

FALKIRK COUNCIL

Subject: CHANGE OF USE OF AND ALTERATIONS TO PUBLIC HOUSE TO FORM HOT FOOD TAKEAWAY AT THE CRITERION, 6 STIRLING STREET, DENNY, FK6 6DU FOR SUNSHINE FOODS – P/11/0512/FUL

Meeting: PLANNING COMMITTEE

Date: 5 December 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: Alan Scott (Assistant 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 new extraction flue. The new flue would be located on the north elevation of the premises.
- 1.2 The application site is located within Denny Town Centre and is currently operating as The Criterion public house, located at the junction of Stirling Street/Duke Street/Broad Street and Glasgow Road. There is residential accommodation at first floor level. There are public car parks located on either side of Stirling Street, both at Church Walk and the Vennel.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application has been called to Committee at the request of Councillors Jim Blackwood, Martin Oliver and John McNally.

3. SITE HISTORY

- 3.1 F/90/0542/FUL - display of illuminated advertisement - granted on 19 July 1990.
- 3.2 F/10/0553/FUL - change of use from public house to hot food take-away, alterations to shopfront and installation of flue - refused on 25 March 2011 on grounds detailed in para 7b.8 below.

4. CONSULTATIONS

- 4.1 The Environmental Protection Unit has advised that the information provided with regard to the cooking odour extraction system would appear to be satisfactory. However, if in practice noise or odour complaints are received, the Environmental Protection Unit would be obliged to investigate and act if necessary in terms of Statutory Nuisance legislation contained in the Environmental Protection Act.
- 4.2 The Roads Development Unit reiterate their comments in relation to the previously refused application stating that the 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 accepts that the public house generates vehicular traffic they consider it likely that customers of the public house would use 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 would attract short term on-street parking in the vicinity of the Cross. The Unit is concerned that such parking would reduce the effectiveness of the junction, and potentially create a road safety issue.

5. COMMUNITY COUNCIL

- 5.1 Denny and District Community Council have expressed concerns regarding parking and the proposed changes to the exterior of an historic building.

6. PUBLIC REPRESENTATION

- 6.1 During the course of the application, two letters of objection were received. The salient issues are summarised below:
- Too many hot food takeaways in Denny
 - The Kirk Session and Board of Denny Old Parish Church have stated that customers will be tempted to park illegally, increasing danger to pedestrians.
 - Expected increase in litter and security issues regarding potential use of church car park.

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 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 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 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 would create an active frontage within the town centre. Roller shutters are proposed above new aluminium powder coated glazed screens. However, if the Committee is minded to grant permission, it is recommended that a condition should be attached requiring that details of the proposed roller shutters be submitted for approval and subsequently implemented prior to the commencement of use. 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 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 provide an active shopping frontage on this 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 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 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 have a significant adverse impact on the amenity of adjacent residential properties by virtue of noise, disturbance, litter or odours. It is considered that the current public house use has 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 seeks to maintain active commercial frontages and it is considered that the alterations to the shopfront 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, the consultation responses, site history and public representations.

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 door. It should be noted that the application site has a curved frontage. The application includes roller shutters above new aluminium powder coated glazed screens. Further details of these roller shutters would require to be submitted and approved prior to commencement of the proposed use, should the Committee be minded to grant permission.

Consultation Responses

- 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. Although finely balanced, there are however considered to be planning reasons to take the view that impact on road safety would not be so significant.
- 7b.4 It is considered that the lack of parking 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 which 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 Development Unit considers 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.
- 7b.5 While it is accepted that the application site is located at a very busy junction, it is considered that the existing double yellow lines and the traffic lights discourage on-street parking directly in front of the premises. There is a public car park approximately 130 metres from the application site and another carpark to the rear of the application site, approximately 90 metres from the site. None of the shops, public house or offices within the 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. There are also on-street parking spaces further north on Stirling Street. Statistics from the Transport Planning Unit state that the existing public parking areas are not at full capacity and tend to be less busy at night than during the day. There is therefore off-street parking and on-street parking nearby to serve the proposed use.
- 7b.6 The Environmental Protection Unit have reviewed the information submitted relating to the cooking odour extraction system and have assessed this as being satisfactory.

- 7b.7 It is also considered that both the current use as a public house and the proposed use as a hot food takeaway are very similar in terms of potential noise or disturbance and would operate similar opening hours.

Site History

- 7b.8 A previous application for proposal of a similar description, P/10/0553/FUL, was recommended for approval and subsequently refused by the Planning Committee on 23 March 2011, following a site visit on 7 March 2011. The two reasons for refusal were as follows:-

1. The proposal is contrary to Policy EP9 'Food and Drink' of the Falkirk Council Local Plan, as it would result in an adverse impact on the residential amenity of surrounding residential properties and the surrounding area.
2. The proposal would result in a road safety hazard.

Assessment of Public Representations

- 7b.9 Overprovision of hot food take-away shops is not a material planning consideration.
- 7b.10 It is considered that existing parking restrictions outside the application site in the form of double yellow lines, would prevent indiscriminate parking.
- 7b.11 The issue of littering is not one which could be regulated by planning legislation and would be a matter for Licensing to control / monitor.
- 7b.12 With regard to the Community Council's objection to the proposed changes to the exterior of the building, it is considered that the proposals to the front elevation of the premises would be an improvement to the streetscape by removing the existing high level window and replacing these with two large shopfront windows, thereby creating a more active frontage.

7c Conclusion

- 7c.1 This 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 responses 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 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 public house use has a similar impact on an area as a hot food use in relation to opening hours, traffic generation and the potential for noise and odour nuisance.
- 7c.4 It is therefore recommended that planning permission be granted.

8. RECOMMENDATION

8.1 It is therefore recommended that Committee grant planning permission 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. Details of the external roller shutters shall be submitted to and approved in writing by this Planning Authority prior to any works commencing on site. Thereafter, the approved roller shutters shall be installed prior to the commencement of use.**

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 and supporting documents.**

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Director of Development Services

Date: 25 November 2011

LIST OF BACKGROUND PAPERS

1. Falkirk Council Structure Plan
2. Falkirk Council Local Plan
3. Falkirk Council's Supplementary Planning Guidance on 'Shopfronts'.
4. Letter of objection from Proprietor, Tony's Kitchen, 9 Broad Street, Denny received on 20th September 2011.
5. Letter of objection from Mr Stuart Assur, 43 Braes View, Denny, FK6 5NG on behalf of the Kirk Session and Board of Denny Old Parish Church received on 4th October 2011.
6. Letter of objection from Mr Colin Belbin, Community Councillor, 63 Bridge Crescent, Denny, FK6 6PD

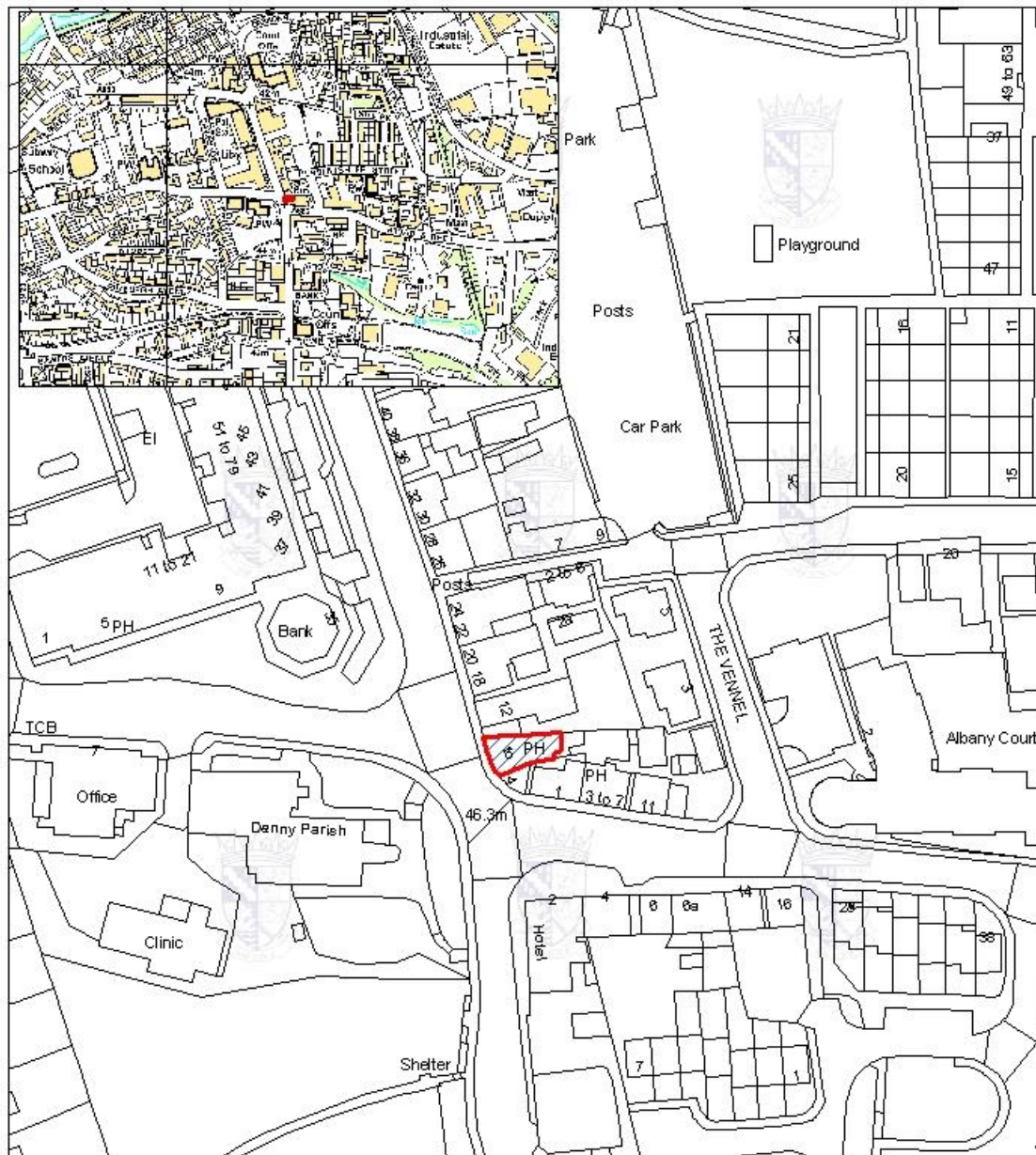
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504880 and ask for Alan Scott, Assistant Planning Officer.

Planning Committee

Planning Application Location Plan

P/11/0512/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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