

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM BUILDERS STORAGE AREA (CLASS 6) TO SALE AND REPAIR OF MOTOR VEHICLES (RETROSPECTIVE) AT MORVEN CONSTRUCTION LTD, GRANARY SQUARE, BANKSIDE, FALKIRK, FK2 7XJ FOR MORVEN MOTORCYCLES - P/09/0862/FUL

Meeting: PLANNING COMMITTEE

Date: 25 August 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor David Alexander
Councillor Craig R Martin
Councillor Cecil Meiklejohn
Provost Pat Reid

Community Council: Langlees, Bainsford and New Carron

Case Officer: Julie Seidel (Planning Officer), ext 4880

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this application was originally considered at the meeting of the Planning Committee on 16 June 2010 (copy of previous report appended), when it was agreed to continue consideration of the application and to undertake a site visit. This visit took place on 16 August 2010
2. Members viewed the application site and surrounding area.
3. The applicant confirmed the opening hours of the business and explained that, in addition to himself, he has one employee who works 30 hours per week. He also reiterated that the business is primarily for the sale of motorbikes and cars, with minimal repair work done to prepare vehicles for sale. Approximately 3 motorbikes/cars are sold from the premises per week and repair work is not carried out in the yard area. There can be occasions when test of the motorbikes is undertaken outwith the building.
4. The applicant also clarified that vehicles are transported in the company van or are delivered by customers. He also advised that he moved into the unit in February 2009, unaware that planning permission was required. Following a site visit from planning officials a planning application was submitted for consideration.

5. Four local residents from two properties in the adjacent Hendry Street, have objected to the proposal on the basis of noise and odour nuisance due to the revving of engines and manoeuvring vehicles in close proximity to the mutual boundary. The objectors also spoke of their good relationship with the adjacent RPM Motorcycle Repairs. Photographs showing the yard area with a higher number of motorcycles were circulated to members of the Planning Committee.
6. It was also confirmed on site that a complaint was received by the Environmental Protection Unit in July 2009. The complaint was investigated and as no noise nuisance could be heard, the householder was advised to contact the Council when a noise nuisance was ongoing. No further complaints have been received and no noise nuisance has been witnessed during visits by the Council. A noise nuisance would have to be fully investigated before noise monitoring equipment could be used. It was also noted on site that Councillor Meiklejohn reconfirmed her comments by e-mail that she had received verbal confirmation from the Environmental Protection Unit that there was noise nuisance concerns from the site.
7. Local Members Councillor Alexander and Councillor Meiklejohn spoke in relation to their concerns about noise nuisance and the differing view of the applicant and neighbours. Additional concerns were raised in relation to the number of vehicles usually on the site and the yard area being used to service vehicles. Local Member Provost Reid commented that noise and odour nuisance would impact on the privacy of adjacent residents.
8. The close proximity of the adjacent residential properties and the application site was duly noted by members of the Planning Committee and local members on site.
9. No matters were raised which would amend the original recommendation to grant planning permission.

10. RECOMMENDATION

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

- 1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the premises shall not be used as a Class 1 Retail Use.**

Reason(s):

- 1. To ensure that the Planning Authority can control the future use of the premises.**

Informative(s):

- 1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A and 02.**

2. Any complaint received about noise will be investigated by the Environmental Protection Unit and appropriate action will be taken in terms of the statutory nuisance legislation.

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Director of Development Services

Date: 18 August 2010

LIST OF BACKGROUND PAPERS

1. Adopted Falkirk Local Plan
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Letter of objection from Mrs Morag Black, 1 Hendry Street, Falkirk FK2 7ND dated 14 December 2009.
4. Email objection from Councillor Cecil Meiklejohn dated 7 February 2010.
5. Letter of objection from Mr and Mrs Miller, 3 Hendry Street, Falkirk FK2 7ND dated 11 March 2010.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel (Planning Officer).

FALKIRK COUNCIL

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Meeting: PLANNING COMMITTEE

Date: 16 June 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor David Alexander
Councillor Craig R Martin
Councillor Cecil Meiklejohn
Provost Pat Reid

Community Council: Bainsford, Langlees and New Carron

Case Officer: Julie Seidel (Planning Officer), ext 4880

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The application seeks retrospective planning permission for the change of use from a builders storage area to use for the sale and repair of motor vehicles.
- 1.2 The application site consists of an existing business unit and parking area. The site is located within an established general business and industrial area. The unit is bounded on all sides by similar uses. A motorcycle garage and residential property partially bound the application site to the north.

2. REASON FOR CONSIDERATION BY COMMITTEE

- 2.1 The application has been called in by Councillor Cecil Meiklejohn.

3. SITE HISTORY

- 3.1 F/90/0453 - Change of Use of Storage Area to Builders' Yard and Erection of Offices - granted on 28 June 1990.
- 3.2 F/92/0922 - Alterations and Extension to Premises (Detailed) - granted on 2 December 1992.

- 3.3 F/94/0686 - Part Change of Use of Storage Building to Tyre and Exhaust Centre and Vehicle Hire Premises (Detailed) - granted on 24 October 1994.
- 3.4 F/97/0861 - Erection of 2 Industrial Units and 1 Office Unit (Class 4) (Detailed) - granted on 29 April 1998.
- 3.5 The Environmental Protection Unit received a noise complaint from an adjacent householder on 31 July 2009. The complaint was investigated by Environmental Health Officers. As no noise nuisance could be heard, the householder was advised to contact the Council when a noise nuisance was ongoing, to assess for noise nuisance.
- 3.6 A site visit took place on 14 August 2009 with Environmental Health Officers and a Planning Enforcement Officer present in relation to a change of use at the application site (Ref: ENF/2009/0092). Advice was given to the adjacent householder regarding statutory noise nuisance. No noise nuisance was recorded during the visit.
- 3.7 Two further complaints were received by the Environmental Protection Unit with regard to noise nuisance this year and, on both occasions, the complaints were investigated by an Environmental Health Officer, however no noise nuisance was recorded. The householder advised the Unit that the nuisance had stopped. No recent complaints have been received.

4. CONSULTATIONS

- 4.1 The Roads and Development Unit has advised that sufficient on-site car parking is available to serve the premises.
- 4.2 The Environmental Protection Unit advise that the revving of engines should be kept to a minimum and should not occur outside the building. Any complaint received about noise will be investigated by the Environmental Protection Unit and appropriate action will be taken in terms of the statutory nuisance legislation.
- 4.3 Scottish Water has no objections to the application.

5. COMMUNITY COUNCIL

- 5.1 The Bainsford, Langlees and New Carron Community Council has not made any representations.

6. PUBLIC REPRESENTATION

- 6.1 Two letters and one email of objection have been received. The salient issues are summarised as follows:
- Complaints have been made to Planning Enforcement and Environmental Protection staff. The source of the nuisance has not improved.
 - The development causes excessive noise and fumes due to the revving of cars and motorcycles.

- Doors and windows on the adjacent residential property cannot be left open due to fumes and noise.
- The adjacent residential property is only 4 metres away from the application site.
- There can be up to 10 cars and 10 motorcycles at the site at any time.
- The development would have an unacceptable impact on privacy of the adjacent property and the garden will be unusable during summer months.

6.2 The email received is from Councillor Meiklejohn. The Councillor objects to the application on the basis of contact with an adjacent householder, who has also objected to the application. Concern is raised in relation to the change of use of the application site for the repair and service of motor bikes and cars, having taken place last year. The change of use has resulted in noise and odour nuisance at the adjacent residential property. The motorbikes have to be revved when being serviced and at weekends there can be more than 20 vehicles. Environmental Protections have verbally confirmed that there is a significant noise nuisance. The Councillor comments that the close proximity of the application site to housing causes a conflict particularly in relation to the volume of vehicles.

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 Falkirk Local Plan

7a.2 Policy FAL 6.4 'Changes of Use of Other Business and Industrial Land' states:

"Proposed changes of use or redevelopment of other business and industrial land or premises within the Urban Limit but outwith the designated areas covered by Policies FAL 6.1-6.3 will be assessed against economic development, amenity, environmental and traffic considerations."

7a.3 Policy FAL 6.4 'Changes of Use of Other Business and Industrial Land' of the Falkirk Local Plan recognises that there are business and industrial premises, outwith those areas covered by policies FAL 6.1 - 6.3, where there is less justification for safeguarding as part of the industrial land or property supply. Therefore proposals for changes of use of such premises will be considered on their merit, subject to economic development, planning and environmental criteria.

7a.4 The application site is not designated as a business and industrial site within the Falkirk Local Plan. The site is located within a mixed use industrial and business area. The application site comprises a fairly small unit and it is considered that the change of use from a class 6 storage use to the sale and repair of motor vehicles is compatible with surrounding uses. The access, parking and turning facilities are satisfactory, and the proposal would not increase traffic levels to an unacceptable level. Whilst complaints have been received by the Environmental Protection Unit in relation to a noise nuisance at the application site, no noise nuisance has been recorded or witnessed at the site during investigations by the Unit. As such, and noting the business and industrial location of the site, it is considered that the amenity and environment are not considered to be significantly affected as a result of the retrospective proposals. The application accords with policy FAL 6.4.

7a.5 Accordingly, the proposed development accords with the Development Plan.

7b Material Considerations

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

Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.2 Policy EP3 - 'Existing Business and Industrial Areas with Potential for Redevelopment' states:

“(1) Within the business and industrial areas with potential for redevelopment identified on the Proposals Map, the Council will consider favourably proposals for comprehensive redevelopment for other uses which:

- are appropriate in terms of the character of the surrounding area;*
- are satisfactory in terms of environmental, access, traffic generation and other detailed considerations; and*
- comply with other Local Plan policies.*

Pending any such redevelopment, use of these sites for Class 4, 5 or 6 development will continue to be supported.

(2) Changes of uses or redevelopment of other business/industrial land or premises within the Urban Limit which are not safeguarded under Policy EP2 may be permitted subject to amenity, environmental, access, traffic generation and other detailed considerations.”

7b.3 The application site is located within an existing business and industrial area with the potential for redevelopment. The application site is not safeguarded under policy EP2 and as such the proposal is acceptable subject to amenity, environmental, access, traffic generation and other detailed considerations. The proposal is compatible with the surrounding area. The access, parking and turning facilities are satisfactory, and the proposal would not increase traffic levels to an unacceptable level. Whilst complaints have been received by the Environmental Protection Unit in relation to a noise nuisance at the application site, an investigation including other site visits by Enforcement and Planning Officers, no noise nuisance has been recorded or witnessed at the site. As such and noting the business and industrial location of the site, it is considered that the amenity and environment are not considered to be significantly affected as a result of the retrospective proposals. The application accords with policy EP3.

7b.4 Policy EP11 - 'Motor Vehicle Showrooms' states:

"Proposals for motor vehicle showrooms will be encouraged to locate within Site ED.FAL7 (Falkirk Gateway) or other business and industrial areas where access, servicing and any associated industrial processes can be accommodated without detriment to residential amenity, the functioning of the local road network or the operation of adjacent businesses. When granting consent for a new motor vehicle showroom, the Council may apply planning conditions preventing changes of use to Class 1 retail use."

7b.5 Policy EP11 encourages motor vehicle showrooms to locate within the Falkirk Gateway or other business and industrial areas. In this instance the access, servicing and use can be accommodated without significant detriment to residential amenity, the road network or adjacent businesses. The application accords with policy EP11.

Consultation Responses

7b.6 The consultation responses are detailed in paragraph 4. The Environmental Protection Unit have confirmed that complaints were received from one householder, however, no noise nuisance was recordable at the site and no enforcement action has been taken. The advice in relation to revving engines only inside the unit and kept to a minimum are noted, however it is considered that a condition of this nature would be unenforceable and unnecessary in terms of planning legislation given the location of the site within a mixed business and industrial area where there will be vehicle noise associated with other existing nearby activities.

Information Submitted in Support of the Proposal

7b.7 The applicant has submitted a letter of support with his application raising the following issues:

- Morven Motorcycles is mainly a bike and car sales business and repair work is a minimal aspect of the business.
- Repairs are normally only carried out on machines for sales and for the occasional customer.
- RPM Motorcycle Repairs is situated next door to the application site and adjacent residential properties and noise heard by a nearby dwelling could be from RPM and not from the application site.
- The applicant would be quite happy for a condition restricting engines running during anti-social hours.
- The use is compatible with the local area and within 100 yards there are the following businesses; ATS Tyre and Exhaust Centre, National Tires, Robinsons Hire Drive, Vanz4Sale, RPM Motorcycles, Skidz Wheels/Tyres/Alarms, Old School Garage, Trolley Jack services, Metal Creations, BnB Car Sales, Spannerz Motor Repairs, Pat McGinley auto Care and Campbell Properties.

Assessment of Public Representation

- 7b.8 Complaints have been made by one householder to Development Management and the Environmental Protection Unit, however, as discussed above, no nuisance has been recordable on site during any of the site visits by Falkirk Council officers.
- 7b.9 No evidence of excessive noise or fumes in association with the business has been found. Complaints about noise and fumes have been investigated by the Environmental Protection Unit or Planning officers.
- 7b.10 Vehicle fumes at the application site and entering the neighbouring residential property have not been witnessed during the various site visits by the Environmental Protection Unit or Planning officers.
- 7b.11 It is accepted that the rear garden area of the adjacent residential property bounds the application site, parking area.
- 7b.12 The number of motor vehicles on site are noted, however Falkirk Councils Roads Development Unit advise that the available parking exceeds the requirements for the size of the unit. Therefore the Roads Development Unit do not object and do not advise of any roads related conditions.
- 7b.13 It is not accepted that the retrospective development impacts on the privacy of the adjacent residential property, as the property is well screened by an existing wall and fence.
- 7b.14 The Environmental Protection Unit have confirmed that complaints have been received from one householder, but there was no recordable nuisance and as such no further action has been taken.

7c Conclusion

- 7c.1 It is considered that the proposal is acceptable development and is in accordance with the Development Plan and emerging District wide Local Plan. The points raised through consultation and representation are noted and addressed in this report. There are no other material planning considerations which would justify a refusal of planning permission.

8. RECOMMENDATION

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

- 1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the premises shall not be used as a Class 1 Retail Use.**

Reason(s):

- 1. To ensure that the Planning Authority can control the future use of the premises.**

Informative(s):

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A and 02.
2. Any complaint received about noise will be investigated by the Environmental Protection Unit and appropriate action will be taken in terms of the statutory nuisance legislation.

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Director of Development Services

Date: 8 June 2010

LIST OF BACKGROUND PAPERS

6. Adopted Falkirk Local Plan
7. Falkirk Council Local Plan Finalised Draft (Deposit Version).
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Planning Committee

Planning Application Location Plan

P/09/0862/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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