

## **AGENDA ITEM 5**

### **FALKIRK COUNCIL**

**Subject:** ERECTION OF 4 RETAIL UNITS AND 4 FLATS WITH ACCESS AND PARKING FACILITIES AT LAND TO THE EAST OF 22A GLASGOW ROAD, GLASGOW ROAD, DENNY FOR MR NIMI DHILLON - P/14/0077/FUL

**Meeting:** PLANNING COMMITTEE

**Date:** 28 January 2015

**Author:** DIRECTOR OF DEVELOPMENT SERVICES

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

**Community Council:** Denny and District

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

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

- 1.1 The application seeks full planning permission to erect a two-storey building comprising four retail units and four flatted dwellings.
- 1.2 The application site consists of vacant land which sits at a lower level from the adjoining road. To the rear of the site is housing which is accessed via a private lane to the immediate south of the application site. A two-storey mixed use block (commercial and residential) lies further to the south of the site on the same side of the road. An open space area adjoins the site to the north. The area can generally be described as a mixed use area. The site was previously occupied by a bingo hall.
- 1.3 Five on-site (rear) parking spaces would be provided for the proposed flatted dwellings. These are proposed to be accessed via the existing private lane which is to be widened to provide a combined new access width of 6 metres. Off-site parking would be relied upon to serve the proposed retail units. This would include existing on-street parking along this part of Glasgow Road which is restricted to 20 minutes at any time between 8am to 6pm Mondays to Saturdays.

#### **2. REASON FOR COMMITTEE CONSIDERATION**

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

### **3. SITE HISTORY**

3.1 Planning application 06/1213/FUL for the erection of 12 flats was granted in November 2007. The application was subject to a Section 69 legal agreement which secured the payment of an open space contribution in the sum of £8,760. The payment was received but the permission was never implemented and it lapsed on 7 November 2012

### **4. CONSULTATIONS**

- 4.1 The Roads Development Unit have advised that the required number of on-site parking spaces for the proposed flatted dwellings is provided. They note that the parking layout is not ideal but they are prepared to accept it and acknowledge that the scheme has been amended to increase parking numbers. They advise that the proposed retail element would require 19 on-site parking spaces in order to accord with the Design Guidelines and Construction Standards from Roads in the Falkirk Council Area (DGCS). They advise that the culverted Slanders Burn lies in the vicinity of the northern site boundary and it is contrary to good practice to build over culverted watercourses.
- 4.2 The Environmental Protection Unit have requested a contaminated land assessment and a scheme to protect future occupiers of the proposed dwellinghouses from elevated levels of noise/ vibration from refrigeration/ ventilation plant, depending on the future uses of the proposed retail units. In addition, they advise that acoustic glazing with a specification of 6mm/12mm/6mm will be required, in order to protect the proposed dwellinghouses from transportation noise.
- 4.3 Scottish Water have advised that the Carron Valley Water Treatment Works and the Denny Waste Water Treatment Works may have capacity to serve the proposed development. They advise that, due to the size of the proposed development, it will be necessary for Scottish Water to assess the impact of the new demand on their existing infrastructure.
- 4.4 The Transport Planning Unit have advised that a financial contribution towards the Denny Eastern Access Road (DEAR) would not be required given the size and scale of the proposed development.

### **5. COMMUNITY COUNCIL**

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

### **6. PUBLIC REPRESENTATION**

- 6.1 Four representations (comprising two objections, one representation and one letter in support) have been received in respect of the application. The matters raised in the representations can be summarised as follows:-
- The applicant does not own the adjoining access lane;
  - Tidying up the site and putting it to good use is supported;

- Due to a resident's disability, there must be vehicular access to a house at the rear at all times during the construction work;
- What can be done to ensure there is no parking on the property to the rear once the work is completed?;
- Will there be any parking facilities on the site as this is already a very busy area?; and
- The proposed development would block part of the route to and the entrance door into an adjoining Scottish Power sub-station. Scottish Power cannot accept any proposal that blocks or restricts a lawful route (they have a servitude right of access).

## 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 The proposed development does not raise any strategic issues and therefore the application has been assessed solely against the Falkirk Council Local Plan.

#### *Falkirk Council Local Plan*

7a.2 The application site lies within a secondary area of Denny Town Centre and within an Area of Townscape Value under the Falkirk Council Local Plan.

7a.3 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.4 Policy EQ8 - 'Vacant, Derelict And Contaminated Land' states:

*"The Council will seek to reduce the incidence of vacant, derelict and contaminated land, particularly within the priority areas for enhancement set out in Policy EQ7. Subject to compliance with other local plan policies, development involving the rehabilitation and re-use of derelict land will be encouraged."*

7a.5 Policy EQ13 - 'Areas Of Townscape Value' states:

*"The Council recognises the architectural and historic merit and potential of the additional areas of townscape value identified on the Proposals Map, which do not currently have Conservation Area status. Within these areas:*

- (1) *The Council will undertake Character Appraisals to determine whether the areas merit designation as Conservation Areas, either as new Conservation Areas, or as extensions to existing ones; and*
- (2) *Development proposals will be required to fit with the distinctive character of the area with particular reference to the historic pattern and density of development; its setting; the architectural style, massing and materials of buildings; landscape treatments; and boundary features."*

7a.6 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.7 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.8 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.9 Policy EP7 – ‘New Retail Development’ states:

- (1) *New retail development in excess of 500 m<sup>2</sup> 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 m<sup>2</sup> 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.10 Policy DEN1 - 'Denny Town Centre' states:

- "(1) *The Council will promote the role of Denny Town Centre as a District Centre with additional emphasis on the redevelopment of Church Walk and improving the retail environment.*
- (2) *In ground floor properties within the core retail area, the Council will seek to maintain active commercial frontages which contribute to the vitality of the Town Centre. A balance of Class 1 retail, leisure, food and drink and Class 2 business uses will be encouraged and concentrations of non-retail use will be avoided. Within upper storeys, the reuse of vacant floorspace for residential use will be supported; and*
- (3) *Within the secondary areas of the Town Centre (within the Town Centre boundary, but outwith the core area), a mixture of residential and commercial development will be appropriate."*

7a.11 Overall, the application is considered to accord with the policies detailed in paragraphs 7a.3 to 7a.10 above. In particular, the proposed development reflects the surrounding urban fabric in terms of scale, height and building line, responds to the historic pattern and density of the area, provides for a mix of uses at a Town Centre location and integrates well with the Town Centre it forms part of. In addition, the proposal would utilise a vacant accessible brownfield site and a satisfactory level of residential amenity could be achieved. Whilst communal amenity space would not be provided, the development is in keeping with the density of the area and three of the flats would have private amenity space in the form of open courts. In terms of compatibility, there is a mix of commercial and residential uses at this location and measures would need to be incorporated into the proposed building to ensure there was no detriment to the flats from noise/vibration arising from the retail uses below.

7a.12 Owing to the small scale of the proposed housing, a financial contribution towards off-site open space provision would be acceptable. The previous application (06/1213/FUL) was subject to a Section 69 legal agreement which secured the payment of an open space contribution in the sum of £8,760 (see paragraph 3.1 of this report). This contribution meets the requirement for the current proposal and therefore a further open space contribution is not required.

7a.13 Accordingly, overall, the proposal is considered to accord with the Development Plan.

## **7b Material Considerations**

7b.1 The material considerations to be assessed in respect of this application are national planning policies and guidance, the Falkirk Local Development Plan (Proposed Plan), the consultation responses and the representations received.

### ***National Planning Policies and Guidance***

- 7b.2 Scottish Planning Policy (SPP), June 2014, introduces a presumption in favour of development that contributes to sustainable development. This means that policies and decisions should give due weight to net economic benefit, support good design, make efficient use of existing resources including supporting town centre and regeneration priorities, and support delivery of accessible development.
- 7b.3 The SPP states that planning for town centres should be flexible and proactive. A mix of uses should be encouraged in town centres to support their vibrancy, vitality and viability. The impact of new development on the character and amenity of town centres will be a material consideration.
- 7b.4 The SPP supports development patterns that reduce the need to travel by car and provide safe and convenient opportunities for walking and cycling, and facilitate travel by public transport. The SPP sets out national maximum parking standards for retail development above 1000m<sup>2</sup>. (These are not applicable in this case as the proposed retail provision is below this threshold). In addition, the SPP states that local parking standards should support the viability of town centres.
- 7b.5 Overall, the application is considered to be supported by the SPP. In particular, the proposed development has the potential to improve the economy and vitality of the Town Centre, utilises a vacant brownfield site and is accessible by a range of transport modes.

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

- 7b.6 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.7 The application site lies within Denny Town Centre and an Area of Townscape Value as defined in the Proposed Plan. The relevant policies of the Proposed Plan are similar to those of the Falkirk Council Local Plan which the application has been assessed as complying with in this report. The relevant policies of the Proposed Plan are Policies HSG03 - 'Windfall Housing', INF04 - 'Open Space and New Residential Development', TC03 - 'Retail and Commercial Leisure Development', D03 - 'Urban Design', D11 - 'Areas of Townscape Value' and RW10 - 'Vacant, Derelict and Contaminated Land'.
- 7b.8 Accordingly, the application is also considered to comply with the Proposed Plan.

### ***Consultation Responses***

- 7b.9 The consultation responses are summarised in section 4 of this report. The matters raised by the Environmental Protection Unit could be the subject of conditions of any grant of planning permission.

- 7b.10 As noted in paragraph 4.1, the Roads Development Unit have advised that 19 on-site parking spaces would be required for the proposed retail element in order to accord with the DGCS. However, the site lies within Denny Town Centre, is close to Town Centre parking (including adjacent on-street parking) and is highly accessible and close to bus stops. In addition, the proposal, for a two storey mixed use development, is considered to be appropriate to the location, in keeping with the character of the area and supported by Scottish Planning Policy. For these reasons, the proposal for no on-site retail parking is considered to be acceptable in this instance.
- 7b.11 As also noted in paragraph 4.1, the Roads Development Unit have advised that there is a culverted burn in proximity to the northern site boundary and it is contrary to good practice to build over culverted watercourses. It can be noted that the applicant has revised the proposal to safeguard Scottish Power's right of access to their substation which the applicant has stated keeps the development clear of the culvert. This matter could be the subject of a condition of any grant of planning permission.

### ***Representations Received***

- 7b.12 The matters raised in the public representations are summarised in Section 6 of this report. In response to those matters, the following comments are considered to be relevant:-
- The applicant has advised that he has a right of access over the adjoining lane;
  - Use of the private access during construction and parking on third party land are private matters between the relevant parties;
  - Parking on-site would be provided for the proposed flatted dwellinghouses, whilst off-site parking would be relied upon for the retail units as detailed and considered in this report; and
  - The application was amended to accommodate Scottish Power's servitude right of access. Scottish Power were notified of the amended application and no further representations have been received from them.

### **7c Conclusion**

- 7c.1 The application is considered to accord with the Development Plan, for the reasons detailed in this report. It is therefore recommended for approval subject to appropriate conditions. There are not considered to be any material considerations to set aside the terms of the Development Plan in this instance.
- 7c.2 Whilst no on-site parking is proposed for the retail units, this is considered to be acceptable in this instance given the Town Centre location of the site, the availability of off-site parking within the Town Centre area, the accessibility of the site to a range of transport modes and the support afforded to the proposal by Scottish Planning Policy. In addition, it can be noted that the proposed is in keeping with the character and density of development within the area.

## **8. RECOMMENDATION**

**8.1 It is therefore recommended that the Planning 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) Notwithstanding the approved plans, the development shall not commence until exact details of the colour and specification of all proposed external finishing materials have been submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- (3) The development shall not commence until exact details of the height, location, specification and colour of all proposed fences, walls and any other means of enclosure have been submitted to and approved in writing by this Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.**
- (4) The development shall not commence until a contaminated land assessment has been 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.**
- (5) The development shall not be brought into use until acoustic glazing with a specification of 6mm/12mm/6mm or acoustic equivalent and permanent ventilation (to ensure that windows can be kept closed without loss of ventilation) have been installed in the proposed flatted dwellings, in accordance with details to be approved in writing by this Planning Authority before the development commences. The acoustic glazing shall ensure that the internal levels with the windows closed do not exceed 35dB daytime and 30dB night-time, when measured at LAeq,T.**
- (6) Before each proposed retail unit is occupied, exact details of the measures proposed to mitigate the potential for elevated levels of noise/ vibration from refrigeration/ ventilation plant shall be submitted to and approved in writing by this Planning Authority, where the submission of such details is considered to be necessary by this Planning Authority in view of the proposed use of that unit. The scheme of mitigation shall ensure that future occupiers of the proposed flatted dwellings will not be subject to noise levels in excess of 35dB daytime and 30db night-time. The development shall be carried out in accordance with the approved details.**

- (7) Before the development is brought into use, the proposed new access shall be constructed in a manner to ensure that no surface material or loose material is discharged onto the public road.
- (8) The development shall not commence until the applicant has demonstrated to the satisfaction of the Planning Authority that the proposed development would not be constructed over a culverted watercourse.

**Reason(s):-**

- (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.
- (2) To safeguard the visual amenity of the area.
- (3) To safeguard the visual amenity of the area.
- (4) To ensure the ground is suitable for the proposed development.
- (5) To ensure that the occupiers of the properties are safeguarded against excessive noise intrusion.
- (6) To ensure that the occupants of the property are safeguarded against excessive intrusion from noise and vibration.
- (7) To safeguard the interests of the users of the public highway.
- (8) It is contrary to good practice to build over culverted watercourses.

**Informative(s):-**

- (1) 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.
- (2) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01B, 02C, 03, 04B, 05B, 06B, 07B, 08B, 09B, 10B, 11B, 13A, 14 and 15.

- (3) Scottish Water have advised that, due to the size of the proposed development, it will be necessary for Scottish Water to assess the impact of the new demand on their existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit to a fully completed Development Impact Assessment form to Scottish Water. These forms can be found at [www.scottishwater.co.uk](http://www.scottishwater.co.uk).

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**Director of Development Services**

**Date:** 15 January 2015

#### **LIST OF BACKGROUND PAPERS**

1. Falkirk Council Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Local Development Plan (Proposed Plan).
4. Scottish Planning Policy.
5. Letter of objection received from Mr Derick Reid, Scottish Power Energy Networks, Riccarton Mains Road, Edinburgh, EH14 5AA on 20 March 2014.
6. Letter of objection received from Mr John Chylewski, 38b Duke Street, Denny, FK6 6NP on 9 March 2014.
7. Letter of representation received from Mr David Loney, 38 Glasgow Road, Denny, FK6 6BA on 16 August 2014.
8. Letter of support received from Mr James Hendry, 22c Glasgow Road, Denny, FK6 6BA on 10 March 2014.

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/14/0077/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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