

FALKIRK COUNCIL

Subject: SUBDIVISION AND CHANGE OF USE OF CLASS 1 SHOP UNIT
TO FORM 3 CLASS 2 UNITS AND ALTERATIONS TO
SHOPFRONT AT 53 SOUTH STREET, BO'NESS EH51 9HA FOR
SHANTER SECURITIES LTD - P/10/0548/FUL

Meeting: PLANNING COMMITTEE

Date: 26 January 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Bo'ness and Blackness

Councillor John Constable
Councillor Adrian Mahoney
Councillor Ann Ritchie

Community Council: Bo'ness

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

UPDATE REPORT FOLLOWING COMMITTEE SITE VISIT

1. Members will recall that this planning application was originally considered at the Planning Committee on 1 December 2010 (copy of previous report appended), where it was agreed to continue the planning application for a site visit. This visit took place on 17 January 2011.
2. At the visit, it was highlighted that the reason that this proposal was the subject of consideration by the Planning Committee on 1 December 2010 was that part of the site (South Street elevation) was within an area of protected shopping frontage as identified in the Bo'ness Local Plan. The proposal would therefore be contrary to the Development Plan. However, the Falkirk Local Plan was adopted by Falkirk Council on 8 December 2010. This supersedes the Bo'ness Local Plan. In particular Falkirk Council Local Plan Policy BNS 1 – Bo'ness Town Centre now promotes a balance of Class 1 Retail, Leisure, Food and Drink and Class 2 Business Use in ground floor properties. It is therefore concluded that the proposal now accords with this particular policy as there are other Class 1 uses within the vicinity. The proposal is now in accordance with the Development Plan.

3. The Committee raised the issue of the shopfront alterations, particularly on the South Street elevation, when viewed with regard to the existing frontages opposite. There was some reservation that an opportunity had been missed to improve the frontage, given its location within the conservation area. However the adjacent frontages relate to older traditional stone properties. The “Woolworths building” is clearly a more modern building (constructed circa. 1960s) and it is considered that the frontage treatment proposed sympathetically relates to this more modern building. The external alterations apply to the South Street elevation only and the proposed changes are subtle by re-introducing glazing and, in effect, respect the existing fenestration pattern of this particular frontage.
4. The applicant’s agent advised that there had been no interest to date shown in the proposed uses. However, the proposal, if granted, would allow greater flexibility to safeguard the future use of the building and to help promote the viability of Bo’ness Town Centre. The use of the premises for Class 2 (financial, professional and other services) does not preclude the return to Class 1 (Retail) at a later date. It should be noted that the premises are in retail use at present, the current tenant is operating on a short-term contract (termination notice – 1 month).
5. No matters were raised which would amend the original recommendation to grant planning permission.
6. **It is recommended that planning permission be granted 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) Samples of tiles to be used in the development shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To preserve and enhance the visual amenity of the Conservation Area.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02A.
- (2) Advertisement Consent may be required for any signs associated with the proposed development. It is the applicants responsibility to obtain this before any signs are displayed on site. For advice please contact Falkirk Council Development Management, Abbotsford House, David's Loan, Falkirk, FK2 7YZ (tel: 01324 504748)

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Director of Development Services

Date: 18 January 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Council's Supplementary Planning Guidance Note on Shopfronts

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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TO FORM 3 CLASS 2 UNITS AND ALTERATIONS TO
SHOPFRONT AT 53 SOUTH STREET, BO'NESS EH51 9HA FOR
SHANTER SECURITIES LTD - P/10/0548/FUL

Meeting: PLANNING COMMITTEE

Date: 1 December 2010

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward – Bo'ness and Blackness

Councillor John Constable
Councillor Adrian Mahoney
Councillor Ann Ritchie

Community Council: Bo'ness

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 The proposed development is for the subdivision and change of use of the former 'Woolworths' shop to form 3 units for uses falling within Class 2 (Financial, professional and other services) of the Town & Country Planning (Use Classes) (Scotland) Order 1997. This class allows the use of premises for purposes other than retail that are generally located within a shopping area. One unit would front North Street and two units would front South Street. The proposal also includes alterations to the existing South Street shopfront.
- 1.2 The application site is an unlisted building located within the Bo'ness Town Centre Outstanding Conservation Area.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The proposed development is considered to be contrary to the Development Plan in that the proposal involves a change of use from Class 1 (retail) to Class 2, within an area of protected shopping frontage (south elevation of the application site).

3. SITE HISTORY

- 3.1 Advertisement Consent was granted on 30 May 2006 (Ref: 06/0309/ADV) for the display of illuminated advertisements at the application site.

4. CONSULTATIONS

- 4.1 The Roads and Development Unit do not object to the proposal and advise that there are no roads related conditions to be attached to any planning permission.
- 4.2 The Environmental Protection Unit advise of an informative relating to contamination and that issues surrounding noise control are satisfactory.
- 4.3 The Health and Safety Executive do not advise against the proposal on safety grounds.

5. COMMUNITY COUNCIL

- 5.1 The Bo'ness Community Council have not made comment.

6. PUBLIC REPRESENTATION

- 6.1 No representations have been received.

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 relevant to the proposal in the Structure Plan.

Bo'ness Local Plan

7a.2 Policy BNS 21 'Protected Shopping Frontages' states:

"Within those shopping frontages identified on the Policies, Proposals and Opportunities Map, the District Council will not normally permit changes of use of ground floor premises to, or new development of vacant ground floor sites for, uses other than shops, as defined by Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1989. Exceptions may be made in the case of:

- (i) applications for restaurants and cafes, where these would complement the Town Centre's shopping function or its attractiveness for visitors; or*
- (ii) vacant properties where it can be demonstrated that they have been effectively marketed for retail use for at least a year."*

7a.3 The south elevation of the application site is located within an area of protected shopping frontage. Policy BNS 21 'Protected Shopping Frontages', of the adopted Bo'ness Local Plan, seeks to protect ground floor premises from a change of use away from Class 1 shops. Proposed units 2 and 3 would front the protected area and would result in a change of use to Class 2. As such the proposal fails to accord with policy BNS21. There is evidence that the premises have been effectively marketed for over 2 years. There is a current tenant occupying the existing shop unit, on a short term lease which can be terminated at 1 months notice. The current tenant has occupied the existing shop unit for approximately 5 months.

7a.4 Policy BNS 30 'Pipeline Consultation Zone' states:

"Within the Pipeline Consultation Zone identified on the Policies, Proposals and Opportunities Map, development will not normally be permitted unless the District Council is satisfied that :

- (i) future users or occupants will not significantly add to the number of people exposed to the existing risk from the pipeline; and*
- (ii) the development will not in any way affect the operation of the pipeline."*

7a.5 Policy BNS 30 'Pipeline Consultation Zone' of the adopted Bo'ness Local Plan seeks to ensure that the number of people exposed to risk from the pipeline is not significantly increased and that the operational safety of the pipeline is not adversely affected. The application site is located within the middle zone of the BP Forties crude oil pipeline consultation zone. The application has been assessed against HSE's assessment criteria, PADHI+ system, receiving a 'do not advise against planning permission on safety grounds'. It is considered that the proposal would not significantly add to the number of people exposed to risk or affect the operation of the pipeline. The application accords with policy BNS 30.

7a.6 Policy BNS 40 'Bo'ness Town Conservation Area' states:

"Within Bo'ness Town Centre Conservation Area, the District Council will seek to preserve and enhance its character through:

- (i) promoting and supporting an improvement in the condition and appearance of buildings and shopfronts in the terms of the Bo'ness Enhancement Grant Scheme;*

- (ii) *requiring that proposals for the alteration and replacement of any shopfront accord with the Council's guidance note entitled "Design Advice on Shop Fronts in Conservation Areas"; and*
- (iii) *requiring that the design, scale and setting of any advertisement be sympathetic to the character of the building upon which it would be mounted."*

7a.7 Policy BNS 40 'Bo'ness Town Centre Conservation Area', of the adopted Bo'ness Local Plan, seeks to preserve and enhance the character of the Conservation Area. The proposed shopfront alterations accord with the Council's Design Advice on Shop Fronts and as such the application accords with policy BNS 40. The application does not include any advertisements.

7a.8 Accordingly, and on balance, the proposal does not accord with the Development Plan.

7b Material Considerations

7b.1 The material considerations to be assessed are the Falkirk Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010) and Supplementary Planning Guidance.

Falkirk Local Plan Finalised Draft (Deposit Version) (April 2007) as amended by the Final Proposed Modifications (June 2010)

7b.2 The emerging Falkirk Local Plan affirms and further develops policies in the extant Bo'ness Local Plan. The following policies are relevant to the assessment of the proposed development.

7b.3 Policy EQ12 - 'Conservation Areas' states:

"The Council will protect the historic character and visual amenity of each Conservation Area. Accordingly:

- (1) *The Council will prepare Character Appraisals of individual Conservation Areas and, on the basis of these, will review existing boundaries and Article 4 Directions, prepare detailed design guidance as appropriate, and draw up enhancement schemes as resources permit;*
- (2) *New development in Conservation Areas, including extensions and alterations to existing buildings, will only be permitted where it preserves or enhances the 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;*
- (3) *Demolition of buildings within Conservation Areas will not be permitted unless they make no material contribution to the character and appearance of the area. Where demolition is proposed, the considerations set out in Section 4.26 of the Memorandum or Guidance should be adhered to; and*
- (4) *Replacement windows, doors, roofs, rainwater goods, boundary treatments and other features on unlisted buildings in Conservation Areas should preserve or enhance the character of the Conservation Area in terms of appearance, detailing and materials."*

7b.4 Policy EQ12 'Conservation Areas' seeks to protect the historic character and visual amenity of the Conservation Area. The proposal involves alterations to the South Street shopfront. It is considered that the proposed alterations would preserve and enhance the character of the Conservation Area. The proposed alterations reflect the architectural style and materials of the existing building in relation to the appearance, detailing and materials. The application accords with policy EQ12.

7b.5 Policy BNS1 – 'Bo'ness Town Centre' states:

- “(1) The Council will promote the role of Bo'ness Town Centre as a District Centre with additional emphasis on the provision of specialist retail and other tourist services, and linkages to Bo'ness Station and the regeneration proposals for the Dock and Harbour.*
- (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.*
- (3) Within the secondary area (within the Town Centre boundary, but outwith the core area), commercial, residential, or community uses will be supported.”*

7b.6 The application accords with Policy BNS1 'Bo'ness Town Centre' by retaining a balance of Class 1 and 2 uses within the Bo'ness Town Centre. The proposal would not result in a concentration of non-retail use.

7b.7 Policy EP18 - 'Major Hazards' states:

“Within the Major Hazard and Pipeline Consultation Zones identified on the Proposals Map, proposals will be judged in relation to the following criteria:

- (1) The increase in the number of people exposed to risk in the area, taking into account the advice of the Health and Safety Executive, any local information pertaining to the hazard, and the existing permitted use of the site or buildings; and*
- (2) The extent to which the proposal may achieve regeneration benefits, which cannot be secured by any other means.”*

7b.8 Policy EP18 reinforces the terms of policy BNS 30 of the adopted Bo'ness Local Plan. Policy EP18 'Major Hazards' seeks to ensure that the number of people exposed to risk from the pipeline is not significantly increased and that the operational safety of the pipeline is not adversely affected. The application site is located within the middle zone of the BP Forties crude oil pipeline consultation zone. The application has been assessed against HSE's assessment criteria, PADHI+ system, receiving a 'do not advise against planning permission on safety grounds'. It is considered that the proposal would not significantly add to the number of people exposed to risk or affect the operation of the pipeline. The application accords with policy EP18.

7b.9 Policy EQ11 'Shopfronts' states:

- “(1) The design of new or altered shopfronts should be well-proportioned and sympathetic to the character of the building of which they are part. The retention and restoration of existing traditional shopfront features such as stallrisers, pilasters, cornices, friezes and mouldings will be required; and*

- (2) *External security measures should not detract from the character of the building or the area in general. Where such measures are necessary, there will a presumption in favour of perforated shutters and grilles, as opposed to solid roller shutters.”*

7b.10 Policy EQ11 seeks to ensure that shopfront design contributes to the shopping environment. The proposal involves alterations to the South Street elevation to accommodate the subdivision of this frontage into two units. The alterations are well-proportioned and sympathetic to the character of the original building, including the unaltered North Street frontage. The application does not involve any external security measures or advertisements. The application accords with policy EQ11.

Falkirk Council Supplementary Planning Guidance

7b.11 Falkirk Council's Supplementary Planning Guidance Note on Shopfronts gives regard to elevational composition, material finishes, colouring and integration into the adjacent streetscape.

7b.12 The North Street elevation would be unaltered as a result of the proposed development. The South Street elevation would be altered to form two units. It is considered that the proposed alterations would respect the original building in terms of composition, materials and detailing and accords with Supplementary Planning Guidance.

7c Conclusion

7c.1 The application is assessed as being contrary to the terms of the Development Plan as the application involves a change of use to Class 2 within a protected shopping frontage area. As such, material considerations are required to justify approval of the proposal contrary to the Development Plan.

7c.2 Given the out of date nature of the Bo'ness Local Plan, adopted October 1995, it is considered that the emerging District wide Local Plan should be given considerable weigh in the determination of the application. The emerging District wide Local Plan is the most up to date statement of Council policy and it should be noted that the development proposals have been assessed as being in accordance with the terms of its policies. Additionally the application accords with Falkirk Council's Supplementary Planning Guidance. No issues were raised through consultation or representations received.

8. RECOMMENDATION

8.1 **It is recommended that planning permission be granted 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) Samples of tiles to be used in the development shall be submitted for the consideration of the Planning Authority and no work shall begin until written approval of the Planning Authority has been given.**

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To preserve and enhance the visual amenity of the Conservation Area.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01 and 02A.
- (2) Advertisement Consent may be required for any signs associated with the proposed development. It is the applicants responsibility to obtain this before any signs are displayed on site. For advice please contact Falkirk Council Development Management, Abbotsford House, David's Loan, Falkirk, FK2 7YZ (tel: 01324 504748)



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Director of Development Services

Date: 24 November 2010

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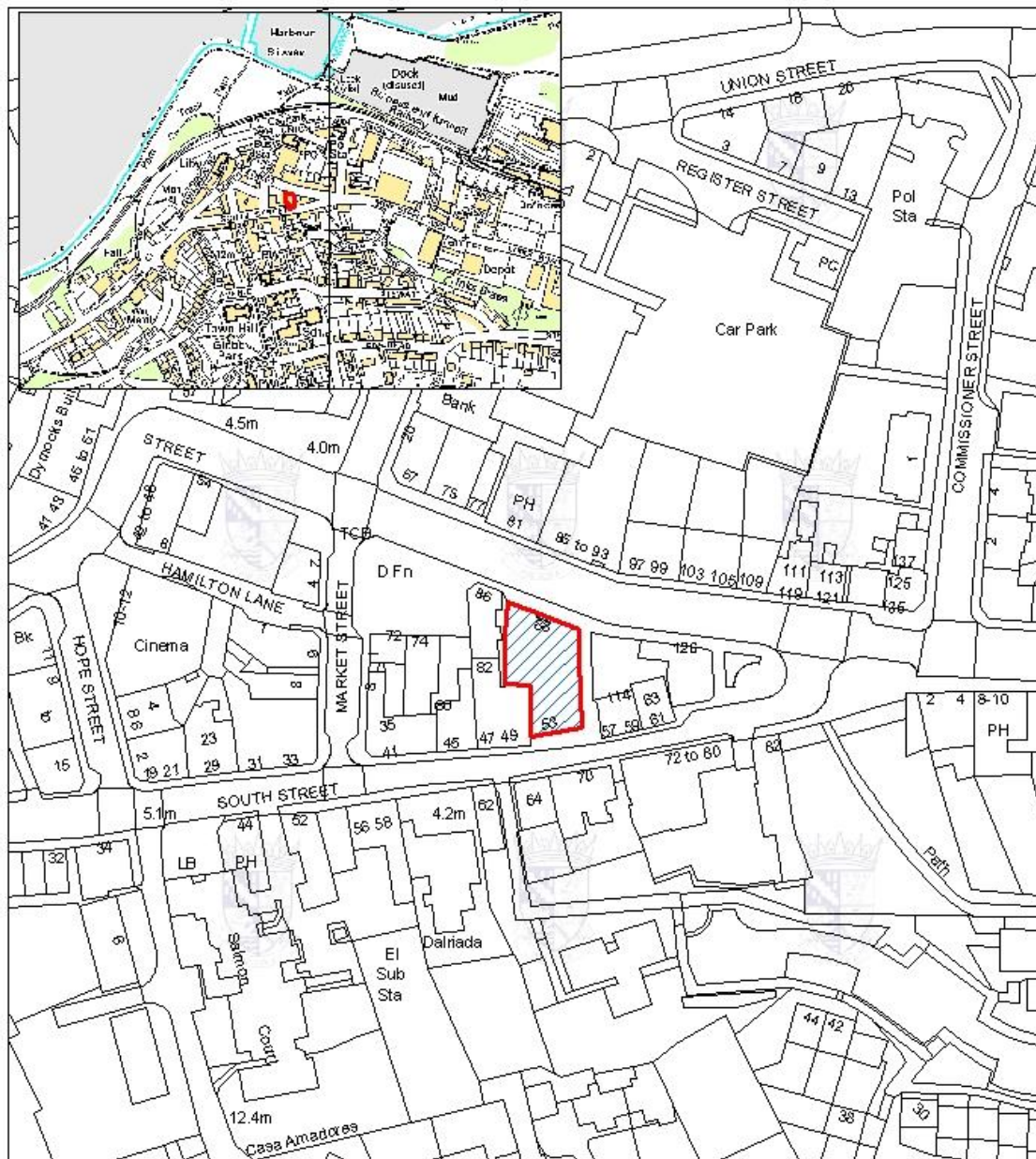
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/10/0548/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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