

FALKIRK COUNCIL

Subject: CHANGE OF USE FROM PUBLIC HOUSE TO HOT FOOD TAKE-AWAY, ALTERATIONS TO SHOPFRONT AND INSTALLATION OF FLUE AT THE CRITERION, 6 - 10 STIRLING STREET, DENNY FK6 6DU FOR SUNSHINE FOODS – P/10/0553/FUL

Meeting: PLANNING COMMITTEE

Date: 23 March 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock
Councillor Jim Blackwood
Councillor John McNally
Councillor Martin David Oliver
Councillor Alexander John Waddell

Community Council: Denny and District

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

UPDATE REPORT FOLLOWING SITE VISIT

1. Members will recall that this planning application was originally considered at the Planning Committee on 23 February 2011 (copy of previous report appended), when it was agreed to continue the planning application for a site visit. This visit took place on 7 March 2011.
2. Following a factual summary of the proposal by the case officer, the applicant's representative spoke in support of the proposal and emphasised the Town Centre location of the site and that there would be no opportunity to park outside the building, as it sits in the middle of a junction (traffic light controlled) and on double yellow lines. The applicant's representative advised that most of the deliveries (approximately 60%) would be by telephone.
3. Objectors who were also present raised concern in relation to the inappropriateness of the site for a hot food take-away, the potential for illegal parking outside the shop, noise and odour nuisance and the loss of the 'Criterion Bar'. A neighbour also raised concern in relation to the communal area being used for bins and vandalism of other hot food shops within Denny.

4. Comment was made by Members that the application site is at a very bad junction and the 'Criterion Bar' is a historic site for a public house. Concerns were also raised in relation to people parking outside the existing building, over provision of hot food take-away shops in Denny and the loss of a community facility. Member of the committee noted the lack of dedicated parking immediately adjacent to the premises and the potential for the customers to park outside the shop. The issue of noise nuisance for local residents, particularly in the lane adjacent to the public car park was also noted. Members also raised concerns about parking and drop off in association with the proposed use.
5. The Roads Officer advised that whilst there is parking available in the Town Centre location close by, a hot food use could result in short term parking at Denny Cross which is recognized as a busy road junction. He did, however, comment that it is a Police issue to manage illegal parking by enforcing the double yellow line restrictions.
6. In response to the above, the applicant's agent considered that customers and delivery drivers would not park outside the shop, owing to the busy junction and double yellow lines restrictions. The existing use generated traffic and requires the pick up and drop off of patrons and deliveries. The applicant's agent considers that there would be more complaints in relation to a public house than in relation to a hot food shop. The pub has been vacant for over a year and a use for the site should be promoted. The applicant's agent also gave example of other hot food shops within the Falkirk Council area, similarly located at a busy junction and on double yellow lines.
7. Although it was noted that the public house is in the process of reopening this is not relevant to the consideration of this particular proposal as it is possible for the premises to have the benefit of alternative planning permission.
8. Clarification was also sought in respect of the car park to the rear, north of the vennel. It has been confirmed by Falkirk Council Estates that the car park area was owned by Falkirk Council, Housing but has it has now been sold to the Co-operative
9. No issues were raised which would amend the recommendation to grant planning permission.

10. RECOMMENDATION

10.1 It is therefore recommended that planning permission be granted subject to the following condition(s):-

- (1) The development to which this permission relates must be begun within three years of the date of this permission.**
- (2) For the avoidance of doubt no permission is given to the proposed elevation on approved drawing, bearing our online reference number 01A.**

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.**
- (2) To safeguard the visual amenity of the area.**

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02, 03 and supporting documents.

Pp

.....
Director of Development Services

Date: 15 March 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council's Supplementary Planning Guidance on 'Shopfronts'.
4. Letter of objection from Mr Habib Awan, 7 Broad Street, Denny, FDK6 6DX on 20 August 2010.
5. Letter of objection from Councillor John McNally, Municipal Buildings, Falkirk, FK1 5RS on 24 August 2010.
6. Letter of objection from Mrs Shenaz Ahmed, 11 Stepend Road, Cumnock, KA18 1ES on 24 August 2010.
7. Letter of objection from Miss Sarah Henderson, 14 Stirling Street, Denny, FK6 6DU on 29 August 2010.
8. Letter of objection from Miss M Gardner, 1 Broompark Gardens, Denny, FK6 6NU on 31 August 2010.
9. Letter of objection from Mr Robert Horton, 14 Stirling Street, Denny FK6 6DU on 15 September 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

Subject: CHANGE OF USE FROM PUBLIC HOUSE TO HOT FOOD TAKE-AWAY, ALTERATIONS TO SHOPFRONT AND INSTALLATION OF FLUE AT THE CRITERION, 6 - 10 STIRLING STREET, DENNY FK6 6DU FOR SUNSHINE FOODS – P/10/0553/FUL

Meeting: PLANNING COMMITTEE

Date: 23 February 2011

Author: DIRECTOR OF DEVELOPMENT SERVICES

Local Members: Ward - Denny and Banknock
Councillor Jim Blackwood
Councillor John McNally
Councillor Martin David Oliver
Councillor Alexander John Waddell

Community Council: Denny and District

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

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to the change of use from a public house to a hot food take away and includes alterations to the shopfront and the installation of a flue at 6 – 10 Stirling Street, Denny.
- 1.2 The application site is located within Denny Town Centre and is the former ‘Criterion Bar’. The public house sits at the junction of Stirling Street, Duke Street, Broad Street and Glasgow Road and has residential accommodation at the first floor level.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to the Planning Committee at the request of Councillor John McNally.

3. SITE HISTORY

- 3.1 An application for the display of illuminated advertisements (Ref: F/90/0542/FUL) was granted on 19 July 1990.

- 3.2 An application for the change of use from a flat dwelling to a house in multiple occupation (HMO) (Ref: P/10/00865/FUL) at 10 Stirling Street, Denny, the flat above the application site, is currently pending consideration.

4. CONSULTATIONS

- 4.1 The Roads Development Unit comments that the application site is located directly adjacent to Denny Cross, formed by the meeting of Stirling Street, Broad Street, Duke Street and Glasgow Road. All roads are adopted, lit and have footway provision. Whilst the Unit accept that the former public house generated vehicular traffic, they consider it likely that customers of the public house would have used one of the public car parks in the vicinity of the application site. The Unit consider that vehicular movements associated with a hot food takeaway are likely to be short stay, and as such, are concerned that the proposals will attract short term on-street parking in the vicinity of Denny Cross. The Unit are concerned on-street parking would reduce the effectiveness of the junction and potentially create a road safety issue.
- 4.2 The Environmental Protection Unit advise that the submitted carbon filter specification and ventilation specification are satisfactory. The Unit advise of an informative relating to contamination to be attached to any granting of planning permission.

5. COMMUNITY COUNCIL

- 5.1 The Denny and District Community Council did not comment.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 6 objectors submitted letters to the Council. The salient issues are summarised as follows:
- The proposal will result in noise nuisance as a result of customers and late opening hours;
 - The proposed use will result in cooking odour in adjacent flats;
 - The proposal is located on a dangerous bend at traffic lights. Customers and goods vehicles stopping on the road may cause an accident or obstruct the road;
 - Falkirk Council Roads Officers will oppose the application;
 - The proposal will result in over provision of hot food take-away shops. Denny has at least 9 take-away shops within 200 yards of the application site;
 - Question raised in relation to the maintenance of common areas being kept clean and clear and the location of bins;
 - Question raised in relation to opening hours;

- The common close should be restricted to property owners only, including William Hill, to prevent unsocial behaviour by customers;
- The proposed use does not have the interests of the Denny people or the future regeneration of Denny Town Centre in mind. The proposal will not enhance the town or fit into the character of the shopping area; and
- The use is not a desirable use and should be refused.

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 Structure Plan

7a.1 There are no policies relevant to this proposal contained in the Structure Plan.

Falkirk Council Local Plan

7a.2 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.”*

7a.3 Policy EQ11 ‘Shopfronts’ seeks to ensure that shopfront design contributes to the environmental quality of shopping areas. The proposal involves alterations to the shopfront to remove the two high level public house windows and to replace them with two large shop windows and a new recessed doorway. It is considered that the proportions of the proposed shopfront would respect the original building and surrounding shops. It is considered that the existing high level windows are not an attractive contribution to the streetscape and that the proposed large windows will create an active frontage within the town centre. The proposed external security measures to the front entrance, which comprise open mesh roller security grilles within a concealed box, are considered acceptable. The application accords with policy EQ11.

7a.4 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.5 Policy EQ13 'Areas of Townscape Value' seeks to protect areas of townscape value which do not currently have Conservation Area status. It is considered that the alterations to the shop front would harmonise with the architectural style and character of the established town centre area. The currently high level public house windows do not make an active shopping frontage at the prominent building. The application accords with policy EQ13.

7a.6 Policy EP6 'Hierarchy of Centres' states:

"The Council will promote and enhance the hierarchy of centres as set out in Table 5.2 as the continuing focus of retail, leisure and major community uses in the Council area. The boundaries of centres are identified on the Proposals Map and the detailed policies in respect of each centre are set out under the relevant Settlement Statement."

7a.7 Policy EP6 'Hierarchy of Centres', sets out the hierarchy of centres within the Council area. Denny is a district centre, to serve the larger towns, in terms of food shopping, limited comparison shopping and services. The application does not offend the terms of policy EP6.

7a.8 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."*

7a.9 Policy EP9 'Food and Drink' provides criteria for judging the acceptability of class 3 uses, hot food take-away shops and public houses, where such uses are encouraged to locate within town centres. The proposal would not result in an adverse impact on the amenity of adjacent residential properties by virtue of noise, disturbance, litter or odours. It should be noted that the flat above the application site is in the ownership of the applicant and is currently unoccupied. It is considered that the current public house use, whilst vacant, would have a similar impact on the surrounding area as a hot food take-away. The proposal is consistent with the relevant town centre policy and parking, access and traffic generation is considered acceptable within a town centre location. The application accords with policy EP9.

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 Policy DEN1 'Denny Town Centre' seeks to maintain active commercial frontages and it is considered that the alterations to the shop front would support the vibrancy of the town. Whilst it is acknowledged that the proposal does not relate to a class 1 or 2 use the proposal would not result in a concentration of non-retail uses. The application accords with policy DEN1.

7a.12 Accordingly, the proposal accords with the Development Plan.

7b Material Considerations

7b.1 Material considerations of relevance to the proposal are Falkirk Council's Supplementary Planning Guidance, response to third party representation and the response to consultation.

Falkirk Council's Supplementary Planning Guidance

7b.2 The application accords with the advice contained within the Supplementary Planning Guidance Note on 'Shopfronts', in particular in relation to the elevational composition, material finishes and recessed doorways. It should be noted that the application site has a curved frontage. The application includes internal open mesh roller security grilles to the windows and external open mesh roller security grilles within a concealed box on the entrance door, which is considered acceptable.

Responses to Consultation

7b.3 The concerns of the Roads Development Unit are noted in relation to on-street parking in the vicinity of the cross and the potential to create a road safety hazard.

7b.4 The applicant has submitted a statement raising the following comments in response to the Roads Development Unit's consultation as follows:

- The property was a public house, arguably with as much traffic as the proposed use, people being picked up and dropped off;
- There is a public car park within 100 metres of the application site;
- The adjoining uses, cafe, bookmakers are not resulting in on street parking problems;
- There is no demand for shops within Denny Town Centre;
- The road outside and adjacent to the application site is the filter lane to turn left towards Falkirk. It would be highly dangerous to park outside the shop; and
- The Police station is only 150 metres from the site who should enforce the double yellow lines situated outside the application site.

7b.5 The applicant's agent has submitted eight example photographs of hot food take-away shops within Falkirk District similarly located on double yellow lines and close to traffic lights. It is accepted that the application site is located at a very busy junction, served by traffic lights. Double yellow lines and a set of traffic lights are located outside the application site and traffic queues past the frontage of the building to turn left into A883 Broad Street and towards Falkirk and to pass along Glasgow Road. Indiscriminate parking outside the application site would cause a severe road obstruction and would lead to a road safety hazard.

7b.6 It is considered that the lack of parking directly outside the application site is typical of the town centre location and it should be noted that there is a public house, bookmakers, architects office and shops directly adjacent to the application site who do not have on-street parking. It is considered that a public house and hot food take-away are similar in terms of traffic generation and parking requirements. The Roads and Development Unit consider that patrons of the public house would park in the public car park and that customers of the proposed hot food shop would park on-street. There is a public car park approximately 130 metres from the application site and another car park to the rear of the application site approximately 89 metres from the site. None of the shops, public houses or offices within this immediate location within Denny Town Centre have direct on-street parking, however the town centre is well served by two large public car parks on either side of Stirling Street. It is considered that the concerns raised in relation to the proposal causing a road safety hazard are unfounded and the use is entirely appropriate and in keeping with the town centre location.

Assessment of Public Representations

7b.7 The proposed hot food shop is considered to complement the range of uses within the town centre location. It is not considered that the proposed change of use will result in a significant impact on the residential amenity of adjacent residents and it is noted that the flat above the application site is owned by the applicant.

7b.8 The proposed odour filtration specification is acceptable.

- 7b.9 It is considered that parking restrictions outside the application site, double yellow lines, would prevent indiscriminate parking.
- 7b.10 The Roads Development Unit have concerns about road safety in relation to the proposals.
- 7b.11 The applicant intends to relocate an existing hot food shop to the application site and the proposal would not result in a concentration of non-retail uses.
- 7b.12 The maintenance of common areas is not a material planning consideration.
- 7b.13 The proposed opening hours are a matter to be regulated by Licensing.
- 7b.14 The proposal would not adversely affect the future regeneration of Denny Town Centre.

7c Conclusion

- 7c.1 The application has been assessed as being in accordance with the Development Plan. It should also be noted that the application is in accordance with the Supplementary Planning Guidance Note on 'Shopfronts'. The consultation response and the comments of third parties are noted and addressed in the body of this report.
- 7c.2 The application relates to the change of use from one *sui generis* use, public house, to another *sui generis* use, hot food take-away. As such it is considered that there would be no net loss of a retail unit within the town centre and no significant material change in the town centre as a result of the proposals. It is considered that the use as a public house had a similar impact on the area as a hot food take-away use, when considering opening hours, traffic generation and the potential for noise and odour nuisance.
- 7c.3 The application is recommended for approval of planning permission.

8. RECOMMENDATION

- 8.1 It is therefore recommended that planning permission be granted subject to the following condition(s):-

- (1) The development to which this permission relates must be begun within three years of the date of this permission.
- (2) For the avoidance of doubt no permission is given to the proposed elevation on approved drawing, bearing our online reference number 01A.

Reason(s):

- (1) To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2) To safeguard the visual amenity of the area.

Informative(s):

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02, 03 and supporting documents.

Pp

.....
Director of Development Services

Date: 15 February 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Structure Plan.
2. Falkirk Council Local Plan.
3. Falkirk Council's Supplementary Planning Guidance on 'Shopfronts'.
4. Letter of objection from Mr Habib Awan, 7 Broad Street, Denny, FDK6 6DX on 20 August 2010.
5. Letter of objection from Councillor John McNally, Municipal Buildings, Falkirk, FK1 5RS on 24 August 2010.
6. Letter of objection from Mrs Shenaz Ahmed, 11 Stepend Road, Cumnock, KA18 1ES on 24 August 2010.
7. Letter of objection from Miss Sarah Henderson, 14 Stirling Street, Denny, FK6 6DU on 29 August 2010.
8. Letter of objection from Miss M Gardner, 1 Broompark Gardens, Denny, FK6 6NU on 31 August 2010.
9. Letter of objection from Mr Robert Horton, 14 Stirling Street, Denny FK6 6DU on 15 September 2010.

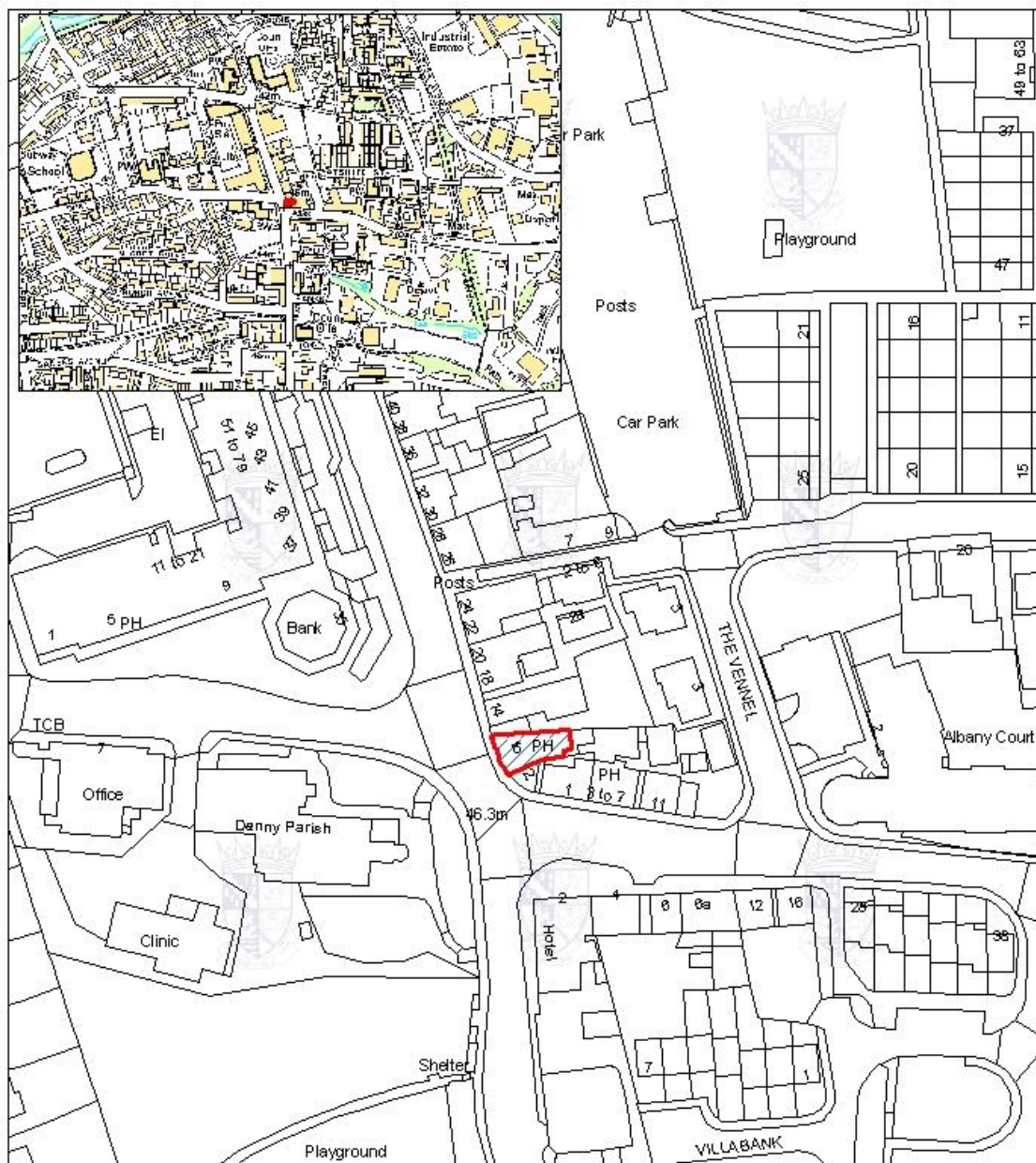
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Julie Seidel, Planning Officer.

Planning Committee

Planning Application Location Plan

P/10/0553/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 2011. All rights reserved.
Ordnance Survey Licence number 100023384