

FALKIRK COUNCIL

Subject: **CHANGE OF USE FROM DWELLINGHOUSE TO TEENAGE CHILDREN'S CARE HOME AT 11 DUKE STREET, DENNY FK6 6NR FOR FTS CARE LTD - P/09/0468/FUL**

Meeting: **PLANNING COMMITTEE**

Date: **2 December 2009**

Author: **DIRECTOR OF DEVELOPMENT SERVICES**

Local Members: **Councillor Jim Blackwood**
 Councillor John McNally
 Councillor Martin David Oliver
 Councillor Alexander John Waddell

Community Council: Denny and Dunipace

Case Officer: Brent Vivian (Planning Officer), ext 4935

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this planning application was considered at the meeting of the Planning Committee on 4 November 2009 (copy of previous report appended), when it was agreed to continue consideration to allow a site visit by Members. This site visit took place on 23 November 2009.
2. In support of the application, the applicant and his agent explained the background to the proposal and, in particular, highlighting their experience in this type of operation (i.e. care for teenagers), liaison with the Care Commission and meetings with members of the public (neighbours) who had expressed concern at the proposal.
3. The Convener read out a statement from Councillor McNally (a local Member) on behalf of the local residents, advising that meetings had been held between the applicants and residents to discuss and address concerns raised by residents. These issues of concern had now been addressed.
4. Two local residents in attendance confirmed that the applicant had now addressed their concerns, although there were concerns that the issue of further anti-social behaviour could arise, not only from the prospective occupants but from existing residents who reside nearby. The issue of anti-social behaviour is not a material planning consideration. The operation, if granted consent, will be the subject of strict operational controls and guidance set out by the Care Commission. This requirement and, in particular, as the premises will be constantly supervised, should assist in minimising the risk of anti-social behaviour from the occupants of the dwellinghouse.

5. Councillor Waddell (a local Member) expressed concern at the size of the plot in terms of amenity space and the privacy implications for neighbouring properties. As the property in question was presently in use as a family home and there are no further external alterations proposed to the property, the proposal would not exacerbate the privacy issues which already exist in terms of overlooking from windows in the property.
6. Since the initial undertaking of consultations associated with this planning application, Social Work Services have confirmed that they do not have a view on this particular proposal as it is a matter for the Care Commission to decide whether the proposal meets the necessary registration requirements.

7. RECOMMENDATION

7.1 It is 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) The 4 car parking spaces and the turning area indicated on approved plan 02A shall be provided for the lifetime of the development and the turning area shall be maintained, at all times, free of obstruction.
- (3) Notwithstanding the provisions of Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, no other use within this class shall be undertaken without the express prior consent of this Planning Authority.

Reason(s):-

- (1) To accord with the provision of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) In the interests of the users of the public highway.
- (3) In order to retain proper control over the use of the property.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our reference numbers 01, 02A, 03, 04, 05 and 06.
- (2) Should any made ground or suspect material be encountered during any site works, the applicant should inform the Planning Authority as there will be a requirement to undertake an appropriate environmental risk assessment in relation to contaminated land issues. An environmental risk assessment would require to be undertaken in accordance with current legislation and guidance and would be subject to review and approval by the Planning Authority.
- (3) Registration of the Care Home with the Care Commission will be required.

- (4) The Council's Social Work Service should be contacted regarding the establishment of a future relationship with this Service.

for
Director of Development Services

Date: 25 November 2009

LIST OF BACKGROUND PAPERS

1. Approved Falkirk Council Structure Plan
2. Adopted Denny and District Local Plan
3. Falkirk Council Local Plan Finalised Draft (Deposit Version)
4. Letter of objection from Mrs Fyfe, 14 Broompark Gardens Denny FK6 6NU on 15 July 2009
5. Letter of objection from Mr John Delaney, 12 Gorrie Street, Denny FK6 6AE on 15 July 2009
6. Letter of objection from Mary McCafferty, 12 Broompark Gardens, Denny FK6 6NU on 15 July 2009
7. Letter of objection from Mr & Mrs Blair, 15 Broompark Gardens, Denny FK6 6NU on 15 July 2009
8. Letter of objection from Mrs Clark, 13 Broompark Gardens, Denny FK6 6NU on 15 July 2009

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504756 and ask for Ian Dryden (Development Manager).

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM DWELLINGHOUSE TO TEENAGE CHILDRENS CARE HOME AT 11 DUKE STREET, DENNY FK6 6NR FOR FTS CARE LTD – P/09/0468/FUL
Meeting: PLANNING COMMITTEE
Date: 04 November 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Jim Blackwood
Councillor John McNally
Councillor Martin David Oliver
Councillor Alexander John Waddell

Community Council: Denny and Dunipace

Case Officer: Brent Vivian (Planning Officer), ext 4935

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application site is located in Denny, close to the Town Centre. The immediate area is predominantly residential in character. In addition, there is a school and a church in close proximity to the site.
- 1.2 The proposal is for the change of use of a dwellinghouse to a teenage children's care home. The home would cater for up to 4 children. The staff numbers would be two between the hours of 8 a.m. and 8 p.m. with a change at 8 p.m. to one person overnight.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called in by Councillors McNally and Oliver.

3. SITE HISTORY

- 3.1 Planning application ref: P/09/0129/FUL for the change of use of a dwellinghouse to a teenage children's care home was withdrawn following an objection from the Care Commission. The current application is a re-submission of this proposal, following discussion between the applicant and the Care Commission.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has advised that the information submitted with the application satisfies its requirements for access, visibility and parking.
- 4.2 The Environmental Protection Unit has advised that there is no record of any known land contamination within the site or in close proximity to the site.
- 4.3 Social Work Services has withdrawn its objection to the application following discussions with the applicant, which are ongoing regarding a possible future relationship with the applicant. The original objection raised concerns at the lack of consultation with Social Work Services, the proximity of the site to other care facilities, the ability of the community to respond to the needs of the children and the age range of the children that the care home would cater for.
- 4.4 The Care Commission has no objections to the application and has advised that communication at an appropriate level is underway regarding the application to the Care Commission for registration.

5. COMMUNITY COUNCIL

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

6. PUBLIC REPRESENTATION

- 6.1 Five objections to the application have been received. The concerns raised in these objections can be summarised as follows:-
- Detriment to personal safety.
 - Detriment to privacy.
 - Elderly residents in the area.
 - Proximity to a primary school.
 - The area is unsuitable.
 - Existing anti-social behaviour in the area.
 - Denny is already host to a range of 'affected' groups.

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 approved Falkirk Council Structure Plan are not considered to be relevant.

Adopted Denny and District Local Plan

- 7a.2 The application site lies within the urban limits for Denny under the adopted Denny and District Local Plan.

- 7a.3 Policy DEN 1 ‘Urban Limit’ states:

“The Urban Limit, as indicated on the Policies, Proposals and Opportunities Map, is regarded as the desirable limit to the growth of Denny and District for the period of the Plan. Accordingly there will be a general presumption against development proposals which would extend the urban area beyond this limit. Within the Urban Limit, proposals for development or changes of use will generally be acceptable, provided that:

- (i) they are consistent with the policies and proposals contained in The Local Plan; and*
- (ii) access, car parking, drainage, and other servicing can be provided to a standard acceptable to the District Council.*

Note: Outwith the Urban Limit, development proposals will be subject to the relevant countryside policies of the Rural Local Plan (listed by Appendix 1).”

- 7a.4 The proposed development is considered to accord with this policy as the application site lies within the urban limits for Denny, it is consistent with the relevant policies of the Local Plan (i.e. Policy DEN 9) and adequate access and car parking and services would be provided.

- 7a.5 Policy DEN 9 ‘Residential Institutions’ states:

“Proposals for residential institutions, defined by Class 13 of the Town & Country Planning (Use Classes) (Scotland) Order 1989, will be considered favourably provided that:

- (i) the location offers the requisite degree of amenity;*
- (ii) the development is of a scale and character appropriate to the site and its setting; and*
- (iii) sufficient garden grounds can be integrated into the layout and built form for the enjoyment of residents.”*

- 7a.6 This policy states that proposals for residential institutions will be considered favourably subject to three criteria being satisfied. The proposed development is considered to accord with these criteria as the area is predominantly residential and would provide an appropriate level of amenity; the care home would provide for a maximum of 4 (supervised) teenagers within an existing dwellinghouse, which would be appropriate to the scale and character of the area; and existing garden ground accessed from a rear conservatory would be available for the enjoyment of residents. The proposed development therefore accords with this policy.

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

7b Material Considerations

7b.1 The material considerations in consideration of this application are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the consultation responses and the public representations.

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 The application site lies within the urban limits for Denny under the Falkirk Council Local Plan Finalised Draft (Deposit Version). The relevant policy under this plan is Policy SC5 (Residential Care Facilities). For the reasons detailed in respect of Policy DEN9, and due to the proximity of the site to existing community facilities and public transport, the proposed development is considered to accord with this policy.

Consultation Responses

7b.3 The consultation responses have been summarised in section 4 of this report. As detailed, the objection by Social Work Services has been withdrawn and no concerns have been raised by the other consultees.

Public Representations

7b.4 The concerns raised in the objections to the application are summarised in section 6. With regard to these concerns, the following comments are considered to be relevant:-

- Concerns in relation to personal safety and the suitability of the area for teenage children in care are not material planning considerations. These concerns are relevant to supervision of the children and management of the care home. Registration of the care home with the Care Commission would be required.
- The proposed care home would continue the residential use of this property. Other than removal of a tree to improve roadside visibility, the existing boundary treatments would be retained. Supervision of the children would be relevant to privacy impacts.

7c Conclusion

7c.1 This application is considered to accord with the Development Plan, for the reasons detailed in this report. The application is therefore recommended for approval subject to the imposition of appropriate conditions. There are not considered to be any material planning considerations to justify setting aside the terms of the Development Plan in this instance. The concerns raised in objections to the application are responded to in this report.

8. RECOMMENDATION

8.1 It is 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) The 4 car parking spaces and the turning area indicated on approved plan 02A shall be provided for the lifetime of the development and the turning area shall be maintained, at all times, free of obstruction.
- (3) Notwithstanding the provisions of Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, no other use within this class shall be undertaken without the express prior consent of this Planning Authority.

Reason(s):-

- (1) To accord with the provision of Section 58 of the Town and Country Planning (Scotland) Act 1997.
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Director of Development Services

Date: 27 October 2009

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2. Adopted Denny and District Local Plan
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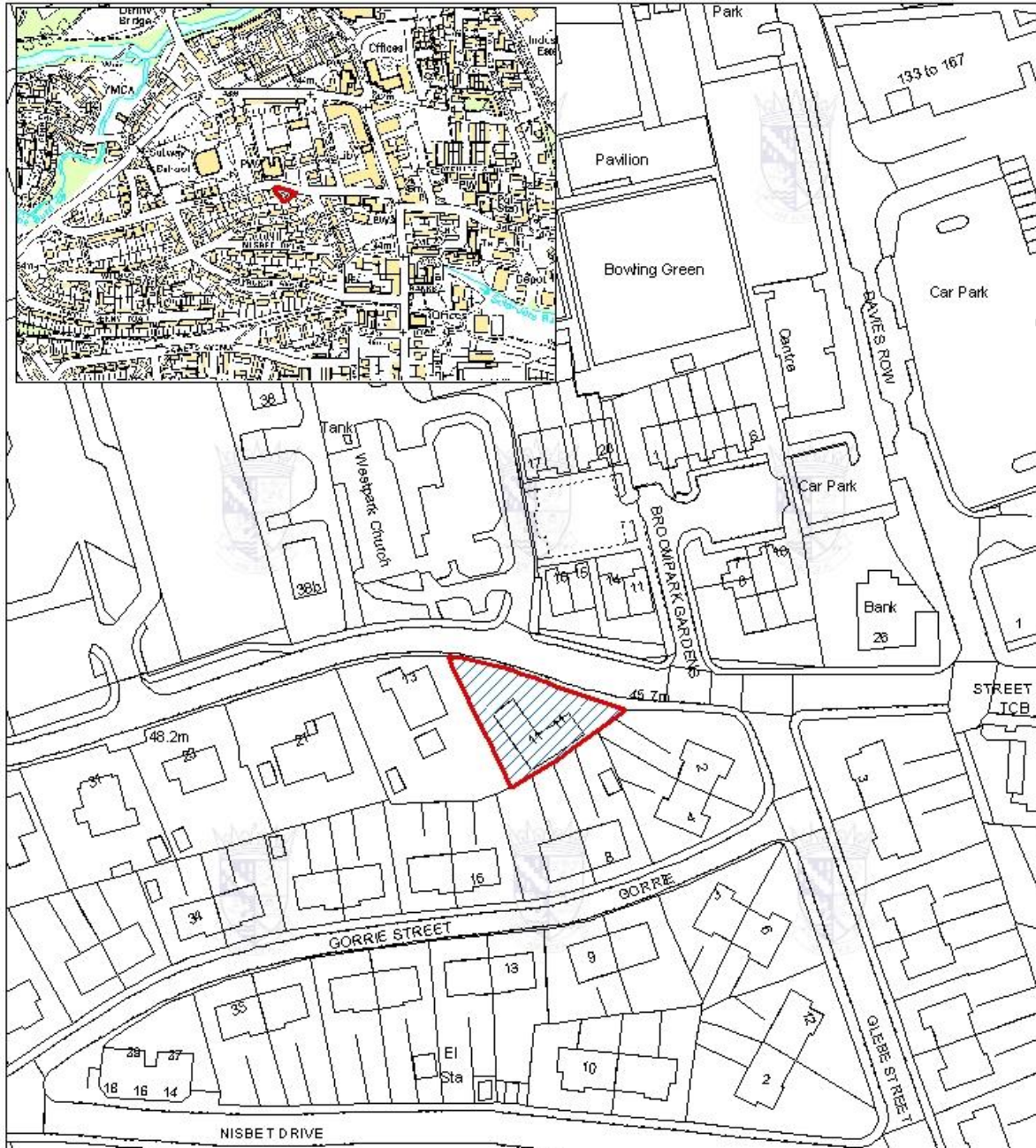
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504935 and ask for Brent Vivian (Planning Officer).

Regulatory Committee

Planning Application Location Plan

P/09/0468/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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