

FALKIRK COUNCIL

Subject: CHANGE OF USE OF (CLASS 1) TO HOT FOOD TAKE AWAY AT 102 GLASGOW ROAD, FALKIRK, FK1 4HR FOR MR MOHAMMED QADIR - P/10/0127/FUL

Meeting: PLANNING COMMITTEE

Date: 25 August 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Gerry Goldie
Councillor Joe Lemetti
Councillor John Patrick
Councillor Georgie Thomson

Community Council: None

Case Officer: Gavin Clark (Assistant Planning Officer) ext. 4704

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. At the site visit the applicant and landlord were heard in support of the proposal and referred to the previous use of the premises for hot food purposes. They considered that the proposed use would not be detrimental to the amenity of the area and indicated that litter bins would be provided. In addition the provision of off-street parking within the site would address concerns regarding on-street parking.
3. The objector referred to in the original report on this application was heard in relation to his concerns. These included, road safety, on-street parking, the condition of the building previously used as a dwellinghouse adjoining the premises, potential environmental health problems and the impact of other developments proposed in the vicinity. In addition a number of local residents were heard in relation to their concerns about the proposed use which, in addition to those mentioned above, included possible anti-social behaviour issues.
4. Following questions by Members it was clarified that the premises were last used as a shop approximately 1 year ago and that it was the applicant's intention to operate 7 days a week, with opening hours from 16:00 – 23:00.

5. It should be noted that since the Planning Committee's original consideration of this matter on 16 June, the Environmental Protection Unit has confirmed that further information submitted in relation to the cooking odour extraction system and measures employed to control noise emissions is acceptable. It is therefore considered that the conditions relating to these matters are no longer required, however, a condition requiring that the noise and odour control systems be installed prior to the premises opening is recommended.
6. In addition, it is considered that a condition requiring the formation of the 6 car parking spaces prior to the premises opening for business would be appropriate.
7. No matters were raised which would amend the recommendation that planning permission be granted.

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 from the date of this permission.
- (2) Prior to the approved use being open to the public, the agreed cooking odour extraction system including measures to control noise emissions, shall be fully installed and operational to the satisfaction of the Planning Authority.
- (3) Prior to the approved use being open to the public, the 6 car parking spaces and associated works shown on Approved Plan 05A shall be formed, completed and available for use to the satisfaction of the Planning Authority.

Reason(s):

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the environmental amenity of the area.
- (3) To ensure that adequate off-street parking is provided and in the interest 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, 03, 04 and 05A.
- (2) Any plant or equipment associated with the development should be operated in such a manner as to prevent noise / odour nuisance to nearby dwellings. Any complaints received in this regard would require to be investigated under statutory nuisance legislation as contained in the Environmental Protection Act 1990.

- (3) 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.
- (4) The Roads Manager within Corporate and Commercial Services should be contacted to obtain a Minor Roadworks Consent before forming a vehicular access onto the public road or undertaking any work on, or under, the public road.

.....
Director of Development Services

Date: 18 August 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Letter of objection received from Mr Lawson Hamilton Ramsay, 106 Glasgow Road, Camelon, Falkirk, FK1 4HR on 20 April 2010.

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Gavin Clark (Assistant Planning Officer).

FALKIRK COUNCIL

Subject: CHANGE OF USE OF (CLASS 1) TO HOT FOOD TAKE AWAY AT 102 GLASGOW ROAD, FALKIRK, FK1 4HR FOR MR MOHAMMED QADIR - P/10/0127/FUL

Meeting: PLANNING COMMITTEE

Date: 16 June 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Councillor Gerry Goldie
Councillor Joe Lemetti
Councillor John Patrick
Councillor Georgie Thomson

Community Council: Camelon and District

Case Officer: Gavin Clark (Assistant Planning Officer) ext. 4704

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This detailed planning application proposes the change of use of a shop unit to a hot food takeaway. The proposed works include installation of ventilation flues and formation of 6 car parking spaces to the rear of the premises. The unit was previously used as a general store but is currently vacant.
- 1.2 The application site forms part of a single storey detached building, part of which would appear to have been formerly used as a dwellinghouse. The unit is located on the junction of Glasgow Road and Watling Street and is located opposite the former Wrangler Factory Site.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to Committee by Councillor Joe Lemetti and Councillor Georgie Thomson.

3. SITE HISTORY

- 3.1 Application F/98/0233 was granted planning permission on the 5 August 1998. For a part change of use of a shop to form hot-food takeaway, alterations to the building and installation of a flue (Detailed).
- 3.2 Application F/98/0611 was granted advertisement consent on the 9 February 2000. For the display of illuminated advertisements.

- 3.3 Application F/98/0778 for the display of illuminated advertisements. was withdrawn on the 4 June 1999.
- 3.4 Application P/10/0157/ADV for the display of illuminated advertisements was recently granted without prejudice to the determination of this application.

4. CONSULTATIONS

- 4.1 The Roads Development Unit has assessed the application in terms of road safety and parking requirements and has no objections to the proposal.
- 4.2 The Environmental Protection Unit have requested further information in relation to the cooking odour extraction system, including the filter and its location on the building, and measures employed to control noise emissions from any extraction or ventilation systems.

5. COMMUNITY COUNCIL

- 5.1 The Camelon and District Community Council has not made comment on the application.

6. PUBLIC REPRESENTATION

- 6.1 One letter of objection has been received following the neighbour notification process. The issues raised are summarised as follows:

- Poor upkeep and general appearance of the property
- Lack of parking facilities
- Noise
- Health
- Odours
- Anti-Social Behaviour
- General need for an additional hot-food takeaway
- Concern over children's safety

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 policies in the Falkirk Council Structure Plan relevant to the determination of this application.

Falkirk Local Plan

- 7a.2 Policy FAL 7.8 'Food and Drink Outlets' states:

"Proposals for food and drink outlets (Class 3 as defined by the Town and Country Planning (Use Classes)(Scotland) Order 1997), public houses and hot food takeaways will only be permitted where:

- (i) 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;*
- (ii) the proposal meets the terms of Policy FAL 7.9 on protected shopping frontages; and*
- (iii) the proposal is satisfactory in terms of parking, access and traffic generation."*

- 7a.3 The Environmental Protection Unit have requested further information be provided to include detailed specifications of the proposed cooking odour extraction system and information indicating measures employed to control noise emissions from any extraction or ventilation systems. It is considered that these matters can be covered by conditions.
- 7a.4 It is not considered that the proposal would have any adverse impact to the degree that would justify refusal of the application.
- 7a.5 The Roads Development Unit have assessed the proposal and is satisfied that the proposal would be acceptable in terms of road safety and parking requirements.
- 7a.6 Accordingly, the proposed development accords with the Development Plan.

7b Material Considerations

- 7b.1 The material planning considerations to be addressed are the Falkirk Council Local Plan Finalised Draft (Deposit Version), the representations received and the planning history of the site.

The Falkirk Council Local Plan Finalised Draft (Deposit Version)

7b.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."*

7b.3 Policy EP9 affirms the position of the Falkirk Local Plan, the proposal therefore accords with the terms of this policy.

7b.4 The proposal is considered to be in accordance with the terms of the Falkirk Council Local Plan (Finalised Draft) Deposit Version).

Representations Received

7b.5 The poor upkeep, and general appearance of the property is not a material planning consideration, however, it is considered that the current property would be vacant property that would be brought to beneficial use as a result of this proposal.

7b.6 Satisfactory off-street parking provision is proposed with 6 parking spaces.

7b.7 Noise and smell issues can be covered by planning condition, with further information to be submitted to, and approved by the Planning Authority. However if complaints were to be received regarding noise or odour nuisances the Environmental Protection Unit would be obliged to investigate and take action as necessary.

7b.8 The establishment of drinking dens, general need for a hot-food takeaway and other concerns are not considered to be material planning considerations.

Planning History

7b.9 It is noted that Planning permission was granted on the 5th August 1998 for a partial change of use of shop to form hot-food takeaway, alterations to the building and installation of a flue. The principle of an, albeit, limited hot food use has been established at this location. It is however unclear when such use was last undertaken.

7c Conclusion

7c.1 The proposal is considered to be an appropriate form of development in accordance with the provisions of the Development Plan. There are no material planning considerations which would warrant a refusal of planning permission in this instance.

8. RECOMMENDATION

8.1 It is therefore recommended that the 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)** Prior to the approved use being open to the general public, detailed specifications of the cooking odour extraction system, including filters and its proposed location on the external facade of the property shall be submitted to the Planning Authority. For the avoidance of doubt, the approved use shall not open to the public until written approval of these details has been given and the approved cooking odour extraction system has been installed.
- (3)** Prior to the approved use being open to the public, details of the proposed measures to control noise emissions from any extraction or ventilation systems shall be submitted to the Planning Authority for approval. For the avoidance of doubt, the approved use shall not open to the public until these details have been submitted and approved.

Reason(s):

- (1)** To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2)** To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.
- (3)** To ensure that the occupants of adjacent premises are protected against excessive noise intrusion.

.....
Director of Development Services

Date: 8 June 2010

LIST OF BACKGROUND PAPERS

1. Falkirk Local Plan.
2. Falkirk Council Local Plan Finalised Draft (Deposit Version).
3. Letter of objection received from Mr Lawson Hamilton Ramsay, 106 Glasgow Road, Camelon, Falkirk, FK1 4HR on 20 April 2010.

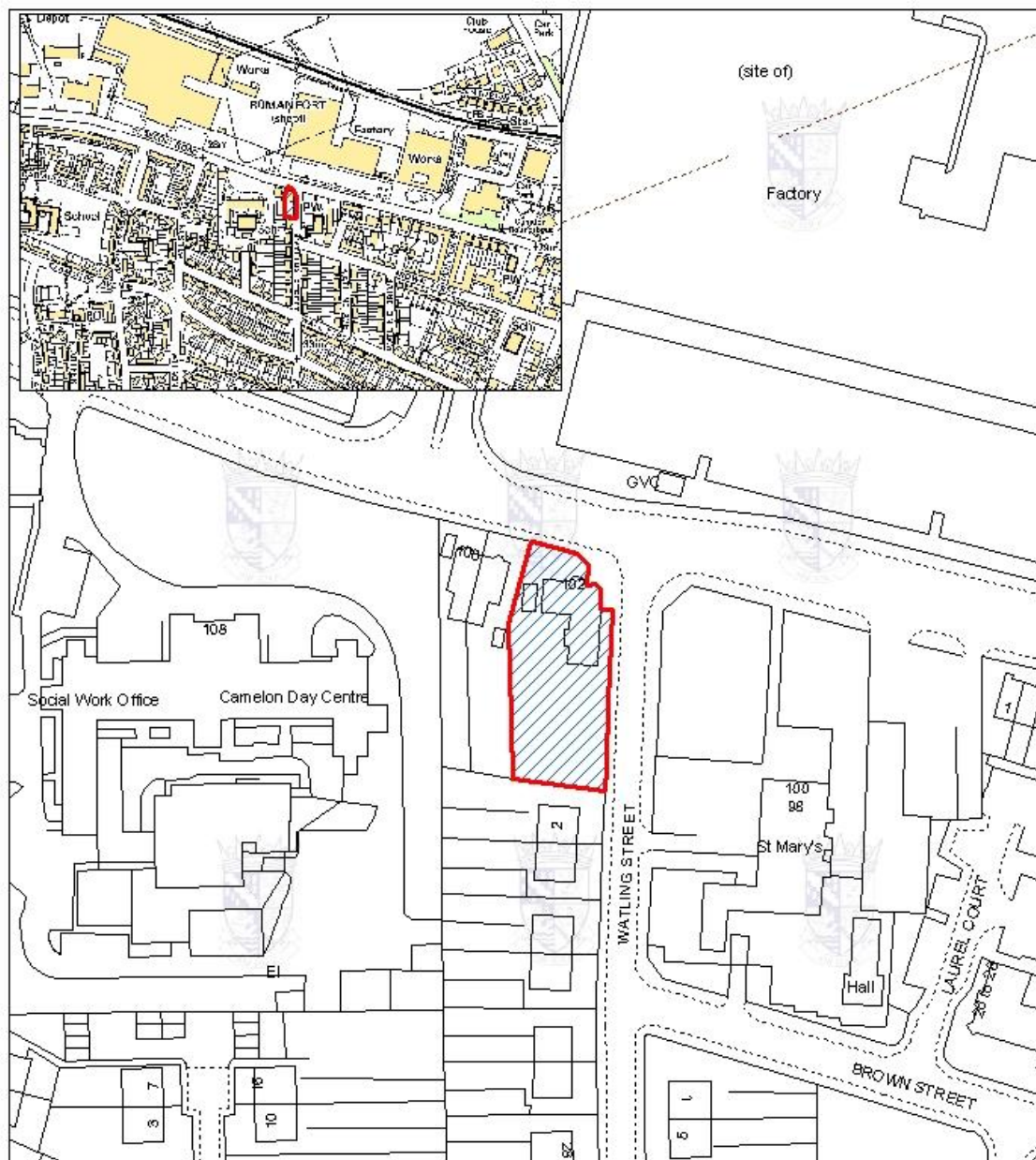
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504704 and ask for Gavin Clark (Assistant Planning Officer).

Planning Committee

Planning Application Location Plan

P/10/0127/FUL

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



Reproduced by permission of Ordnance Survey on behalf of HMSO.
© Crown copyright and database right 2010. All rights reserved.
Ordnance Survey Licence number 100023384