaces was proposed.
6. A representative of the Environmental Protection Unit advised that vibration from cars was unlikely to result from the use of the proposed car park in proximity to residential properties. The boundary wall proposed in the application was considered to afford protection against noise and headlight glare emanating from cars using the car park.
7. The applicant and his architect advised that the proposed number of parking spaces were provided to ensure no off-site parking would occur. The business operation was described as were delivery arrangements to the site. Alternative options for boundary walls, landscaping and footpath access to the site were presented to address concerns raised regarding these matters.
8. Members of the Planning Committee sought clarification of the methods of traffic impact assessment and retail impact assessment undertaken during assessment of the proposed development. Anti-social behaviour in the Castings area was discussed. Members agreed to conduct an inspection of all site boundaries.
9. Councillor Alexander, attending as a Local Member, raised questions of proposed access position, the criteria used in assessing potential transport impacts, car park capacity assessment, impacts on residents from early deliveries to the store and impact assessment on surrounding retail business.
10. The case officer confirmed that the floorspace of the proposed development (below 500m²) did not allow for either retail impact or transport impact assessment. The proposed retail use was considered to be an acceptable use in terms of Local Plan policies and surrounding residential and commercial uses.
11. The representative from the Roads Development Unit again confirmed that the proposed development was considered to meet established roads standards. Subsequent to the meeting on site the Roads Development Unit has confirmed that potential impacts on the roads network for a development of this size were fully considered in terms of road safety, congestion, parking and infrastructure.
12. The case officer agreed to circulate amended plans to Councillor Meiklejohn and Councilor Alexander to further address concerns of residents. These plans would be made available for the Planning Committee to consider at their next meeting as agreed with residents.
13. Subsequent to the Committee site visit the applicant's architect has submitted amended plans. These plans are considered to resolve concerns made by objectors and Councillor Alexander and address questions raised by the Planning Committee. The amended plans:-
 - Confirm increased boundary wall heights from 2 metres to 2.4 metres;
 - More parking spaces further from residential boundaries;
 - Provide increased landscaping on residential boundaries;

- Reduce the originally proposed eastern footpath;
- Provide a revised centrally located footpath.

The amended plans are considered to address concerns made in respect of anti-social behaviour, privacy, noise and general amenity. The amended plans have been circulated to Local Members, residents and the Community Council for comment. Plans will be made available to the Planning Committee for consideration and a verbal update will be provided on comments received.

14. No matters were raised which would amend the original recommendation to approve planning permission.

15. RECOMMENDATION

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

- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
- (2) Prior to the commencement of development a landscape plan including detailed specification for all hard and soft landscaped areas and species type shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.
- (3) Prior to the commencement of development samples of all construction materials relating to masonry, fenestration and roof construction shall be submitted for the written approval of Falkirk Council as Planning Authority including amendment as required.
- (4) 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.

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.

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.

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.

- (5) Pedestrian railings, of a type to be agreed in writing with Falkirk Council, shall be installed on the south end of the footpath on the east side of the new premises, on Dalderse Avenue prior to the opening of the approved building to the public.
- (6) A barrier of a type to be agreed in writing with Falkirk Council, shall be provided along the frontage of Dalderse Avenue to prevent vehicles entering or egressing the pedestrian/cycle area to the west side of the proposed premises prior to the opening of the approved building to the public.
- (7) The existing drop kerb accesses shall be removed and full footpath construction with 100mm high kerbs will be installed along the site frontage on Dalderse Avenue prior to the opening of the approved building to the public.

Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2-3) In the interests of amenity
- (4) To ensure that the site is made suitable for the development approved.
- (5-7) In the interests of road safety

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, 03B, 04C, 05C, 06C, 07B, 08, 09, 10, 11, 12A, 13A.

- (2) The applicant should have regard to controlling any noise produced by the construction and future use of the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.
- (3) In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.

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Director of Development Services

Date: 17 March 2014

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Local Development Plan (Proposed Plan)
4. Letter of Objection from Mrs Susie Skinner, 19 Middlemass Court, Falkirk FK2 7ER on 20 December 2013.
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Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504706 and ask for Allan Finlayson, Senior Planning Officer.

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Councillor Cecil Meiklejohn

Community Council: Grahamston, Middlefield and Westfield

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site lies within a predominantly residential area at 50 Dalderse Avenue, Falkirk.
- 1.2 The former use of the application site was for a Class 5 (General Industrial) vehicle repair and tyre replacement Class 5 (General Industrial) Use. Other commercial sites exist in close proximity to the application site in Grahams Road to the west and Dalderse Avenue to the east.
- 1.3 The application site is close to the busy Dalderse Avenue/Thornhill Road roundabout. Poor access to the site and very limited car parking opportunities currently exist.
- 1.4 The proposed development is for the demolition of the existing building and replacement with a smaller building with improved site access and parking opportunities. The replacement building is proposed to provide for a Class 1 (Retail) supermarket use of 450 square metres in floorspace. Incorporated within this space is a delicatessen franchise proposing to sell take-away food such as filled rolls, macaroni, stovies and soup.
- 1.5 It should be noted that on submission of the application it was considered that the proposed food take-away facility was intended to provide for a hot food take-away. Consideration of further information from the applicant has confirmed that the type of food to be sold is similar to a take-away bakery and therefore considered to be consistent with a Class 1 Retail use. In this respect the application description has been amended accordingly.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called to Committee by Councillor Alexander.

3. SITE HISTORY

- 3.1 The building at 50 Dalderse Avenue has been used for Class 5 General Industrial Use for in excess of 15 years. No recent planning applications have been submitted for consideration.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has no objections to the proposed development subject to improvements to the existing road network. These improvements relate to new access formation and footpath reconstruction across the site frontage. The proposed site access is considered to be significantly improved over the existing access and positioned further west from the busy Dalderse Avenue/Thornhill Road roundabout.
- 4.2 Forty car parking spaces are now proposed above an existing provision of approximately five spaces. Parking provision is considered to be generous for the retail floor space proposed.
- 4.3 The Environmental Protection Unit has no objections subject to the imposition of a contaminated land condition. The applicant has confirmed that the existing site is contaminated and that full remediation will be required before any development can commence.

5. COMMUNITY COUNCIL

- 5.1 No representation as been received.

6. PUBLIC REPRESENTATION

- 6.1 25 objections have been received from residents in the surrounding area. The grounds of objection relate to:-
- Inadequate parking provision.
 - Road safety.
 - Adverse impact on amenity by means of noise, odour, litter and anti-social behaviour.
 - Noise and headlight glare of vehicles using the proposed car park.
 - Adverse impact on privacy.
 - Demolition disturbance.

- Over provision of retail and food uses in the surrounding area.
- Over development of the site.
- Proposed path links will exacerbate anti-social behaviour.

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 in the Structure Plan.

Falkirk Council Local Plan

7a.2 Policy EP7 – ‘New Retail Development’ states:

- (1) *New retail development in excess of 500 m² gross will be permitted where it is consistent with Policies ECON.5 and ECON.6 of the Structure Plan, and specific policies for individual centres in the Settlement Statements.*
- (2) *Retail developments smaller than 500 m² serving neighbourhood needs will be permitted within the urban area, subject to other Local Plan policies.*
- (3) *Retail development must demonstrate a high level of design quality, compatibility with adjacent land uses and an ability to integrate functionally and visually with any centre of which it is to form part.*

7a.3 The proposed development is smaller than 500 square metres and considered to further improve access to neighbourhood shops, particularly for housing areas to the north of the site which have limited supermarket provision within walking distance. The proposal exhibits a high level of design quality and compatibility with surrounding areas.

7a.4 Policy EQ3 ‘Townscape Design’ states:

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

- (1) *The siting, layout and density of new development should create a coherent structure of streets, amenity space and buildings which respects and complements the site’s environs and creates a sense of identity within the development;*
- (2) *Streets and public spaces should have buildings fronting them, and where this is not possible, a high quality architectural or landscape treatment will be required as an alternative;*

- (3) *The design of new buildings should reflect the surrounding urban fabric in terms of scale, height, massing and building line;*
- (4) *Building materials, finishes and colours should be chosen to complement those prevailing in the local area;*
- (5) *Existing buildings or structures which contribute to the local townscape should be retained and integrated sensitively into the layout; and*
- (6) *The contribution to the townscape of important landmarks, skylines and views should be respected.”*

7a.5 The application proposes a smaller building on the existing site providing the opportunity for a greater design contribution to the surrounding area. The proposed design is considered to be modest but imaginative and to reflect surrounding townscape character. Landscape improvements are proposed to soften the proposed car parking area and provide a less dense section of streetscape on Dalderse Avenue.

7a.6 Policy SC7 - ‘Established Residential Areas’ states:

“Within established residential areas, there will be a general presumption against the introduction of uses which would be incompatible with the residential character and amenity of the area. Proposals for appropriate community services (e.g surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided.”

7a.7 The proposed retail use with ancillary delicatessen is considered to be compatible with the residential character and amenity of the surrounding area. The change of use from existing Class 5 General Industrial Use is considered appropriate and to result in a positive land use change more consistent with surrounding uses.

7a.8 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Falkirk Local Development Plan (Proposed Plan), objections received and consultation responses.

Falkirk Local Development Plan (Proposed Plan)

7b.2 The Proposed Falkirk Local Development Plan (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 HSG06 - 'Non-Residential Uses in Residential Areas' states:

"Within established residential areas, the introduction of uses which would be incompatible with the residential character and amenity of the area will generally not be permitted. Proposals for appropriate community services (e.g. surgeries, day nurseries and neighbourhood shops), homeworking or other compatible business uses (e.g. guest houses) will be supported where it can be demonstrated that the quality of the residential environment would be safeguarded, the type and location of the property is suitable, and satisfactory access and parking can be provided."

7b.4 Policy HSG06 reinforces policy EP7 of the extant Falkirk Council Local Plan. The proposed use is considered to be compatible with the established residential character and amenity of the area.

7b.5 In respect of the above policy considerations the proposal is considered to comply with the emerging Development Plan.

Objections

7b.6 As referred to in paragraph 1.5 of this report the proposed development is not considered to incorporate a hot food take-away (Sui Generis) use as was originally thought. The proposed food take-away element is considered to be consistent with Class 1 Retail Food sales and similar to a take-away bakers shop. The application description has been amended accordingly. Any future change to a hot food take-away (Sui Generis) use would require further planning permission.

7b.7 The Roads Development Unit is satisfied with the proposed development. Improved access is to be provided further from the busy Dalderse Avenue / Thornhill Road roundabout. A surplus of parking is available for the uses and floor space proposed. Upgraded footpaths will be provided on the site frontage with Dalderse Avenue. The applicant's agent has provided detailed information that demonstrates delivery vehicles can turn within the site. The conclusion of consultation with the Roads Development Unit is that the proposal would provide acceptable infrastructure to support the development and no road safety concerns exist.

7b.8 The deletion of reference to a hot food take-away addresses concerns of residents in respect of potential impact on amenity.

7b.9 Noise and headlight glare within the proposed car park are addressed by the proposed erection of a two metre high boundary wall on all development boundaries shared with existing housing. This is an increase over existing one metre walls adjacent to housing on the western side boundary (Towers Court).

7b.10 The demolition of the existing buildings would result in the proposed building being in excess of 20 metres further from housing to the west. The existing building is of a significant height (8metres) located within two metres of the gables of existing housing to the west. The increase of space between buildings is considered to represent an opportunity for an improved environment with additional planting areas being provided in the proposed car park. The replacement building has a maximum height of 5.75 metres.

- 7b.11 Demolition disturbance is a temporary inconvenience only and inevitable with any development proposed.
- 7b.12 The level of provision of retail is only a material consideration in respect of the type of retail proposed and its location. It is considered that the proposed retail use complies with relevant Development Plan policies and is suitable for the proposed site in terms of being a compatible land use.
- 7b.13 The proposed development would represent a significantly smaller building on the site than the existing general industrial building. A surplus of car parking is proposed for the use. In these respects it is considered that the proposal does not represent over development.
- 7b.14 The proposed improvements to path linkages surrounding the site will open existing footpaths to provide greater circulation space, lighting and connections for path users and will result in more direct footpath access through the surrounding areas. It is considered that these improvements are likely to decrease the potential for anti-social behaviour in existing locations.

7c Conclusion

- 7c.1 The proposed development is considered to comply with all relevant Development Plan policies. Deletion of the reference to a proposed hot food take-away and amendments to address the concerns of residents are considered to result in an opportunity to enhance the site and provide improved services to the community with associated environmental improvements.
- 7c.2 No material considerations are considered to exist that would justify the setting aside of Development Plan policy and refusing the proposed development.

8. RECOMMENDATION

- 8.1 It is recommended that Committee grant planning permission subject to the following conditions:-
- (1) The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.
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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.

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Reason(s):-

- (1) As these drawings and details constitute the approved development.
- (2-3) In the interests of amenity
- (4) To ensure that the site is made suitable for the development approved.

(5-7) In the interests of road safety

Informative(s):-

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- (2) The applicant should have regard to controlling any noise produced by the construction and future use of the development to ensure that no noise nuisance is caused. If noise complaints were received about the development, the Environmental Health Unit would be obliged to investigate and take any necessary action if the complaints were found to be justified under Statutory Nuisance Legislation.
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Director of Development Services

Date: 14 February 2014

LIST OF BACKGROUND PAPERS

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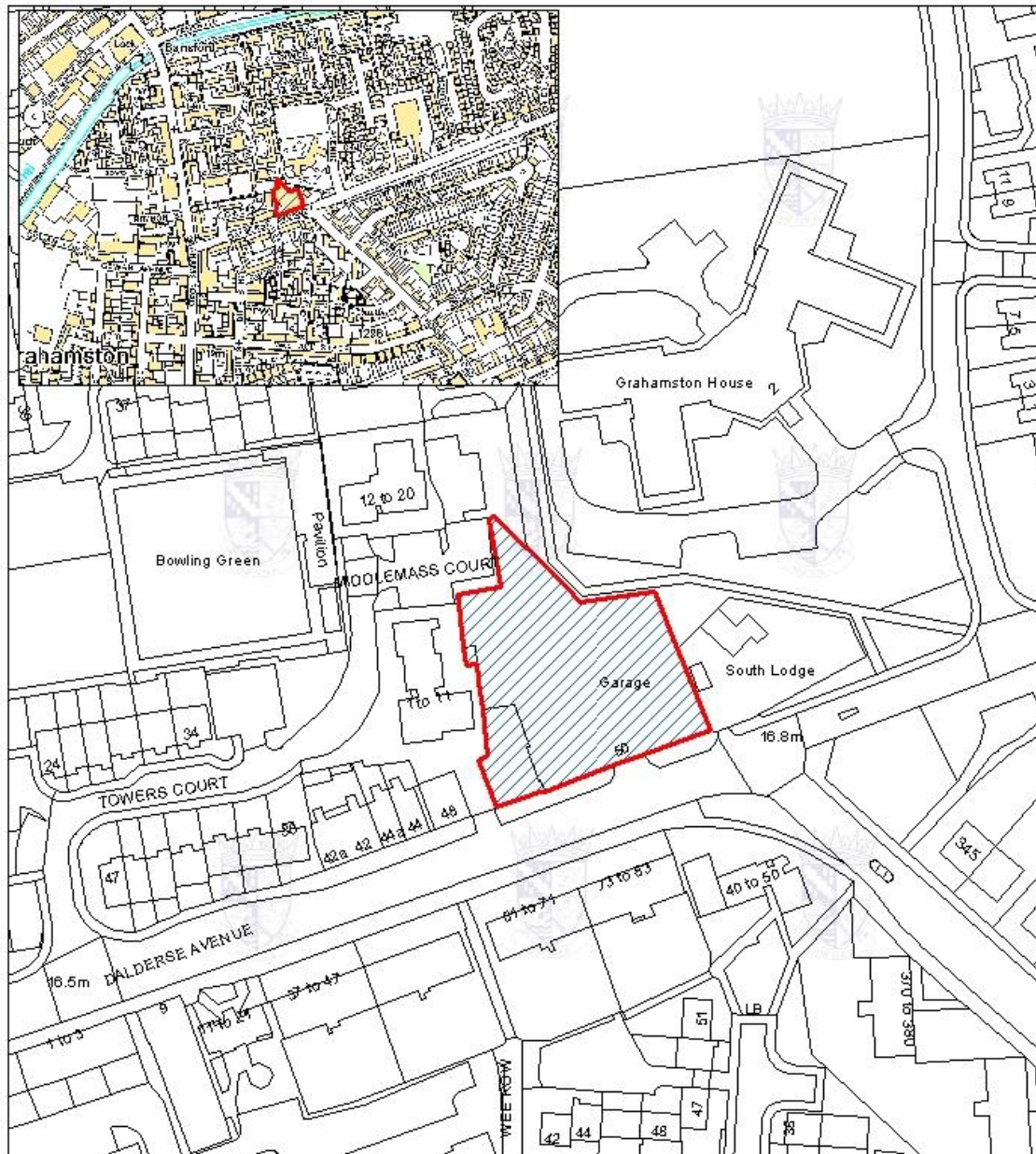
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Planning Committee

Planning Application Location Plan **P/13/0760/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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